

L. (No. 13)

v.

EPO

134th Session

Judgment No. 4573

THE ADMINISTRATIVE TRIBUNAL,

Considering the thirteenth complaint filed by Mr J. C. L. against the European Patent Organisation (EPO) on 2 May 2020;

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

Having examined the written submissions of the complainant;

CONSIDERATIONS

1. On 14 December 2015 the complainant filed with the European Patent Office, the EPO's secretariat, a request for review contesting deductions made from his remuneration in February 2013 and November 2014 for, respectively, pension contributions and the dependents and education allowances. Throughout the internal appeal procedure the case was considered time barred as the request for review had been filed outside the time limit set forth by Article 109(2) of the Service Regulations. This was finally confirmed by the decision, dated 5 February 2020, impugned in the present proceedings.

2. The complainant "is of the opinion that a request can always be put forward and is therefore not time barred, it is only an appeal against a decision that could be time barred". This disregards the correct analysis made by the Appeals Committee explaining that the deductions recorded in a pay slip were decisions that could have been challenged by means of a request for review filed within the statutory time limit.

They were not and were filed many months after. The fact that the complainant subsequently filed an appeal against the rejection of his request for review within the applicable time limit does not render his initial request receivable.

3. Pursuant to the provisions of Article VII, paragraph 1, of the Statute of the Tribunal and in accordance with the Tribunal's case law, the complaint is irreceivable for failure to exhaust the internal means of redress available to staff members of the Organisation, which cannot be deemed to have been exhausted unless recourse has been had to them in compliance with the formal requirements and within the prescribed time limit (see, for example, Judgments 4160, consideration 13, 4103, consideration 1, 4101, consideration 3, 2888, consideration 9, as well as Judgments 2010, 2326 and 2708 referred to therein).

4. The complainant argues that he could not challenge the above-mentioned deductions before becoming aware of Article 88 of the Service Regulations, which, according to him, is relevant to his case. This type of argument has consistently been rejected by the Tribunal: a staff member is presumed to be aware of the organisation's rules and regulations to which she or he is subject (see, for example, Judgments 4247, consideration 6, and 2962, consideration 13, cited therein).

5. Accordingly, the complaint is clearly irreceivable and must be summarily dismissed in accordance with the procedure set out 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 27 May 2022, Mr Michael F. Moore, President of the Tribunal, Mr Patrick Frydman, Vice-President of the Tribunal, and Ms Hongyu Shen, Judge, sign below, as do I, Dražen Petrović, Registrar.

Delivered on 6 July 2022 by video recording posted on the Tribunal's Internet page.

MICHAEL F. MOORE

PATRICK FRYDMAN

HONGYU SHEN

DRAŽEN PETROVIĆ