

Organisation internationale du Travail
Tribunal administratif

International Labour Organization
Administrative Tribunal

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

S.

v.

Eurocontrol

124th Session

Judgment No. 3889

THE ADMINISTRATIVE TRIBUNAL,

Considering the complaint filed by Ms I. S. against the European Organisation for the Safety of Air Navigation (Eurocontrol) on 23 February 2017;

Considering Articles II, paragraph 5, and VII of the Statute of the Tribunal and Article 7 of its Rules;

Having examined the written submissions;

CONSIDERATIONS

1. Relying on Article VII, paragraph 3, of the Statute of the Tribunal, the complainant impugns what she considers to be an implied rejection of her internal complaint filed on 28 September 2016 challenging, in essence, the “negative consequences” of an amendment to Rule of Application No. 6 concerning the terms and conditions governing leave.

2. The Tribunal notes that in a memorandum dated 7 November 2016, which the complainant has supplied as an annex to her complaint, she was informed that her internal complaint had been forwarded to the Joint Committee for Disputes.

3. It must be recalled that the rules governing the receivability of complaints filed with the Tribunal are established exclusively by its own Statute. In particular, the possibility of filing a complaint against an implied rejection is governed solely by the provisions of Article VII, paragraph 3, of the Statute, which states that an official may file such a complaint “[w]here the Administration fails to take a decision upon any claim of an official within sixty days from the notification of the claim to it”. However, firm precedent has it that when an organisation forwards a claim before the expiry of the prescribed period of sixty days to the competent advisory appeal body, this step in itself constitutes “a decision upon [the] claim” within the meaning of these provisions, which forestalls an implied rejection which could be referred to the Tribunal (see, on these points, Judgments 532, 762, 786, 2681 or 3034).

4. Given that the complainant’s internal complaint was forwarded to the Joint Committee for Disputes within the 60-day time limit, she cannot rely on Article VII, paragraph 3, of the Statute in order to file a complaint with the Tribunal.

5. As the complainant has not exhausted the internal means of redress available to her, as required by Article VII, paragraph 1, of the Tribunal’s Statute, her complaint is clearly irreceivable and must be summarily dismissed in accordance with the procedure set out in Article 7 of the Rules of the Tribunal.

DECISION

For the above reasons,
The complaint is dismissed.

In witness of this judgment, adopted on 10 May 2017, Mr Claude Rouiller, President of the Tribunal, Mr Giuseppe Barbagallo,

Vice-President, and Ms Dolores M. Hansen, Judge, sign below, as do I,
Dražen Petrović, Registrar.

Delivered in public in Geneva on 28 June 2017.

(Signed)

CLAUDE ROUILLER GIUSEPPE BARBAGALLO DOLORES M. HANSEN

DRAŽEN PETROVIĆ