

Organisation internationale du Travail
Tribunal administratif

International Labour Organization
Administrative Tribunal

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

M. (No. 2)
v.
Eurocontrol

141st Session

Judgment No. 5172

THE ADMINISTRATIVE TRIBUNAL,

Considering the second complaint filed by Mr P. M. against the European Organisation for the Safety of Air Navigation (Eurocontrol) on 10 January 2024, Eurocontrol's reply of 14 April 2024, the complainant's rejoinder of 25 June 2024 and Eurocontrol's surrejoinder of 25 September 2024;

Considering the comments provided by the complainant on 13 October 2025 and by Eurocontrol on 17 October 2025 in response to a request for further submissions by the Vice-President of the Tribunal, acting by delegation of the President;

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 extension of his status of serious illness for a period limited to two years.

The complainant, a former Eurocontrol staff member, has held the status of serious illness since October 2011, which entitles him to full reimbursement of illness-related expenses. In 2016 his status of serious illness was extended for a further five years.

In 2019 the services provided by Eurocontrol's Sickness Insurance Scheme were outsourced to a service provider.

On 2 November 2021 the complainant submitted a claim to Eurocontrol's Sickness Insurance Scheme's service provider (hereinafter "the service provider") for the reimbursement of expenditure of 42 euros in connection with his serious illness. On 10 November 2021 he received a statement of reimbursement from the service provider advising him that the sum of 6.30 euros remained to be paid by him and inviting him to provide a medical report for his status of serious illness to be renewed. The complainant provided a medical certificate on 1 December 2021.

On 29 December 2021 the service provider informed the complainant that, having consulted the service provider's medical adviser, Eurocontrol had decided to grant his application for renewal of his status of serious illness and that it had therefore been extended retroactively as from 1 October 2021 for a two-year period.

On 6 May 2022 the complainant asked why his status had been extended for two years rather than five as previously. In a first email of 9 May 2022, the service provider replied that "the status of serious illness granted by the [service provider's] medical adviser is valid for a maximum of two years, a period agreed between Eurocontrol and [the service provider]"*. In a second email of 11 May 2022, the service provider explained to the complainant that, "[s]ince management of Eurocontrol's Sickness Insurance Scheme was taken over [...] a maximum period of two years has been granted, after which our Medical Department's medical adviser considers that a further assessment is necessary"*. The service provider also stated in the second email that the outstanding costs from his claim for reimbursement of 2 November 2021 would be reimbursed to him in full.

On 30 May 2022 the complainant submitted an internal complaint against the decision of 29 December 2021 to extend his status of serious illness for two years instead of five. This internal complaint was

* Registry's translation.

referred to the Sickness Insurance Management Committee (SIMC) for its opinion.

On 28 June 2022 the service provider wrote to the complainant stating that “[t]he medical adviser [had] carefully assessed [his] request for a five-year extension to [his] status of serious illness”, but that, after consultation with “the Eurocontrol case manager [...] they [had] responded by confirming the two-year limit which [had] been set in 2020”^{*}.

On 6 February 2023 the SIMC delivered its opinion on the complainant’s internal complaint, in which it found that the latter was well-founded and recommended that the Director General take the following measures: (1) cancel the decision limiting the extension of the complainant’s status of serious illness to two years and replace it with a decision increasing that extension to five years; (2) cancel “the agreement between [the service provider] and Eurocontrol limiting the extension of the status of serious illness to two years”^{*}; (3) take the necessary steps to ensure that the service provider issues a reminder before the status of serious illness expires; and (4) officially appoint a medical adviser to Eurocontrol’s Sickness Insurance Scheme.

On 28 March 2023 the Director General informed the complainant that he had decided not to follow the SIMC’s recommendations and to reject his internal complaint as unfounded.

On 21 May 2023 the complainant asked the Director General to reconsider his decision of 28 March 2023. On 6 June 2023 the Director General informed the complainant that he agreed to take a new decision and that he was requesting the SIMC to conduct a fresh examination of the situation on the basis of a detailed medical opinion. He also invited the complainant to provide any new medical information that had come to light since the application for renewal of his status.

By a letter of 13 October 2023, the Director General informed the complainant of his final decision to maintain the extension of the status of serious illness for a two-year period, based on the opinion of an independent external doctor who had confirmed the opinion of the

^{*} Registry’s translation.

service provider's medical adviser. In his letter, the Director General explained that the independent external doctor had noted in particular that, in his application for renewal, the complainant had not provided a full medical report indicating how his illness had developed or what care was still needed. Consequently, the decision to grant him an extension of his status of serious illness for a two-year period was explained by "the need, in case of doubt, to take a decision that [was] in [his] interests and protect[ed] [his] rights"* . That is the impugned decision.

The complainant asks the Tribunal to set aside the impugned decision and the decision of 28 March 2023, as well as "the agreement existing between [the service provider] and Eurocontrol"* . He also seeks recognition of his entitlement to a five-year extension of his status of serious illness. He further claims moral damages in an amount of 8,000 euros. Lastly, he seeks an award of costs.

Eurocontrol contends that the complainant has no cause of action and therefore asks the Tribunal to dismiss the complaint as irreceivable. Subsidiarily, Eurocontrol requests that the complaint be dismissed as unfounded. In its observations of 17 October 2025, it submits that the complaint has become moot, which the complainant disputes.

CONSIDERATIONS

1. The complainant impugns before the Tribunal the initial and final decisions of the Director General of Eurocontrol of 28 March and 13 October 2023 rejecting his internal complaint of 30 May 2022 and the SIMC's recommendation of 6 February 2023 that it be upheld. He contends that, on 29 December 2021, the extension of his status of serious illness was incorrectly limited to two years on the basis of an agreement allegedly concluded between the Organisation and the service provider responsible for Eurocontrol's Sickness Insurance Scheme. He seeks recognition of his entitlement to a five-year extension of his status of serious illness, the setting aside of the agreement

* Registry's translation.

between the Organisation and its service provider, and an award of moral damages and costs.

2. Article 3 of Chapter 5 of Title III of Rule of Application No. 10 concerning sickness insurance covers deals with the procedures for recognising the status of serious illness within Eurocontrol. In particular, that article provides the following:

“[...]

The 100% cover for expenditure related to serious illness is granted from a start date (the date of the medical certificate) to a date in the future, granting 100% cover for no more than 5 years. This period may be extended.

The Settlements Office will warn the member in due course when the cover is about to expire, in order to give him or her time to submit an application for the cover to be extended, accompanied by a medical report that explains:

- how the illness has developed,
- the treatment and/or care still required.

[...]”

3. The Tribunal notes at the outset that the present dispute originally concerned the extension of the complainant’s status of serious illness for a period that had been limited to two years. According to the written submissions, the disputed two-year extension of the complainant’s status of serious illness ended on 30 September 2023. However, the Tribunal observes that on 11 January 2024, the day following the filing of the present complaint, Eurocontrol notified the complainant of the decision to extend his status of serious illness for a further period of five years from 1 October 2023.

In the circumstances, the Tribunal considers that there is no need to rule on the complainant’s claims seeking the setting aside of the impugned decision and the decision of 28 March 2023, as well as the grant of a five-year extension of his status of serious illness, which have become moot. Since the complainant’s status of serious illness has now been extended until 30 September 2028, the Tribunal’s judgment would be deprived of any practical effect as regards those claims.

It follows that there is likewise no need to rule on the Organisation's objection to receivability, which seeks a finding that those claims are irreceivable because the complainant has no cause of action.

In this context, it is likewise unnecessary to rule on the complainant's pleas concerning the Organisation's failure to comply with the undertakings it made towards him with regard to prior consultation of the SIMC and provision of the medical report of the independent doctor appointed before the decision of 13 October 2023 was taken, the absence of established medical grounds justifying a two-year limitation on the length of the extension of his status of serious illness or the absence of a legal basis for the maximum limit of two years that had been applied to him.

For the same reasons, there is also no need to rule on the complainant's claim that the agreement he believes to exist between Eurocontrol and its service provider, limiting extensions of the status of serious illness to two years, should be set aside.

4. It follows from these findings that there is no need for the Tribunal to rule on the present dispute except insofar as it concerns the complainant's claim for an award of 8,000 euros in moral damages, which, in the light of the complainant's submissions, the Tribunal interprets as relating to the excessive length of the internal appeal proceedings.

The Tribunal notes in that regard that the complainant had to wait ten months before receiving the decision on his internal complaint of 30 May 2022. This delay in the Director General's reply to the internal complaint far exceeded the applicable four-month time limit laid down in the Staff Regulations governing officials of the Agency. Furthermore, at the point when the initial decision of 28 March 2023 was taken, only six months remained before the contested two-year extension period expired, whereas that period had expired by the date of the final decision of 13 October 2023.

In addition, the evidence in the file shows that, during this period, the Director General did not abide by the undertakings he had made in his letter of 6 June 2023 in response to the complainant's request that

the decision of 28 March 2023 be reconsidered. Although the Director General expressly stated that before he took a final decision on the matter “following receipt of the SIMC’s new opinion”*, he considered it appropriate that the independent medical adviser he intended to appoint in this case should first share her or his detailed medical opinion with the complainant and the SIMC and that he would then ask the SIMC to re-examine his case on the basis of that medical report, it is plain from the submissions that this did not happen.

The complainant points out that he was thereby placed in a long period of unnecessary uncertainty which caused him injury. This occurred in a situation where the nature of what was at stake, namely continued recognition of his status of serious illness, was obviously important to him. However, it should be recalled that this injury remains limited since the relevant provision states that any extension period may be renewed, and that this is indeed what happened after the complainant filed his complaint with the Tribunal.

Under the Tribunal’s settled case law, the amount of compensation that may be granted under this head ordinarily depends on two essential considerations, namely the length of the delay and the effect of the delay on the employee concerned (see, for example, Judgments 4635, consideration 8, 4178, consideration 15, 4100, consideration 7, or 3160, consideration 17).

In view of all the circumstances of the case, the Tribunal considers that the moral injury caused to the complainant will be fairly redressed by awarding him compensation in the amount of 2,500 euros.

5. In such a case, the complainant is also entitled to costs, which will be set at 1,000 euros.

* Registry’s translation.

DECISION

For the above reasons,

1. There is no need to rule on the complainant's claims seeking the setting aside of the impugned decision, the decision of 28 March 2023 and the alleged agreement between Eurocontrol and its service provider, as well as the grant of a five-year extension of his status of serious illness.
2. Eurocontrol shall pay the complainant moral damages of 2,500 euros.
3. It shall also pay him 1,000 euros in costs.
4. All other claims are dismissed.

In witness of this judgment, adopted on 3 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.