

Organisation internationale du Travail
Tribunal administratif

International Labour Organization
Administrative Tribunal

*Registry's translation,
the French text alone
being authoritative.*

D.
v.
CERN

120th Session

Judgment No. 3548

THE ADMINISTRATIVE TRIBUNAL,

Considering the complaint filed by Mr V. D. against the European Organization for Nuclear Research (CERN) on 24 February 2014 and corrected on 7 April 2014;

Considering the exchange of correspondence between the complainant and the Registry of the Tribunal in June and July 2014;

Considering Articles II, paragraph 5, and VII of the Statute of the Tribunal and Article 7 of its Rules;

Having examined the written submissions;

CONSIDERATIONS

1. The complainant retired from CERN on 31 December 2013. On 22 October 2013 he had asked to have the illness from which he is suffering recognised as an occupational illness and to be granted an invalidity pension. His request was declined in a letter of 25 November 2013 from the Head of the Human Resources Department, which constitutes the decision impugned in the complaint which he filed with the Tribunal on 24 February 2014.

2. Prior to that date, on 23 January 2014 the complainant had lodged an internal appeal against the same decision. CERN had deemed it receivable and had forwarded it to the internal appeal body. When he filed his complaint, CERN therefore wrote to the complainant and invited him to withdraw it. The complainant did not comply with this request but, on 6 June, acknowledging that the Administration had deemed his appeal to be receivable, he asked the Tribunal to stay its proceedings.

3. On 30 June, having thus been informed by the complainant that internal appeal proceedings were under way, the Registrar of the Tribunal drew the complainant's attention to the rules set forth in Article VII, paragraph 1, of the Statute of the Tribunal concerning the receivability of a complaint. He offered him the possibility of withdrawing his complaint, otherwise the President of the Tribunal might decide to apply the summary procedure for which provision is made in Article 7 of the Rules of the Tribunal.

4. By an e-mail of 2 July 2014, having obtained the advice of his counsel, the complainant replied that he would prefer the Tribunal to apply the summary procedure "in order to obviate any possibility of an objection to receivability being raised in the event of a fresh complaint".

5. In these circumstances, it must be found that the complainant has not exhausted the internal means of redress as required by Article VII, paragraph 1, of the Statute of the Tribunal. His complaint is therefore manifestly irreceivable and must be summarily dismissed in accordance with the procedure provided for in Article 7 of the Rules of the Tribunal.

DECISION

For the above reasons,
The complaint is dismissed.

In witness of this judgment, adopted on 29 April 2015, Mr Giuseppe Barbagallo, President of the Tribunal, Mr Claude Rouiller, Vice-President, and Mr Seydou Ba, Judge, sign below, as do I, Dražen Petrović, Registrar.

Delivered in public in Geneva on 30 June 2015.

(Signed)

GIUSEPPE BARBAGALLO

CLAUDE ROUILLER

SEYDOU BA

DRAŽEN PETROVIĆ