Organisation internationale du Travail
Tribunal administratif

International Labour Organization
Administrative Tribunal

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

R. (No. 2)

v.

Eurocontrol

141st Session **Judgment No. 5164**

THE ADMINISTRATIVE TRIBUNAL,

Considering the second complaint filed by Mr J.-P. R. against the European Organisation for the Safety of Air Navigation (Eurocontrol) on 14 May 2022 and corrected on 16 May 2022, Eurocontrol's reply of 9 September 2022, the complainant's rejoinder of 15 December 2022, Eurocontrol's surrejoinder of 17 March 2023, the complainant's further submissions of 4 November 2024 and Eurocontrol's final comments of 27 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 withdraw his "travelling expenses" pursuant to Office Notice No. 18/20 of 24 July 2020.

The complainant, a French national, has been a staff member of the Eurocontrol Agency, the Organisation's secretariat, since 16 July 1991 and is employed in Brétigny-sur-Orge (France). When he was recruited, his place of origin was the same as his place of employment. His place of origin was subsequently determined to be Antananarivo (Madagascar), which entitled him and his family to annual reimbursement of travel

expenses (or "travelling expenses" to use the complainant's expression), calculated from Brétigny-sur-Orge to Antananarivo, as well as to additional leave for "travelling time". These benefits were granted on that basis until 30 June 2020.

As part of an administrative reform initiated in 2016 and announced in Office Notice No. 16/18 of 10 December 2018, the Eurocontrol Agency indicated that it was deferring the adoption of new travel expense reimbursement rules pending the outcome of litigation on the matter before the Court of Justice of the European Union (CJEU). After those actions were dismissed on 30 April 2019, the Agency started implementing the new provisions. In Office Notice No. 18/20 of 24 July 2020 amending Rule of Application No. 8 (Articles 3 and 4), travel expenses were withdrawn for officials without expatriate status. In accordance with the new Article 4(1), only staff members entitled to the expatriation or foreign residence allowance retained entitlement to an annual flat-rate payment of travel expenses.

The complainant's travel expenses were withdrawn with effect from 1 July 2020. As a result, his travel expenses were reimbursed only for the first half of 2020, and then completely withdrawn for the subsequent years. The complainant was initially informed of this by his statement of reimbursement dated 1 September 2020.

On 20 October 2020 the complainant lodged an internal complaint under Article 92(2) of the Staff Regulations governing officials of the Eurocontrol Agency, challenging the application of the new Rule of Application No. 8 and the withdrawal of his entitlement to "travelling expenses". In a memorandum of 29 October 2020, Eurocontrol's Head of Human Resources and Services acknowledged receipt of the internal complaint on behalf of the Director General, and she forwarded it to the Joint Committee for Disputes on the same day.

As he did not receive a response, the complainant contacted the Chairman of the Joint Committee for Disputes on 14 December 2021 and 24 January 2022, unsuccessfully, and then referred the matter to the Director General on 17 February 2022.

In the meantime, on 24 January 2022, the Joint Committee for Disputes had issued a single opinion on the internal complaints of a number of Eurocontrol staff members who were in a similar position, including the complainant, but did not forward the opinion to him. The findings in this opinion were divided, with two members considering that the internal complaints were well-founded and two members taking the view that they were not. One member deemed the internal complaints to be unfounded, considering that Eurocontrol had acted reasonably within its discretion and in line with the European civil service reforms, without breaching any acquired rights. A second member considered the internal complaints to be well-founded, citing a substantial reduction in staff members' rights, discrimination on the grounds of nationality, unlawful retroactivity and absence of individual decisions. A third member acknowledged the loss of benefits but concluded that the reform fell within the Organisation's competence and that the internal complaints should be rejected as unfounded. Lastly, a fourth member identified procedural flaws, recalled the case law on acquired rights, criticised the unfair effects of the reform and concluded that the internal complaints were well-founded, drawing attention to the prohibition of retroactivity.

On 18 February 2022 the Head of Human Resources and Services, acting on behalf of the Director General and by delegation of authority, notified the complainant of the rejection of his internal complaint. The original English version of the opinion of the Joint Committee for Disputes was appended to the final decision. The French translation was sent to the complainant on 11 March 2022, at his request. In the final decision, after noting that "all the members"[*] of the Joint Committee for Disputes had "reached the conclusion that [the internal complaint] was unfounded"[*], the Head of Human Resources and Services stated that she "endorse[d] their position"[*]. She recalled the broad discretion afforded to international organisations in carrying out reforms and stated that it had been exercised here after consultation with the social partners and unanimous approval by the Permanent Commission. She pointed out that there was no acquired right to the reimbursement of

[*] Registry's translation.

travel expenses and that, even though it had been granted in the past, this financial benefit could be altered by subsequent rules. According to her, the reform had not changed the criteria for identifying the place of origin, but only the method for calculating travel expenses, which was now based on the capital of the Member State of which the staff member was a national, an approach regarded as fair. As there had not been any breach of procedure, error of law or fact, or misuse of authority, the Head of Human Resources and Services considered the internal complaint to be unfounded. That is the impugned decision.

In his complaint, the complainant asks the Tribunal to set aside the decision of 18 February 2022 and to order Eurocontrol to restore his entitlement to "travelling expenses". He also claims compensation for the effective withdrawal of his "travelling expenses" from 1 July 2020 and payment of the corresponding sums, together with interest at a rate of 5 per cent per annum for late payment. Lastly, he claims compensation of 40,000 euros for "emotional" injury, 50,000 euros in moral damages and 10,000 euros for the delay in and the handling of his internal complaint, as well as costs, which he quantifies at 7,000 euros.

Eurocontrol asks the Tribunal to dismiss the complaint as unfounded.

CONSIDERATIONS

1. The complainant seeks the setting aside of the decision of Eurocontrol's Head of Human Resources and Services of 18 February 2022, taken by delegation of authority from the Director General, as well as an order that Eurocontrol restore his entitlement to travel expenses and compensate him for the material, "emotional" and moral injury he has allegedly suffered as a result, firstly, of the effective withdrawal of these expenses since 1 July 2020 and, secondly, of the delay in handling his internal complaint of 20 October 2020.

The present complaint, which relates to travel expenses, follows on from the complainant's first complaint, which concerned travelling time. In his written submissions, the complainant repeatedly refers to travelling time and "travelling expenses" as forming part of a whole.

Some of the pleas advanced in the complaints, whether relating to travelling time or "travelling expenses", are similar, if not identical. The first complaint was decided by the Tribunal in Judgment 4593, delivered on 1 February 2023, which dismissed it. On certain points, the Tribunal will refer to this other judgment in order to avoid unnecessary repetition.

2. Eurocontrol requests that the complainant's complaint be joined with that of another complainant, Ms G., which also involves four interveners. The Agency submits that both cases concern travel expenses and that it would therefore be appropriate to join them. The complainant opposes joinder.

Under the Tribunal's settled case law, the decisive criterion for joining complaints is generally that they raise the same questions of law and similar questions of fact (see, for example, Judgment 5035, consideration 2). It is not sufficient that they stem from the same continuum of events (see, for example, Judgments 5017, consideration 7, 4961, consideration 2, 4844, consideration 2, and 4753, consideration 6).

In the present case, the Tribunal notes that while these two cases, both of which deal with travel expenses, are indisputably linked, the factual situations of the other complainant, Ms G., and the interveners in her complaint differ somewhat from that of the complainant. The Tribunal also notes that Ms G. had chosen to file an application to intervene in the complainant's first complaint concerning travelling time, which led to aforementioned Judgment 4593, whereas she chose to file her own complaint in the present case concerning travel expenses. In addition, the Tribunal observes that three of the four interveners in Ms G.'s complaint had also filed applications to intervene in the other case that led to Judgment 4593 but opted to do so in Ms G.'s complaint rather than the complainant's. In the circumstances, the Tribunal considers that it is not appropriate to join the complaints in these two cases and decide them in a single judgment despite the similarities and areas of convergence between them and the largely overlapping submissions of the parties.

It follows that the complainant's and Ms G.'s complaints will not be joined.

3. The Tribunal notes that the complainant, a French national who has been a Eurocontrol staff member since 16 August 1991, was assigned to the Brétigny-sur-Orge site (France) when he was recruited, which was where he was living at the time, while his place of origin was later determined to be Antananarivo (Madagascar), where he was born. However, he does not hold expatriate status because he does not meet the condition of holding a nationality different from that of the State of his place of employment.

4. Until 30 June 2020, Article 4 of Rule of Application No. 8 concerning reimbursement of expenses, included in Section 3 entitled "Travel expenses", provided as follows in the version then in force:

"Article 4

1. An official shall be entitled to be paid in each calendar year a sum equivalent to the cost of travel from the place where he is employed to his place of origin as defined in Article 3 for himself and, if he is entitled to the household allowance, for his spouse and dependants within the meaning of Article 2 of the Rule of Application No. 7 concerning remuneration [...]

[...]

2. The flat-rate payment shall be based on an allowance per kilometre of distance between the official's place of employment and place of recruitment or origin; [...]"

5. Moreover, the Implementing Provisions for Rule of Application No. 8 provided as follows regarding the determination of place of origin:

"Article 1

An official's place of origin as referred to in Article 3.3 of Rule of Application No. 8 shall be determined or changed by the Director General according to the criteria laid down in these implementing rules.

Article 2

1. When officials take up their duties, their place of origin shall be assumed to be the place from where they are recruited.

Upon express reasoned request, submitted by the official in writing within one year of taking up his duties, and on production of appropriate documentary evidence, his centre of interests shall be determined as his place of origin, if the centre of interests is not the same as the place of recruitment.

2. For the purposes of applying these implementing rules:

- 'place of recruitment' shall mean the place where an official was habitually resident at the time of recruitment. Places of temporary residence, e.g. for the purpose of study, military service, training periods or holidays, shall not be regarded as places of habitual residence;
- 'centre of interests' shall mean the place where an official retains:
  a) his or her main family ties [...];
  b) heritable interests constituted by immovable property in the form of buildings;
  c) essential civic interests, both active and passive.

[...]"

6. On 24 July 2020 Eurocontrol reformed its rules in Office Notice No. 18/20 of the Director General, effective from 1 July 2020, and amended Article 4(1) and (2) of Rule of Application No. 8 as follows, withdrawing travel expenses for staff members not entitled to an expatriation or foreign residence allowance:

"Article 4

1. Officials entitled to the expatriation or foreign residence allowance shall be entitled to be paid in each calendar year [...] a flat-rate payment corresponding to the cost of travel from the place of employment to the place of origin as defined in Article 3 for themselves and, if they are entitled to the household allowance, for the spouse and dependants within the meaning of Article 2 of the Rule of Application No. 7 concerning remuneration.

[...]

2. The flat-rate payment shall be based on an allowance per kilometre of geographical distance between the official's place of employment and his place of origin.

   Where the place of origin as defined in Article 3 is outside the territories of the Member States of the Organisation, the flat-rate payment shall be based on an allowance per kilometre of geographical distance between the official's place of employment and the capital

> city of the Member State whose nationality he holds. Officials whose place of origin is outside the territories of the Member States of the Organisation and who are not nationals of one of the Member States shall not be entitled to the flat-rate payment.
>
> [...]"

7. With effect from 1 July 2020, the allowance for travel expenses allocated to the complainant, whose place of origin was approximately 9,000 kilometres from his place of employment and who had previously received reimbursement for these expenses (calculated to be, for example, 4,872.14 euros for 2019), was thereby halved for 2020 and, subsequently, entirely withdrawn.

8. In his complaint, the complainant puts forward numerous pleas, which the Tribunal considers appropriate to group together in the following order, alleging, firstly, a lack of delegation of authority to the signatory of the impugned decisions of 18 February 2022; secondly, a breach of the complainant's right to be heard and an inadequate statement of the reasons for the impugned decision and the withdrawal of travel expenses; thirdly, a failure to comply with the procedure regarding consultation of authorised and representative trade unions; fourthly, an unlawful retroactive application of the amendments; fifthly, a breach of the complainant's acquired rights; sixthly, discrimination against him on the grounds of nationality; and seventhly and lastly, an unreasonably long delay in handling his internal complaint.

9. As regards the first plea, alleging a lack of delegation of authority in respect of the impugned decision of 18 February 2022 signed by Ms D., the Head of Human Resources and Services, as the Tribunal already established in aforementioned Judgment 4593, consideration 5, the evidence produced by Eurocontrol in this case shows to the Tribunal's satisfaction that Ms D. had the authority to take and sign such decisions.

Suffice it to recall in that respect that pursuant to Decision No. XI/14 of the Director General dated 1 December 2016, power had been delegated by the Director General to the Director of Resources

(Mr V.) to take and sign decisions and documents relating, inter alia, to the internal complaint procedure. Furthermore, that delegating decision remained in force during the implementation of the new organisation of management at director level which was introduced by the Director General's Decision No. I/25 of 20 April 2018 concerning the Agency organisation. Article 1 of this decision states the following with regard to the Agency's Human Resources and Services Unit, placed under the authority of the aforementioned Head whose name appears in the impugned decision, until the detailed organisation of that Unit should be provided for in separate decisions:

> "Ms [D.] enjoys the same delegated powers in human resources and other Agency services areas as formerly exercised by Mr [V.]. Any delegations and valid sub-delegations already made by Mr [V.] in this regard remain valid."

Accordingly, following the reorganisation of the Agency by the Director General and contrary to the complainant's assertions, unless and until separate decisions were made concerning delegation of power within the Unit, the Head of Human Resources enjoyed the powers previously delegated to and exercised by Mr V. in that regard.

The first plea is unfounded.

10. As regards the complainant's second plea, alleging that he was not heard before the impugned decision was taken to his detriment and that the statement of reasons for that decision was inadequate, firstly, the Tribunal has already held that the general principle protecting a staff member's right to be heard cannot be applied to a general decision (see, for example, Judgment 4283, consideration 6). The same case law applies to the situation where, as in the present case, the contested decision is purely and simply the consequence of a general decision of that kind (see, for example, Judgment 4593, consideration 7).

Next, according to the Tribunal's settled case law, the reasons for an administrative decision must be sufficiently explicit to enable the person concerned to take an informed decision accordingly as to the exercise of her or his right of appeal; they must also enable the competent review bodies to determine whether the decision is lawful and, in particular, the Tribunal to exercise its power of review (see, for

example, Judgments 4923, consideration 10, 4593, consideration 6, 4081, consideration 5, 3617, consideration 5, or 1817, consideration 6).

In the present case, the Tribunal finds that the reasoning for the impugned decision was sufficiently detailed to enable the complainant to understand and challenge the reasons for which it had been taken, as is eloquently demonstrated by the content of his submissions in the internal appeal proceedings and before the Tribunal. While it is true that, as the complainant argues, the decision did not respond to several points raised in his internal appeal, the Tribunal considers that, in the circumstances of the case, that is not a substantive defect rendering the decision unlawful. Moreover, the complainant's claim that the decision contained a "blatant inaccuracy"[*] in its analysis of the opinion of the Joint Committee for Disputes does not relate to a failure to state adequate reasons, but to the merits of the impugned decision. In the form in which it is presented, this argument is therefore misplaced.

The second plea must therefore be rejected.

11. As regards the third plea, alleging a failure to comply with the procedure as regards consultation with the authorised and representative trade unions, the Tribunal considers that the complainant has not substantiated his claims in that regard.

Firstly, in view of the evidence in file, the Tribunal notes that Eurocontrol began negotiating with the relevant trade unions in 2016 regarding the reform that led to the new provisions in question, which subsequently came into force on 1 July 2020. As explained in Office Notice No. 16/18 of 10 December 2018, of which staff members were made aware, it appears that, due to several similar cases having been brought before the CJEU, the Agency had agreed with the social partners not to adopt the new travel reimbursement arrangements immediately. This was also referred to in the subsequent Office Notice No. 18/20 of 24 July 2020. In this case, therefore, it must be found that consultation with the representative trade unions did indeed take place.

[*] Registry's translation.

Secondly, the alleged failure to comply with the procedure and principles of social dialogue on the grounds that Office Notice No. 18/20 was not submitted to the Staff Committee with an express request for an opinion within a minimum period of 15 working days prior to its publication, is clearly insufficient to render the amendments to the disputed provisions unlawful. It is true that the evidence shows that this notice was sent to two Staff Committee representatives on 10 July 2020, which did not strictly comply with this minimum period. However, the Tribunal considers that this breach does not constitute a substantive defect rendering the provisions of Office Notice No. 18/20 unlawful, particularly since it is clear from the file that one of these Staff Committee representatives had indeed delivered an opinion on the provisions in question before they were published, to which the Organisation responded.

The third plea is unfounded.

12. In his fourth plea, the complainant further alleges that the principle of non-retroactivity was breached. In this respect, he submits that Office Notice No. 18/20 of 24 July 2020 was unlawfully retroactive from 1 July 2020.

In accordance with the principle of non-retroactivity, which is one of the general principles of international civil service law, an organisation may not normally apply an administrative act that is unfavourable to the staff members concerned before its notification (see, for example, Judgments 4885, consideration 10, 4254, consideration 4, or 3884, consideration 4).

Despite the specific context of this case, in which the evidence shows that the content of the amendments to the travel expense reimbursement arrangements was initially announced to staff in December 2018, that these changes were eventually only reflected in the "Reimbursement of Travel Expenses for 2020"[*] statements issued on 1 September 2020 and that these reimbursements took the form of an annual flat-rate payment based on an objectively calculated

[*] Registry's translation.

allowance per kilometre of geographical distance, it must be concluded that paragraph 3 of Office Notice No. 18/20, which came into force on 24 July 2020, unlawfully applied its effects retroactively from 1 July 2020. This is a substantive defect that renders the withdrawal of the complainant's travel expenses unlawful insofar as it applied to the 23-day period from 1 July to 23 July 2020.

The fourth plea is therefore well-founded.

The Tribunal considers that this unlawful withdrawal of travel expenses for that period warrants an order for Eurocontrol to reimburse the complainant, within 30 days of the public delivery of this judgment, 23/183 of the amount of the reimbursement of such expenses which he received for the first half of 2020 (which, being a leap year, had 366 days), together with interest for late payment at the rate of 5 per cent per annum from 1 September 2020.

13. The fifth and sixth pleas are the complainant's main pleas.

As regards his fifth plea, alleging a breach of what he considers to be his acquired right to reimbursement of his travel expenses, the complainant submits that this was an essential and determining condition of his acceptance of his appointment due to the significant distance between his place of origin and his place of employment. He explains in particular that it allowed him to return regularly to his place of origin to maintain the family ties and heritable interests which had led to its determination.

14. The Tribunal recalls that, according to its settled case law, the amendment of a rule governing an official's situation to her or his detriment constitutes a breach of an acquired right only when the structure of the contract of appointment is disturbed or there is impairment of a fundamental term of appointment in consideration of which the official accepted the appointment, or which subsequently induced her or him to stay on. In order for there to be a breach of an acquired right, the amendment made to the applicable provision must therefore relate to a fundamental and essential term of appointment (see, for example, Judgments 4593, consideration 10, 4398, consideration 10,

4381, considerations 13 and 14, and 3074, consideration 16, and the case law cited therein).

In the present case, for the reasons which will become plain in the considerations below, the Tribunal cannot agree with the complainant's argument that the structure of his contract was so disturbed by the amendment or that the amendment related to such an essential and fundamental term of appointment that he would not have accepted his appointment with Eurocontrol or would not have stayed on, if that term of appointment had not existed or had been withdrawn.

15. The Tribunal considers, firstly, that a financial benefit consisting merely of an incidental allowance, the amount of which was, all in all, minimal in relation to the complainant's total remuneration, cannot be described as fundamental or essential. By way of illustration, the Tribunal notes in this regard that, according to Eurocontrol's uncontradicted assertions on the matter, in the complainant's case, these travel expenses corresponded to approximately 1/24 of his total remuneration.

The Tribunal recalls that, in Judgment 4593 concerning travelling time, it had found, among the considerations that led to the dismissal of the plea relating to acquired rights, that a 3 per cent change in the complainant's working time without any reduction in his overall remuneration could not be regarded as having disturbed the structure of his contract of appointment. With regard to the travel expenses relevant to this case, the impact is *mutatis mutandis* of the same order.

16. The Tribunal further points out that, according to settled case law cited in particular in Judgment 4028, consideration 13, it is recognised that "international organisations' staff members are not entitled to have all the conditions of employment or retirement laid down in the provisions of the staff rules and regulations in force at the time of their recruitment applied to them throughout their career and retirement. Most of those conditions can be altered during or after an employment relationship as a result of amendments to those provisions (see also Judgment 3876, [consideration] 7)."

However, as Eurocontrol rightly observes in its written submissions, travel expenses are an incidental element of the complainant's remuneration and merely constitute a reimbursement of expenses, the conditions for which are laid down by a rule of application of the Director General, who may amend the arrangements therefor. This reimbursement is one of a number of benefits that are subject to constant change in the light of the economic situation and which staff cannot reasonably expect to remain unchanged throughout their careers.

In that regard, it is clear from the rest of the evidence in file that the Agency adopted amendments to the conditions for reimbursing travel expenses with the aim of increasing transparency, simplifying reimbursement procedures and improving the Organisation's financial situation, all of which fall within an administration's normal prerogatives.

17. Furthermore, although the complainant contends in his written submissions that the benefit in question represented a fundamental and essential condition of appointment when he was recruited, the Tribunal notes, as it pointed out in Judgment 4593, consideration 10, that as far as the complainant is concerned, under the provisions applicable at the time, his place of origin was his place of residence at the date of recruitment, in other words his place of employment, that he was not recruited from his place of origin, and that the determination of his place of origin as his centre of interests on account of his family ties and heritable interests was made by a decision of the Director General following his appointment. Moreover, according to the submissions, his place of employment was the place from where he had been recruited, where he had been living for several years.

In this context, the Tribunal considers that it would be wrong to conclude, as the complainant invites it to do, that "[f]rom an examination of the complainant's situation, it is clear that the award of Travelling Expenses was a decisive factor when he was recruited [...]"[*]. The burden of proof on this point rests with the complainant (see

[*] Registry's translation.

Judgment 4381, consideration 30), and he fails to establish the grounds for this assertion.

The fifth plea must therefore be dismissed.

18. With regard to the sixth plea, concerning the unlawfulness of the impugned decisions on the ground that the withdrawal of the complainant's travel expenses discriminated against him because it was based on nationality, the Tribunal notes first of all, as it has already observed in Judgment 4593, consideration 11, concerning travelling time, that the decisive criterion used by Eurocontrol for reimbursing travelling time, namely eligibility for the expatriation or foreign residence allowance, is relevant to the purpose of travel expenses, as it concerns the distinction made between a staff member's country of origin and her or his place of employment.

Moreover, as stated in Judgment 4593 in the same consideration, the complainant's central argument on this point, that use of this new criterion results in discrimination based on nationality, is in any event ineffective in the present dispute because the objection is not directed against the conditions for the award of expatriation or foreign residence allowances, to which the complainant acknowledges he is not eligible.

In addition, it must be found that the complainant is not treated less favourably than other staff members who are not entitled to reimbursement of travel expenses because they are not entitled to an expatriation or foreign residence allowance. This rule is the same for all Eurocontrol staff members, regardless of nationality or distance from their place of origin, and the complainant is in the same position as any non-expatriate staff member. Moreover, the complainant has not provided evidence which proves that the withdrawal of reimbursement of his travel expenses created discrimination or inequality between himself and other Eurocontrol staff in a like situation (see, for example, Judgments 4073, consideration 11, 4067, consideration 10, and 3868, consideration 6). There are no specific and proven facts to establish the reality of the alleged discrimination.

19. In his further submissions, the complainant raises another argument in support of his plea alleging a breach of the principle of non-discrimination on the grounds of nationality. Since the Agency stated, inter alia, in Office Notice No. 18/20 of 24 July 2020 that it undertook to apply the contested statutory amendments only on the condition that the CJEU dismissed the actions brought by European Union officials concerning a similar reform of their travel expenses, the complainant submits that the Tribunal should apply to him the findings of a CJEU judgment of 18 April 2024, which held that the plea was well-founded.

This argument must be rejected for two reasons.

Firstly, as the Tribunal recalled in Judgment 4593, consideration 9, on travelling time, on that occasion in response to arguments put forward by Eurocontrol, it is established that the Tribunal is not bound by the case law of other international or regional courts (see, for example, Judgments 4493, consideration 10, 4363, consideration 12, and 4167, consideration 7). Secondly, and in any event, as the Agency rightly notes in its written submissions, the complainant's situation is markedly different from that in the CJEU judgment he refers to, where the officials in question received an expatriation or foreign residence allowance and where the provision at issue was partly analogous to the second subparagraph of Article 4(2) of Rule of Application No. 8, on which the complainant does not rely in the present case.

The sixth plea is therefore entirely unfounded.

20. As regards the complainant's seventh and last plea, which seeks compensation for the delay in dealing with his internal complaint, the Tribunal notes that his argument in this connection is based mainly on the inordinately long period of 16 months between the lodging of his internal complaint on 20 October 2020 and the adoption of the impugned decision on 18 February 2022.

While it is true that this 16-month period is much longer than the four months provided for in Article 92(2) of the Staff Regulations, the Tribunal considers that it cannot be regarded as excessive or unreasonable in the circumstances of the present case. The nature of the

issue in dispute, the number of staff members involved and the variety of their situations can explain such a delay. Moreover, the complainant has not adduced any tangible evidence of injury arising from it. It is therefore not appropriate to award the complainant compensation under this head.

The seventh plea must be dismissed.

21. It follows from the foregoing that only the complainant's fourth plea, relating to the limited unlawful retroactive effect of the withdrawal of entitlement to reimbursement of travel expenses, is well-founded. As already stated in consideration 12 above, the claim for compensation for the material injury caused to the complainant by that unlawful retroactive effect is also well-founded. However, the complainant does not establish the nature of the so-called "emotional" injury or of the moral injury that he alleges in connection with this breach.

Since the Tribunal considers that all the complainant's pleas other than the fourth are unfounded, it follows that his claims for compensation for the material, "emotional" or moral injury which may result must also be dismissed.

22. As he succeeds in part, the complainant is entitled to costs, which the Tribunal sets at 5,000 euros.

DECISION

For the above reasons,

1. The impugned decision of 18 February 2022 is set aside insofar as it concerned the period from 1 to 23 July 2020.
2. Eurocontrol shall pay the complainant material damages, together with interest, as set out in consideration 12, above.
3. The Organisation shall also pay the complainant 5,000 euros in costs.
4. All other claims are dismissed.

In witness of this judgment, adopted on 7 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.