

**119th Session**

**Judgment No. 3466**

THE ADMINISTRATIVE TRIBUNAL,

Considering the complaint filed by Mr R. E. W. against the European Patent Organisation (EPO) on 2 August 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. In a complaint filed on 2 August 2013 the complainant seeks to impugn a decision of 25 April 2013 of the Principal Director of Human Resources taken by delegated authority from the President of the European Patent Office. That decision involved the rejection of an appeal the complainant had brought on 25 May 2010 against, as described at the outset of the internal appeal process, “the introduction of Circular No. 323”. That Circular, effective 1 April 2010, required staff members to disclose a relationship in which the staff member “maintain[ed] an intimate relationship” in circumstances where the other person was or might be employed by the EPO.

2. At the time the appeal was lodged, Circular No. 323 had had no direct application to the complainant though, some time earlier (in late 2009), he had been transferred as a result of his relationship with another EPO staff member. This transfer was challenged, with some apparent success, by the complainant.

3. An official of an organisation cannot lawfully challenge before the Tribunal a rule of general application unless and until it is applied

in a manner prejudicial to that official (see Judgments 1852, under 3, 2822, under 6, and 2953, under 2). In the present case the complainant's challenge to Circular No. 323 is of that character. The policy in the Circular has not been applied to the complainant notwithstanding that an adverse decision was earlier made affecting the complainant which involved an approach later embodied in the Circular. Accordingly the complaint is clearly irreceivable and should be dismissed summarily under Article 7 of the Rules of the Tribunal.

#### 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