

Organisation internationale du Travail  
*Tribunal administratif*

International Labour Organization  
*Administrative Tribunal*

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

**W. (No. 6)**

**v.**

**Eurocontrol**

(Interlocutory order)

**141st Session**

**Judgment No. 5159**

THE ADMINISTRATIVE TRIBUNAL,

Considering the sixth complaint filed by Ms A. W. against the European Organisation for the Safety of Air Navigation (Eurocontrol) on 5 October 2023, Eurocontrol's reply of 11 December 2023, the complainant's rejoinder of 7 February 2024, Eurocontrol's surrejoinder of 3 May 2024, the complainant's further submissions of 7 August 2025 and Eurocontrol's final observations of 10 September 2025;

Considering the additional documents submitted by Eurocontrol, on 20 June, 6 and 17 October 2025, in response to requests for further submissions from the President of the Tribunal;

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 decision to end her service on the grounds of invalidity and to deduct from her invalidity allowance the contributions to the pension scheme.

Facts relevant to this dispute are set out in Judgments 4961 and 4963, delivered on 6 February 2025, on the complainant's third and fifth complaints. Suffice it to recall that she joined the Eurocontrol Agency, the Organisation's secretariat, at its Headquarters in Brussels

(Belgium) in June 2003, at grade A7, which was renamed AD8 from 1 July 2010. She was promoted to grade AD9 on 1 July 2011. On 1 July 2014 she was appointed Head of Agreements and Economic Affairs, at grade AD10, in the AD5-AD12 grade bracket. In July 2016 her post was renamed “Administrator” in the AD5-AD12 grade bracket, while her grade remained AD10. On 20 April 2018 the complainant was assigned to the Directorate Central Route Charges Office, Finance and central IT (CFI), to the Finance and Procurement Unit within Finance Services, a unit that was renamed Procurement and Agreements Unit from 4 July 2019.

On 21 October 2019 the complainant sent the former Director General a formal complaint of psychological harassment against the Head of Human Resources and Services, Ms D., and two staff members who reported to her, Ms M. and Ms G., as well as against her then supervisor. By a letter of 19 March 2020, she was notified that her harassment complaint had been closed on the grounds that the facts established during the investigation did not constitute evidence confirming the existence of harassment. That decision led to aforementioned Judgment 4961.

With effect from 1 August 2021, during a partial reorganisation of the Directorate CFI, the complainant was transferred to the post of “Procurement Specialist” at grade AD8 within the Network Management Directorate. This downgrading by two grades was challenged in her fifth complaint and gave rise to aforementioned Judgment 4963. From 1 August 2021, the complainant was placed on sick leave.

In view of the total number of days for which the complainant had been absent for health reasons, on 21 November 2022 the Director General decided to convene an Invalidity Committee to examine her case pursuant to Article 59(5) of the Staff Regulations governing officials of the Eurocontrol Agency. He appointed Dr B., the Agency’s Medical Adviser, to the Committee. The complainant in turn appointed Dr K., then a third member, Dr D., was chosen by mutual agreement between the two doctors already appointed.

In its decision of 20 February 2023 – that was sent to Ms D. the following day – the Invalidity Committee found that the complainant had a permanent invalidity which required her to end her service, but which was not the result of an accident sustained in the performance of her duties or an occupational disease. The Committee specified that a medical examination to review her condition was to be envisaged after two years. On 1 March 2023 the complainant was informed of the Committee’s findings and was notified of the decision of the Head of Staff Administration and Support, acting by delegation of authority from the Director General, to endorse them. She was advised that she would have to end her service from 31 March 2023. In the course of March, she made several requests for a copy of the Invalidity Committee’s decision, but to no avail.

Since 1 April 2023, the complainant has been receiving an invalidity allowance equivalent to 70 per cent of her salary, and her expatriation allowance has been withdrawn. In accordance with Article 78 of the Staff Regulations, she is also required to pay contributions to the Agency’s pension scheme, set at the rate of 8.75 per cent of her invalidity allowance.

On 25 May 2023 the complainant lodged an internal complaint against the decision of 1 March 2023 to end her service on the grounds of invalidity and to deduct contributions to the pension scheme from her invalidity allowance. She also alleged that psychological harassment was the “cause of the termination of [her] service on the grounds of invalidity”<sup>\*</sup> and criticised the circumstances in which the termination had taken place. She requested that the Agency pay “the pension contributions of 8.75 [per cent], retroactively from the date on which [her] service was ended on the grounds of invalidity (31.03.2023)”<sup>\*\*</sup> and reimburse arrears with interest at the rate of 8 per cent per annum, provide her with her complete medical file, including the decision of the Invalidity Committee and any other evidence or document adduced by the Administration, recognise her illness as occupational and open an investigation into psychological harassment pursuant to Rule of

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<sup>\*</sup> Registry’s translation.

Application No. 40 concerning harassment pursuant to Article 12a of the Staff Regulations. She also sought compensation for the material and moral injury she alleged to have suffered, together with interest, and an award of costs. At the time the reply was filed, the internal complaint had not yet been referred to the Joint Committee for Disputes. Eurocontrol acknowledges a “regrettable omission by the Director General’s office”<sup>\*</sup> in this respect.

On 5 October 2023 the complainant filed the present complaint with the Tribunal, pursuant to Article VII, paragraph 3, of the Tribunal’s Statute, impugning the implied decision to reject her internal complaint. She requests that Eurocontrol be ordered, firstly, to pay the 8.75 per cent pension scheme contributions from 1 April 2023 and to reimburse her for contributions from that date and, secondly, to pay her the 30 per cent difference between the invalidity allowance and her previous salary, including her expatriation allowance, from 1 April 2023, with all sums bearing interest at a rate of 8 per cent per annum for late payment. She also seeks compensation – comprising 200,000 euros in damages for the moral injury she considers to have suffered and 25,000 euros in punitive damages – and an award of costs in the amount of 5,000 euros for the internal appeal procedure and 8,000 euros for the proceedings before the Tribunal.

Eurocontrol asks the Tribunal to dismiss the complaint as unfounded, as well as all the complainant’s claims. It appends to its reply the Invalidity Committee’s decision of 20 February 2023.

On 5 June 2025 the President of the Tribunal wrote to the Organisation enquiring about progress in examining the complainant’s internal complaint of 25 May 2023. In response, Eurocontrol provided the opinion of the Joint Committee for Disputes of 10 December 2024 and the final decision of the new Director General of 20 June 2025. In its opinion, the Joint Committee had found that the internal complaint was receivable and partially well-founded, and considered that “the decisions of the Invalidity Committee should be sufficiently substantiated and set out the reasons why its members [...] arrived at their particular

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<sup>\*</sup> Registry’s translation.

findings as to whether invalidity is occupational”\*. In his final decision, the new Director General dismissed the internal complaint as unfounded and decided to initiate a procedure to assess whether the complainant’s illness was occupational, pursuant to Rule of Application No. 10a relating to insurance against the risk of accident and occupational disease.

In her further submissions of 7 August 2025, the complainant requests that the purpose of her complaint be extended to include the setting aside of the decision of the new Director General of 20 June 2025 and increases the amount of costs claimed in connection with the present proceedings to 10,500 euros.

In its final observations, Eurocontrol maintains its position.

#### CONSIDERATIONS

1. The complainant challenges the implied rejection of her internal complaint of 25 May 2023 against the decision of 1 March 2023 ending her service on the grounds of invalidity and deducting from her invalidity allowance the contributions to the pension scheme.

The Tribunal notes, however, that a final decision rejecting her internal complaint was taken by the new Director General on 20 June 2025. That decision was produced after Eurocontrol had filed its surrejoinder, following which the parties had the opportunity to comment on it in further submissions. Thus, in accordance with the Tribunal’s case law, it is appropriate to treat the present complaint, initially directed against an implied decision, as directed against the new Director General’s decision of 20 June 2025 as the complainant requests in her further submissions of 7 August 2025 (see in particular, for similar cases, Judgments 4963, consideration 3, 4962, consideration 3, 4961, consideration 3, 4820, consideration 6, 4769, consideration 3, 4768, consideration 3, 4660, consideration 6, 4065, consideration 3, and 2786, consideration 3).

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\* Registry’s translation.

2. The Organisation requests that the present complaint be joined with the complainant's other complaints which were pending before the Tribunal at the time of its filing, namely her third, fourth and fifth complaints.

The Tribunal observes, however, that such a request for joinder had already been made by the Organisation in those other complaints and that it was rejected, inter alia, by aforementioned Judgments 4961 and 4963, rendering it moot.

There is thus no need for the Tribunal to rule on this point.

3. Although the complainant does not dispute the decision to end her service on the grounds of permanent invalidity for a period of two years, she challenges the finding that the illness giving rise to the decision was not occupational, resulting in 8.75 per cent pension contributions being deducted from her invalidity allowance, at her expense. She also alleges that a valid decision was not made on the harassment complaint submitted in her internal complaint of 25 May 2023.

4. The Tribunal notes firstly that, although the new Director General concluded in his decision of 20 June 2025 that the internal complaint of 25 May 2023 was unfounded, he informed the complainant that he had decided to initiate a procedure pursuant to Rule of Application No. 10a relating to insurance against the risk of accident and occupational disease, in order to assess whether her illness was occupational. He clarified that this procedure was separate from the earlier invalidity procedure, which had now been completed.

Additional documents produced by Eurocontrol in response to the President of the Tribunal's request for further submissions also show that, after its meeting on 18 August 2025, the Invalidity Committee confirmed on 6 October that the complainant had a permanent invalidity and recommended to the Director General that her service be ended. However, the Committee refrained from expressing a view as to whether the invalidity was occupational. On this point, it stated the following:

“The Invalidity Committee does not have all the information available to rule on the origin of the invalidity. It therefore recommends the [complainant] to request application of Rule of Application 10a (art. 16), to launch an assessment on [alleged] occupational disease. The Invalidity Committee will decide on the origin of the invalidity after the decision in the context of this [r]ule of [a]pplication (art. 18).”

In addition, these documents show that, on 16 September 2025, the complainant submitted an internal complaint against the Director General’s decision of 20 June 2025, in that he found her second complaint of psychological harassment, submitted on 25 May 2023, to be irreceivable. In that respect, Eurocontrol has stated that this harassment complaint is still under consideration. Once again, it cannot be ruled out that the outcome of the other pending proceedings may be influenced by the latter procedure.

5. In such a context, the Tribunal considers that it is not currently in a position to examine the merits of the present complaint, as this would risk interfering with the proper conduct of the various ongoing proceedings within the Organisation.

6. However, the Tribunal considers it necessary to rule immediately on a procedural application made by the complainant in support of various pleas put forward in her complaint.

7. The complainant submits that the Organisation unlawfully refused to disclose to her both her medical file and the documents on which the Invalidity Committee based its decision of 20 February 2023, thereby failing to allow both parties to duly participate in the proceedings. She considers that, despite the several requests she made to that end, she has not been granted access to either her medical file or the documents on which the Invalidity Committee based its decision, and therefore considers that she has not been able to put an effective case against the decisions to end her service on the grounds of invalidity.

The Organisation replies that it has never objected to the disclosure of this medical information, but that, owing to the way in which the complainant and her counsel conducted themselves in the matter, it was

not possible to carry out such disclosure in compliance with the applicable confidentiality rules.

8. The Tribunal observes first of all that the only document provided to the complainant concerning the invalidity procedure is the decision of the Invalidity Committee of 20 February 2023 finding that her illness was not occupational.

9. As far as the right to disclosure of a staff member who requests her or his medical information or the files of a medical or invalidity committee, the Tribunal recalls that, according to its case law, as set out in particular in Judgment 4118, consideration 5, the right to transparency as well as the general principle of an individual's right to access personal data concerning her or him mean that a staff member must be allowed full and unfettered access to her or his medical file and be provided with copies of the full file when requested (paying the associated costs as necessary) (see also Judgments 3994, consideration 10, or 3120, consideration 7). According to the same case law, the only situation in which this rule does not apply is where specific circumstances temporarily prevent such access. Moreover, a decision to deny a staff member full access to her or his medical file temporarily must be fully justified and reasonable (see, for example, Judgment 3994, consideration 10). In Judgment 3120, consideration 6, the Tribunal also stated that in the absence of specific rules or regulations governing the right of a staff member to access her or his own medical file, that right must be considered to comprehend the right to view and obtain copies of all records and notes in the file, and to add relevant notes to correct any part of the file considered wrong or incomplete. So stated, that right gives effect to the Organisation's duty of transparency (see also Judgments 4260, consideration 2, and 2045, consideration 11). It follows that the confidentiality of medical information concerning staff members' state of health, which the Organisation invokes in the present case, is intended to apply only in relation to third parties and not to the staff members concerned (compare with Judgment 2045, consideration 11).

10. As regards the Tribunal's review of a decision by an Invalidity Committee as to whether an illness is occupational, the Tribunal recalls that medical assessments fall outside its competence (see, for example, Judgment 4905, consideration 13).

However, a steady line of case law has it that, while the Tribunal may not replace the medical findings of a body such as an invalidity board with its own assessment, it does have full competence to say whether there was due process and to examine whether the board's opinion shows any material mistake or inconsistency, overlooks some essential fact or plainly misreads the evidence (see, in particular, Judgments 4904, consideration 2, 4709, consideration 4, 4585, consideration 10, 4473, consideration 13, 4237, consideration 5, 3994, consideration 5, 2996, consideration 11, 2361, consideration 9, and 1284, consideration 4). But, notably in Judgment 4904, the Tribunal was given access to the medical file compiled by the invalidity board, and the staff member was informed of the content of the medical information relating to him. It does not appear that this has yet been done in the present case.

11. It follows from the above considerations that the complainant, who has so far been unable to consult her medical file or the documents on which the Invalidity Committee based its decision in her case, is correct to argue that her rights have been infringed.

The Organisation argues that the decision of the Invalidity Committee is annexed to its reply and points out that, in an email of 29 November 2023, the Head of Health and Wellbeing had invited the complainant to come and consult her medical file on the Agency's premises or to request it be sent to her in a format of her choice. But, firstly, this email was sent after the present complaint was filed and, secondly, it does not respond to the complainant's express request to be sent both her medical file and the documents on which the Invalidity Committee based its decision. On this last point, a clear distinction must be drawn between the Invalidity Committee's decision itself and the documents in question. The Organisation also submits that, by an email of 7 March 2023, the complainant had been expressly invited to contact

the Agency's medical service. However, the fact remains that, by an email of 21 March 2023, Dr B., the Agency's Medical Adviser, had merely informed the complainant that he had "requested clarification from the legal service as to whether it would be lawful to send [her medical information] directly to the complainant"\*.

In its last email sent to the Tribunal on 17 October 2025, Eurocontrol made the following further points:

"The complainant has not yet received the medical information she requested.

However, the Organisation maintains that access has not been refused. In a letter of 29 November 2023 [...], the complainant was invited to consult her medical file in a manner that ensured data protection. The Organisation also stated how she could receive a copy of the file. To date, the complainant has not responded."\*

In her further submissions of 7 August 2025, the complainant maintains that she is entitled to have access to her medical file, "with or without her doctor"\*, and that the Organisation, particularly Dr B., is hindering disclosure. Rather surprisingly in the Tribunal's view, she adds that:

"The Agency is doing everything in its power to obstruct and refuse disclosure. The slightest artificially-created obstacle is put forward as a reason to refuse to provide the medical file. It is not for the complainant to state that her file should be sent to her *by email or by registered post*, otherwise why should she not specify *in a brown envelope with a self-sealing flap and franked with stamps of a particular design*?"\* (Italics in the original.)

12. To sort out the situation, the Tribunal considers that, although there is no need to apportion blame between the parties in this matter, the appropriate course is to:

- order the complainant to inform Eurocontrol of the exact arrangements (including the mode of communication, address and intended recipient) according to which she wishes to receive her medical file and the documents on which the Invalidity Committee based its decision in her case, within 15 days of the public delivery of this judgment;

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\* Registry's translation.

- order the Organisation to communicate the file and documents to the complainant, according to the arrangements indicated by her, within 15 days of receipt of those instructions;
- authorise the complainant to file additional submissions within 30 days of receipt of the file and documents, with no possibility of extending this time limit; and
- authorise Eurocontrol to file its final observations within 30 days of receipt of any additional submissions from the complainant, with no possibility of extending this time limit.

13. The examination of the remainder of the complaint is deferred and the costs of the proceedings are, accordingly, reserved.

#### DECISION

For the above reasons,

1. The complainant's medical file and the documents on which the Invalidity Committee based its decision on her case shall be communicated to her by Eurocontrol in accordance with the arrangements set out in consideration 12, above.
2. The examination of the remainder of the complaint is deferred.
3. The costs of the present proceedings are reserved.

In witness of this judgment, adopted on 5 November 2025, Mr Patrick Frydman, Vice-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 10 February 2026 by video recording posted on the Tribunal's Internet page.

*(Signed)*

PATRICK FRYDMAN    JACQUES JAUMOTTE    CLEMENT GASCON

RENÉ M. VARGAS M.