

Organisation internationale du Travail
Tribunal administratif

International Labour Organization
Administrative Tribunal

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

G. (No. 3)

v.

Eurocontrol

141st Session

Judgment No. 5161

THE ADMINISTRATIVE TRIBUNAL,

Considering the third complaint filed by Mr R. G. against the European Organisation for the Safety of Air Navigation (Eurocontrol) on 21 January 2022, Eurocontrol's reply of 2 May 2022, the complainant's rejoinder of 11 July 2022, Eurocontrol's surrejoinder of 6 October 2022, the complainant's further submissions of 22 October 2024 and Eurocontrol's final comments thereon of 22 January 2025;

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 open disciplinary proceedings against him, as well as the decision to dismiss his harassment complaint.

On 11 October 2018, the complainant, a Eurocontrol official, submitted an application to Eurocontrol's Sickness Insurance Scheme seeking reimbursement of two pairs of spectacles, accompanied by a medical prescription issued by an ophthalmologist in Belgium and an invoice from an optician's shop in Italy. On 25 October 2018 he was informed that reimbursement for the spectacles had been refused because the date on the medical prescription had been falsified.

By an internal memorandum of 6 October 2020, the complainant was officially informed that an administrative investigation had been launched against him, by decision of the Director General of 7 May 2019. He lodged an internal complaint against that memorandum on 19 October 2020. He stated that his internal complaint also constituted a formal harassment complaint against three members of Eurocontrol staff, including the Head of Human Resources and Services. In his second complaint before the Tribunal, the complainant challenged the opening of that administrative investigation, as well as the dismissal of his harassment complaint lodged on 19 October 2020. That complaint led to Judgment 4765, delivered on 31 January 2024, by which the complaint was declared irreceivable in its entirety, and to Judgment 4956, delivered on 6 February 2025, by which the application for review of Judgment 4765 was dismissed.

In an investigation report dated 22 October 2020, the administrative investigation concluded that the medical prescription submitted by the complainant in support of his claim for reimbursement of 11 October 2018 had been forged.

On 9 September 2021 the complainant was informed that disciplinary proceedings against him were being opened.

On 21 September 2021 the complainant lodged an internal complaint, in which he challenged the disciplinary proceedings and made a second formal harassment complaint against the Chairman of the Disciplinary Board, claiming further that the Secretary of the Disciplinary Board and the Head of the Human Resources and Services potentially also “committed harassment”.

On 8 November 2021 the Director General dismissed the harassment complaint of 21 September 2021.

The complainant filed a complaint with the Tribunal on 21 January 2022 to impugn both an implied decision dismissing his internal complaint of 21 September 2021, to the extent that it related to his request for the disciplinary proceedings against him to be cancelled, and the decision of 8 November 2021 referred to above. Those are the impugned decisions in the complainant’s third complaint.

On 18 September 2024 the Director General took an express decision dismissing the complainant's internal complaint of 21 September 2021.

The complainant asks the Tribunal to set aside the decision of 8 November 2021 dismissing his harassment complaint, the implied decision dismissing his internal complaint of 21 September 2021, as well as the disciplinary proceedings opened against him. He also asks the Tribunal to rule that the Chairman of the Disciplinary Board, the Secretary of the Disciplinary Board and the Head of the Human Resources and Services are guilty of moral harassment towards him. He seeks redress for the moral injury which he considers he has suffered and which he assesses as at least 60,000 euros, as well as 10,000 euros for failure to deal with his internal complaint, and the payment of exemplary or punitive damages in the amount of 25,000 euros. Lastly, he seeks the award of 11,500 euros for costs, which includes 2,500 euros for the internal proceedings.

Eurocontrol asks the Tribunal to dismiss as irreceivable the complainant's claims for the setting aside of the decision of 8 November 2021 and for a ruling of harassment, and to dismiss the other claims as unfounded.

CONSIDERATIONS

1. The complainant seeks the setting aside, firstly, of the Director General's decision of 8 November 2021 dismissing his second harassment claim and, secondly, of the implied decision dismissing his internal complaint of 21 September 2021, insofar as that complaint challenged the decision to open disciplinary proceedings against him. As a preliminary point, the Tribunal notes that the internal complaint of 21 September 2021 was ultimately dismissed by an express decision of the Director General taken on 18 September 2024.

2. The Tribunal has already held, in Judgments 4632, consideration 4, and 3961, consideration 4, that an official cannot challenge disciplinary proceedings taken against him, including the opening of those proceedings, until a decision has been delivered at the end of the procedure. Once the disciplinary proceedings have concluded and a decision has been delivered, the official may then challenge that decision and any other part of the proceedings. Consistent case law holds that procedures may include many steps which lead to a final, impugnable decision, but those steps cannot be challenged separately. To allow otherwise would open procedures to a senseless and paralysing number of individual appeals that would serve no useful purpose (see Judgments 3876, consideration 5, 3700, consideration 14, 3512, consideration 3, and 3433, consideration 9).

In the present case, the disciplinary proceedings open against the complainant concluded by the decisions of the Director General, taken on 17 February and 11 April 2022, to impose on him the disciplinary sanction of downgrading. The complainant's challenge to those decisions is the subject of his fourth complaint before the Tribunal, addressed in Judgment 5160, also delivered this day. It is in that context that the complainant's arguments about the conduct of the disciplinary proceedings will be examined.

3. As regards the decision of 8 November 2021 dismissing the complainant's second harassment complaint included in his internal complaint of 21 September 2021, the Tribunal notes that the complainant did not challenge this decision through the internal means of redress provided for by Article 92 of the Staff Regulations governing officials of the Eurocontrol Agency. In accordance with paragraph 2 of that article, the complainant ought to have submitted an internal complaint against the decision that had been taken in relation to his harassment complaint (see Judgments 4956 and 4765, concerning the complainant's second complaint before the Tribunal and his first harassment complaint, and Judgment 5030, consideration 2). However, the complainant has challenged that decision directly before the Tribunal.

It follows that the complaint, insofar as it seeks the setting aside of the decision of 8 November 2021, is also irreceivable for contravention of the requirement laid down in Article VII, paragraph 1, of the Statute of the Tribunal that internal means of redress first be exhausted.

4. As the complaint is irreceivable in its entirety, there is no need to rule on the complainant's other claims.

5. It follows from the foregoing that the complaint must be dismissed in its entirety.

DECISION

For the above reasons,

The complaint is dismissed.

In witness of this judgment, adopted on 30 October 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.