

Organisation internationale du Travail  
*Tribunal administratif*

International Labour Organization  
*Administrative Tribunal*

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

**G. (No. 7)**

**v.**

**Eurocontrol**

**140th Session**

**Judgment No. 5031**

THE ADMINISTRATIVE TRIBUNAL,

Considering the seventh complaint filed by Ms F. G. against the European Organisation for the Safety of Air Navigation (Eurocontrol) on 19 September 2022, Eurocontrol's reply of 20 December 2022, the complainant's rejoinder of 15 March 2023 and Eurocontrol's surrejoinder of 12 June 2023;

Considering Articles II, paragraph 5, and VII 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 reduction in the amount of her fixed typing allowance calculated in proportion to the reduction in her working hours.

The complainant joined Eurocontrol at the Organisation's Headquarters in Brussels, Belgium, in 1993 as an assistant in the Directorate Central Route Charges Office and Finance. Since 1 January 1994, she has been entitled to a fixed "typing allowance" pursuant to Article 4a of Rule of Application No. 7 of the Staff Regulations governing officials of the Eurocontrol Agency. The allowance is reflected in her monthly pay slips. Following Judgment 1712, delivered in public on 29 January 1998, in which the Tribunal set aside the

Director General's decision – contained in Office Notice No. 19/95 of 22 December 1995 – repealing aforementioned Article 4a with immediate effect, the allowance continued to be paid to the complainant *ad personam*.

By decision of 9 May 2019, the complainant was recognised to have a permanent partial invalidity and her working hours were reduced from 100 to 50 per cent from 1 April 2019. The amount of the fixed typing allowance was reduced proportionately, which was reflected in her pay slips from that time on. From March 2021, her invalidity rating was set at 20 per cent, and the amount of the allowance was revised accordingly.

In an email of 11 January 2021, the complainant – who states that she had not immediately realised that the amount of the typing allowance had been reduced to 50 per cent due to her poor health – asked the Compensation Unit for an explanation because she did not understand how the amount to be awarded to her had been calculated since she had been recognised as having a permanent partial invalidity. The next day, she received a summary table from the software tool that had been used to perform the calculation, and obtained confirmation that the amounts received since 2019 were correct.

On 7 February 2021 the complainant lodged an internal complaint pursuant to Article 92(2) of the Staff Regulations against the “reduction”<sup>\*</sup> in her fixed typing allowance. In particular, she sought reinstatement of her entitlement to the full fixed allowance from 1 May 2019 and claimed damages for the material and moral injury she considered she had suffered.

On 11 February 2021 the Head of Human Resources and Services acknowledged receipt of the complainant's internal complaint and informed her that it had been forwarded to the Joint Committee for Disputes to be discussed during a future session. She also warned the complainant that there could be a “moderate delay”<sup>\*</sup> in dealing with her appeal and stated that she should await the Director General's final decision before taking her case to the Tribunal.

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<sup>\*</sup> Registry's translation.

On 28 February 2022 the complainant enquired about progress in handling her internal complaint and asked the Director General to provide his final decision and the opinion of the Joint Committee for Disputes without delay. As her request went unanswered, she filed a complaint with the Tribunal on 19 September 2022 against the implicit rejection of her internal complaint.

In the meantime, the Joint Committee for Disputes had met on 15 July 2021 and delivered a divided opinion on 8 February 2022. On 15 December 2022 the Director General took a final decision in which he rejected the internal complaint as irreceivable *ratione temporis* on the grounds that the complainant's request, in February 2021, for the cancellation of an administrative decision that had been taken in 2019 was time-barred. These documents were provided by Eurocontrol in its reply.

The complainant asks the Tribunal to order Eurocontrol to reinstate her entitlement to the full fixed typing allowance from 1 April 2019 – with interest at the rate of 10 per cent per annum to be paid on the amount due – and to pay her moral damages of 30,000 euros, plus 10,000 euros for what she describes as the “obstruction”<sup>\*</sup> of the internal appeal proceedings. She also claims the sum of 8,500 euros in costs for the internal appeal proceedings and the proceedings before the Tribunal. In her rejoinder, she asks that a sanction be imposed on the Organisation for the aforementioned “obstruction” and the late provision of the opinion of the Joint Committee for Disputes and the decision of 15 December 2022.

Eurocontrol considers that the complaint is irreceivable *ratione temporis* and that, insofar as she extends her claim for reinstatement of her entitlement to the fixed allowance back to 1 April 2019 – instead of 1 May 2019 as she requested in her internal complaint – the complainant has not exhausted the internal means of redress. It asks the Tribunal to dismiss the complaint as irreceivable and, subsidiarily, as unfounded.

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<sup>\*</sup> Registry's translation.

## CONSIDERATIONS

1. The complainant seeks reinstatement of her entitlement to payment in full of the fixed typing allowance (hereinafter “the typing allowance”) with retroactive effect from 1 April 2019.

2. In her first plea, the complainant submits that the decision to reduce her typing allowance is unlawful because that allowance, which is expressly described as “fixed”, is linked to her duties and not to her actual working time, and that no provision in the Staff Regulations authorises such a reduction.

3. The Tribunal firstly notes that the complainant was recognised to have a permanent partial invalidity, that her working time was reduced by 50 per cent from 1 April 2019 and that from March 2021 her invalidity rating was set at 20 per cent.

In examining the merits of the first plea, account must be taken of the following relevant provisions applicable within Eurocontrol.

By Office Notice No. 8/98 of 14 May 1998, adopted following Judgment No. 1712 referred to in the summary of the facts above, the Director General reinstated the typing allowance provided for in Article 4a of Rule of Application No. 7 of the Staff Regulations governing officials of the Eurocontrol Agency, which had been abolished in 1995. The reintroduced Article 4a provides as follows:

“An official in category C employed as a copy typist [...] may be paid a fixed allowance.

The amount of this allowance shall be fixed under the conditions laid down in Article 65 of the Staff Regulations.

The rates provided for in paragraph 1 of this Article shall be as follows:

[...]

01.07.97: BF 3941 (C4/C5)  
BF 6042 (C1/C2/C3).”

Under Article 62 of the Staff Regulations, allowances form part of a staff member’s remuneration, in the same way as basic salary, family allowances and the expatriation allowance.

With regard to part-time work, the first paragraph of Article 67a of the Staff Regulations specifies that “[a]n official working part-time shall be entitled to remuneration calculated as provided for in Annex IIa and the implementing provisions adopted by the Director General”.

Paragraph 1 of Article 15 of Rule of Application No. 48 of the Staff Regulations, concerning the arrangements for part-time work on medical grounds and invalidity, provides as follows:

“The remuneration of an official working under a [permanent partial invalidity] arrangement shall be calculated in accordance with Article 6 of Annex IIa to the Staff Regulations.”

The seventh paragraph of Article 6 of Annex IIa provides that:

“With regard to the application of the Staff Regulations and its Rules of Application, the official [recognised as having a permanent invalidity considered partial] shall be treated in the same way as officials working part-time at the [...] rate [of 50, 60, 70, 80 or 90 per cent].”

Similarly, under Article 3(1) of the aforementioned Annex IIa:

“An official shall be entitled, during the period for which part-time work is authorised, to a percentage of his remuneration corresponding to the percentage of the normal time worked. However, the percentage shall not be applied to the dependent child allowance, the basic amount of the household allowance or the education allowance.”

It is to be inferred from a combined reading of these various provisions that the typing allowance forms part of the complainant’s remuneration and does not fall within the scope of any of the exceptions expressly mentioned in aforementioned Article 3(1) of Annex IIa to the Staff Regulations. It follows that the allowance must be calculated pro rata to normal working hours for full-time employment, even if the transition to part-time work is due to the recognition of partial permanent invalidity.

It was therefore correct to reduce the amount of the typing allowance paid to the complainant by 50 per cent from 1 April 2019 and by 20 per cent from March 2021.

The first plea is therefore unfounded.

4. In her second plea, the complainant considers that the decision to reduce the allowance, by 50 per cent from 1 April 2019 and by 20 per cent from March 2021, was unlawful because it was taken not by the Director General but by the Compensation Unit, even though it was a generally applicable measure for which authority could not be delegated.

In her third plea, the complainant submits that the consultation procedure provided for in the Memorandum of Understanding of 16 July 2003 governing relations between Eurocontrol and three representative trade unions was not complied with prior to the decision to reduce her typing allowance.

However, the Tribunal finds that these two pleas are based on an error of judgement by the complainant. The questions of whether there was a delegation of authority and whether the decision constituted a generally applicable measure for the purposes of the aforementioned Memorandum of Understanding of 16 July 2003 do not arise since, in the present case, the Compensation Unit merely implemented generally applicable measures laid down in the Staff Regulations by means of an automatic decision involving no exercise of discretion by that unit.

The second and third pleas must, accordingly, be dismissed as unfounded.

5. In her fourth plea, the complainant alleges that she was not given any reasons when she received her pay slip for April 2019, and that she was not informed exactly who had taken the decision to reduce her typing allowance.

The Tribunal considers that, as the Organisation rightly points out, an automatic decision, such as the decision to reduce the amount of the typing allowance in proportion to hours actually worked and recognised by the Organisation, is, as has already been said, simply an obvious consequence of the practical implementation of the rules set out in the Staff Regulations. These rules, recalled in consideration 3 above, are sufficiently clear, and the complainant ought to have been aware of them previously (see, for example, Judgments 4696, consideration 10, 4242, consideration 6, and 4166, consideration 4). There was therefore

no requirement for the Organisation to provide a more detailed formal explanation than that which appeared on the pay slips sent to the complainant from April 2019. On reading her pay slips, the complainant could easily understand that the amount of her typing allowance had been reduced by 50 per cent following the recognition of her permanent partial invalidity and the consequent reduction in her working time by 50 per cent, and then by 20 per cent from March 2021 as a result of her working time returning to 80 per cent. Even if the complainant had any doubt in that regard, it was open to her to familiarise herself with the relevant provisions and, if necessary, to request further information in that regard in good time (see, to that effect, Judgment 4591, consideration 5).

The Tribunal observes that, in any event, the complainant knew perfectly well that her typing allowance had been reduced with effect from 1 April 2019 because she had been recognised to have a partial permanent invalidity. The request for information sent by the complainant to the Compensation Unit on 11 January 2021 shows that she had noticed that this allowance had been reduced since April 2019 and that she only wondered whether the reduction had been calculated correctly.

It follows that the fourth plea is unfounded.

6. In her fifth plea, the complainant alleges a breach of her right to be heard before the impugned decision was taken.

However, the Tribunal considers that, since the reduction in the complainant's working hours automatically resulted in a proportional reduction in the amount of her typing allowance, there was no right to be heard prior to the decision of 15 December 2022 being taken (see, to that effect, Judgment 4591, consideration 6).

The fifth plea must therefore be dismissed.

7. In her sixth plea, the complainant alleges a breach of her acquired rights in that the typing allowance is linked to her post of assistant and is therefore a fundamental right which Eurocontrol could not infringe by an individual decision.

The Tribunal recalls that, according to established case law, an acquired right is breached only when the amendment of a rule to the official's detriment and without her or his consent disturbs the structure of the contract of appointment or impairs fundamental terms of appointment in consideration of which the official accepted appointment (see, in particular, Judgments 4767, consideration 4, 4381, consideration 14, 4195, consideration 7, and 4028, consideration 13).

In the present case, there can be no question of any breach of the complainant's acquired rights. The reduction in the amount of the typing allowance as a result of a change in the complainant's working hours cannot, in any event, be regarded as disturbing the structure of the contract of appointment or impairing fundamental terms of appointment in consideration of which she joined Eurocontrol.

The sixth plea must therefore be dismissed.

8. In her seventh plea, the complainant considers that she experienced discrimination on the grounds of her state of health, which is unlawful.

However, the Tribunal observes that the recognition of the complainant's permanent partial invalidity and the resulting proportional reduction in the amount of her typing allowance, initially by 50 per cent and subsequently by 20 per cent, merely reflect the automatic application of the rules laid down in that regard, referred to in consideration 3 above, which the complainant does not, in any event, formally argue are unlawful.

Nor can the complainant validly compare her situation with that of a staff member of the Organisation placed on sick leave, since the rules applicable to such a situation are not the same and the principle of equal treatment applies only between staff members in the same situation (see, for example, Judgment 4767, consideration 5, and the case law cited therein).

The seventh plea is therefore unfounded.

9. In her eighth and last plea, the complainant alleges both a breach of the provisions of Article 92(2) of the Staff Regulations and a breach by the Organisation of its duty of care on account of the unreasonable delay in taking a decision on her internal complaint of 7 February 2021. She considers that this delay, which she regards as excessively long, amounts to an “obstruction” of the internal appeal procedure and caused her separate moral injury, which she assesses at 10,000 euros.

In the present case, the period of almost 22 months which elapsed between the submission of the complainant’s internal complaint on 7 February 2021 and the adoption of the Director General’s decision of 15 December 2022 ruling on that complaint is admittedly excessive in absolute terms. However, having regard in particular to the nature of the impugned decision, the Tribunal considers that, in the circumstances of the case, this delay does not warrant an award of moral damages.

This plea will also be rejected.

10. It follows from all the foregoing considerations that the complaint must be dismissed in its entirety, without there being any need to rule on the Organisation’s various objections to receivability.

#### DECISION

For the above reasons,

The complaint is dismissed.

In witness of this judgment, adopted on 22 May 2025, Mr Patrick Frydman, President of the Tribunal, Mr Jacques Jaumotte, Judge, and Mr Clément Gascon, Judge, sign below, as do I, René M. Vargas M., Registrar.

Delivered on 3 July 2025 by video recording posted on the Tribunal's Internet page.

*(Signed)*

PATRICK FRYDMAN    JACQUES JAUMOTTE    CLEMENT GASCON

RENÉ M. VARGAS M.