

## EIGHTY-SECOND SESSION

### *In re McLean* (No. 3)

#### Judgment 1579

The Administrative Tribunal,

Considering the third complaint filed by Mr. Gregor Adrian McLean against the European Patent Organisation (EPO) on 11 July 1996;

Considering Article II, paragraph 5, of the Statute of the Tribunal and Article 7, paragraph 2, of its Rules;

Having examined the written submissions;

#### CONSIDERATIONS

1. The complainant is seeking an order that the EPO award him six days' leave in compensation for the time of travel to the place where he takes home leave, which is Sydney, in Australia, and back to Munich, his duty station. He explains that his complaint is based on the principle of equal treatment and not upon EPO circular 22, which sets guidelines for the taking of leave under Article 59 of the Service Regulations.

2. In Judgment 1493, which dismissed his second complaint, the Tribunal ruled on his claim to six days' extra leave, which he based on the plea that the rights provided for in the two tables in Rule 4(e) of circular 22 were cumulative. Judgment 1493 rejected that claim, the matter is *res judicata*, and the Tribunal's ruling is binding on the complainant. Besides, the fact that the Organisation is applying to him the same rules about travel on home leave that it is applying to staff members whose home is nearer to their duty station constitutes no breach of equal treatment. Being clearly irreceivable, the complaint must be summarily dismissed in accordance with Article 7(2) of the Tribunal's Rules.

#### DECISION

For the above reasons,

The complaint is dismissed.

In witness of this judgment Sir William Douglas, President of the Tribunal, Mr. Michel Gentot, Vice-President, and Mr. Edilbert Razafindralambo, Judge, sign below, as do I, Allan Gardner, Registrar.

Delivered in public in Geneva on 30 January 1997.

William Douglas  
Michel Gentot  
E. Razafindralambo  
A.B. Gardner