

Organisation internationale du Travail  
*Tribunal administratif*

International Labour Organization  
*Administrative Tribunal*

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

**P. (No. 2)**

**v.**

**Eurocontrol**

**121st Session**

**Judgment No. 3573**

THE ADMINISTRATIVE TRIBUNAL,

Considering the second complaint filed by Mr H. É. R. P. against the European Organisation for the Safety of Air Navigation (Eurocontrol) on 19 April 2013 and corrected on 21 May, Eurocontrol's reply of 23 August, the complainant's rejoinder of 4 October, Eurocontrol's surrejoinder of 13 December 2013, the complainant's additional submissions of 20 April 2014 and Eurocontrol's final observations thereon of 12 August 2014;

Considering Article II, paragraph 5, 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:

After taking early retirement, the complainant refused to return his special identity card and the special registration plates of his vehicle.

At the material time the complainant, a Belgian national, was a Programme Manager at grade AD12 at Brétigny-sur-Orge (France). He thus held a special identity card issued by the French Ministry of Foreign Affairs and was granted special registration plates for his vehicle.

On 15 October 2010 the complainant was informed that, at his request, he had been admitted to the early termination of service (ETS)

scheme as from 1 January 2013. On 5 September 2012 he was informed by e-mail that, if he wished to keep his vehicle in France, before termination of his service he should complete a number of formalities with the French authorities, particularly in order to return the registration plates of his vehicle and that, at the end of this “process”, he should also return his special identity card and those of any family members. On 17 September 2012 the complainant contended that, according to the ETS Information Guide and Annex 10 thereto concerning the formalities which officials assigned to Brétigny-sur-Orge should complete before leaving the organisation, he met the conditions for retaining his special registration plates and special identity card. On the same day he received the answer that, although they did not say so, the “texts” to which he was referring concerned only officials admitted to the ETS scheme who lived in Belgium, as had been explained to him during a seminar and an individual interview. He was further informed that the French Ministry of Foreign Affairs required Eurocontrol to return special identity cards at the end of an official’s service and that exchanging the special registration plates, which are linked to the identity card, for ordinary number plates was therefore obligatory.

On 18 September 2012 the complainant wrote to the Director General claiming that he was entitled to retain his special identity card and special registration plates and complaining that he could not avail himself of the same rights as officials who had been admitted to the ETS scheme and who lived in Belgium. He also alleged that exchanging the registration plates of his vehicle for ordinary ones would cause him a financial loss of some 7,000 to 8,000 euros and he asked that a solution be found that would not “put [him] at a financial disadvantage”. On 20 November 2012 the Director General informed the complainant that he could not grant his request. On 7 December 2012 the complainant submitted an internal complaint. On 19 April 2013 he filed a complaint with the Tribunal, in which he impugns the implied decision to dismiss the internal complaint and asks the Tribunal to order Eurocontrol to apply “the rules which it issues”, to redress the financial and moral injury which he has suffered and to award him costs.

In its reply, Eurocontrol argues that the complaint should be dismissed as groundless. It informs the Tribunal that the Joint Committee for Disputes issued its opinion on 16 May 2013. Two of its members considered that, having regard to the contents of the ETS Information Guide, the complainant's internal complaint was well founded. The other two members, however, recommended that it should be dismissed, since the obligation to return the special identity card and special registration plates stemmed from national legislation. Eurocontrol adds that the Principal Director of Resources, acting on behalf of the Director General, informed the complainant by a letter of 16 July 2013 that he had decided to dismiss his internal complaint as unfounded, in accordance with the recommendation of the latter two members of the Committee.

In his rejoinder, the complainant reiterates his claims that he should be granted compensation for financial and moral injury, as well as costs.

In its surrejoinder, Eurocontrol informs the Tribunal that on 21 August 2013 the French Ministry of Foreign Affairs asked the Administration to send it the complainant's special identity card, together with documentary evidence that his vehicle had been "duly registered", at its earliest convenience.

As the complainant had accomplished the necessary formalities at the beginning of 2014, Eurocontrol wrote to him on 28 February 2014 proposing that he withdraw his complaint since, in its opinion, it had become moot. The complainant advised the Tribunal by an e-mail of 20 April 2014 that he wished to maintain his complaint.

## CONSIDERATIONS

1. The complainant contends that Eurocontrol breached its own "rules" concerning the right of officials admitted to the ETS scheme to retain their special identity card and special registration plates. This criticism is based on the fact that the ETS Information Guide and Annex 10 thereto stated that officials admitted to ETS could retain their special identity card and special registration plates.

2. While Eurocontrol acknowledges that this guide did contain information to that effect, although in fact it did not apply to officials assigned to Brétigny-sur-Orge, it emphasises that on two occasions – during a seminar held in May 2012 and an individual interview on 8 August 2012 – it drew the complainant’s attention to the fact that “the documents which had been distributed focused on the provisions applicable to officials working in Brussels”.

3. With regard to the rules applying to special identity cards and special registration plates, the information guide drawn up by Eurocontrol could only reproduce the Host State’s legislation, which, in the present case, did not allow the complainant to receive the advantages which he is claiming. While the Tribunal considers it regrettable that Eurocontrol disseminated an information guide containing incorrect statements regarding the rights of officials, it notes that in this case this anomaly did not cause the complainant any injury.

Indeed, it is plain from the evidence in the file that the complainant had already submitted his request to be admitted to the ETS scheme by the time this guide was issued. The incorrect information which the Organisation gave him did not therefore influence his choice in the matter.

Moreover, Eurocontrol ensured that the information in question was corrected during the above-mentioned seminar in May 2012 and the interview on 8 August 2012.

4. 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 10 November 2015, Mr Claude Rouiller, President of the Tribunal, Mr Patrick Frydman, Judge, and Ms Fatoumata Diakité, Judge, sign below, as do I, Dražen Petrović, Registrar.

Delivered in public in Geneva on 3 February 2016.

*(Signed)*

CLAUDE ROUILLER      PATRICK FRYDMAN      FATOUMATA DIAKITÉ

DRAŽEN PETROVIĆ