

Organisation internationale du Travail
Tribunal administratif

International Labour Organization
Administrative Tribunal

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

P.
v.
EPO

122nd Session

Judgment No. 3698

THE ADMINISTRATIVE TRIBUNAL,

Considering the complaint filed by Mr B. Y. P. against the European Patent Organisation (EPO) on 15 March 2013 and corrected on 7 May 2013, the EPO's reply of 5 March 2015, the complainant's rejoinder of 24 April and the EPO's surrejoinder of 31 July 2015;

Considering Article II, paragraph 5, of the Statute of the Tribunal;

Having examined the written submissions and decided not to hold oral proceedings, for which neither party has applied;

Considering that the facts of the case may be summed up as follows:

The complainant challenges the abolition of the Audit Committee of the EPO's Administrative Council.

On 30 June 2011, following a proposal by the President of the European Patent Office, the Administrative Council adopted decision CA/D 4/11 abolishing the Audit Committee, one of its subsidiary bodies, with immediate effect. On 28 September 2011 the complainant, who was then Head of Internal Audit (Principal Directorate 0.6 of the European Patent Office), and Ms H., who chaired the Staff Committee, filed an internal appeal against this decision. They complained, inter alia, that the General Advisory Committee had not been consulted prior to the adoption of the challenged decision. In November 2012 Ms H. withdrew her appeal. Having heard the complainant, the Appeals Committee of

the Administrative Council unanimously recommended on 11 December 2012 that his appeal be dismissed, considering, in particular, that the challenged decision had not been taken in breach of any “applicable legal provision”. By a letter of 20 December 2012, which constitutes the impugned decision, the complainant was notified that the Administrative Council had decided to dismiss his appeal.

In his complaint filed on 15 March 2013, the complainant asks the Tribunal to quash the impugned decision as well as decision CA/D 4/11 and to order the EPO to submit the initial proposal of the President of the Office to the General Advisory Committee. He also seeks compensation in the amount of 30,000 euros for the moral injury that he considers he has suffered and an award of costs.

The EPO submits that the complaint is irreceivable, in particular on the grounds that the complainant is impugning a general decision that does not adversely affect him. In the alternative, it asks the Tribunal to dismiss the complaint as unfounded.

CONSIDERATIONS

1. The Tribunal has jurisdiction under Article II, paragraph 5, of its Statute to hear complaints alleging “non-observance, in substance or in form, of the terms of appointment of officials and of provisions of the Staff Regulations”. In consequence, when “[t]he complainant does not allege the non-observance of any of the terms of his appointment or of any of the Staff Regulations applicable to him”, his complaint must be held to be irreceivable (see Judgment 2952, under 3).

2. The Tribunal observes that the complainant does not allege any violation of the terms of his appointment or of staff regulations that are applicable to him. His case does not relate to his administrative status but rather to the organisation of the EPO, his employer, for which he is plainly not responsible. The fact cited by the complainant that he was “the principal author of the proposal to establish [the A]udit [C]ommittee” that was subsequently abolished does not grant him any right to intervene in a decision to maintain that subsidiary body or not.

The authority to establish or abolish the Audit Committee was vested in the Administrative Council alone, and these decisions did not infringe the complainant's rights in any way, regardless of his role in the EPO.

3. It ensues from the foregoing that the complaint, which the Tribunal is not competent to hear, is irreceivable and must be dismissed.

DECISION

For the above reasons,
The complaint is dismissed.

In witness of this judgment, adopted on 28 April 2016, Mr Claude Rouiller, President of the Tribunal, Mr Patrick Frydman, Judge, and Ms Fatoumata Diakité, Judge, sign below, as do I, Dražen Petrović, Registrar.

Delivered in public in Geneva on 6 July 2016.

(Signed)

CLAUDE ROUILLER PATRICK FRYDMAN FATOUMATA DIAKITÉ

DRAŽEN PETROVIĆ