

119th Session

Judgment No. 3455

THE ADMINISTRATIVE TRIBUNAL,

Considering the eleventh complaint filed by Mr F. B. against the European Patent Organisation (EPO) on 20 July 2013;

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. Facts relevant to this case are set out in Judgments 3151, 3248, 3249 and 3384. By a letter of 22 April 2013 the complainant was informed of the decision of the President of the Office to reject his appeal registered under reference number RI/181/10, in which he requested a second conciliation procedure concerning the third version of his staff report for the period 1 January 2002 to 31 January 2003. The complainant impugns that decision before the Tribunal. He also challenges “the implicit and impugned order, as notified to him on 15-07-2010 [...] of accepting and endorsing definitively the third available version of the impugned Staff Report”, or, subsidiarily, the “formal decision to set aside said implicit and impugned order”. In addition he seeks compensation for moral damages “pursuant to Judgments 1394, 1968, 2196, 2744, 2805, 2995 and 533”, and costs.

2. Part of the subject matter of the eleventh complaint is identical to that of the complainant’s third complaint, that is, a challenge to the third version of his staff report. The Tribunal has already decided that the contested third version of the report is devoid of the flaws identified

by the Internal Appeals Committee (IAC) (see Judgment 3249, under 2 and 4), which means that the third version of the staff report is immune from further challenge and can no longer be subject to review by the Tribunal. The principle of *res judicata* applies (see Judgments 2316, under 11, and 3248, under 3).

3. The issue that was left pending following Judgment 3384 concerned the complainant's internal appeal RI/181/10, by which he challenged the refusal to accept a second round of conciliation. But, as the majority opinion of the IAC demonstrates, this challenge is without substance, and no argument has been advanced to the contrary by the complainant in his brief.

4. Considering the above, the complaint is clearly irreceivable in its entirety and must be summarily dismissed in accordance with the procedure provided for in Article 7 of the Rules of the Tribunal. As the complaint fails, the claim for costs is rejected.

DECISION

For the above reasons,
The complaint is dismissed.

In witness of this judgment, adopted on 31 October 2014, Mr Giuseppe Barbagallo, President of the Tribunal, Ms Dolores M. Hansen, Judge, and Mr Michael F. Moore, Judge, sign below, as do I, Dražen Petrović, Registrar.

Delivered in public in Geneva on 11 February 2015.

GIUSEPPE BARBAGALLO

DOLORES M. HANSEN

MICHAEL F. MOORE

DRAŽEN PETROVIĆ