

CONSEIL DE L'EUROPE

COUNCIL OF EUROPE

TRIBUNAL ADMINISTRATIF ADMINISTRATIVE TRIBUNAL

Appeal No. 570/2016 (Susan CROSS v. Secretary General)

The Administrative Tribunal, composed of:

Mr Christos Rozakis, Chair,
Ms Mireille Heers, Judge,
Ms Lenia Samuel, Deputy Judge,

assisted by:

Mr Sergio Sansotta, Registrar,
Ms Eva Hubalkova, Deputy Registrar,

has delivered the following decision after due deliberation.

PROCEEDINGS

1. The appellant, Ms Susan Cross, lodged her appeal on 16 November 2016. It was registered on 18 November 2016 as appeal No. 570/2016.
2. On 5 December 2016, the appellant filed a supplementary memorial.
3. On 31 January 2017, the Secretary General submitted his observations on the appeal.
4. On 20 February 2017, the appellant submitted a memorial in reply.
5. The public hearing took place on 20 March 2017 in the Administrative Tribunal's hearing room in Strasbourg. The appellant was represented by Mr Giovanni Palmieri, legal adviser on international civil service law, and the Secretary General was represented by Ms Ekaterina Zakovryashina, Head of Division of the Legal Advice Department and Treaty Office of the Directorate of Legal Advice and Public International Law, assisted by Ms Sania Ivedi, administrative officer of that department.

During the proceedings, Ms Lenia Samuel, deputy judge, replaced Mr Ömer Faruk Ateş, who was unable to be present (Article 2 of the Statute of the Administrative Tribunal – Appendix XI to the Staff Regulations).

The Tribunal considered that it was unnecessary to recommence the part of the proceedings preceding this replacement (Rule 33 of the Tribunal’s Rules of Procedure).

THE FACTS

I. THE CIRCUMSTANCES OF THE CASE

6. The appellant is currently a permanent staff member on a fixed-term contract, which expires in 2021. She is a British national on grade B3 and within the Organisation’s secretariat has a post in the European Audiovisual Observatory, which was created within the Council of Europe.

7. The appellant has informed the Tribunal that since her divorce, which was granted in 2001, she has had sole responsibility for the cost of supporting her three children.

8. On 23 June 2016 the appellant applied for unpaid leave.

9. In conjunction with this application, she requested the continued payment of the dependent child supplement and the education allowance for her third and youngest daughter, who was enrolled in her third year of university studies in the United Kingdom.

10. The appellant gave as the reason for her application for unpaid leave the state of health of her parents.

11. On this issue the appellant indicated to the Tribunal that this was not the first time that she had raised it. In fact, her first contact with the Human Resources Directorate had been in March 2015 with a view to examining the various options available to enable her to devote time to her parents, such as part-time working, working 90% with the possibility of “buying” leave and so on, while retaining part of her remuneration. The appellant adds that she discussed the matter with her hierarchical superior, who said she would not accept the 50% option and expressed no opinion on the 90% one.

12. At the hearing of 20 March 2017, the parties agreed that there was no record of these discussions.

13. The reasons given for the request for continued payment of the dependent child supplement and the education allowance were as follows (original version):

”My mother is 85 years old this year, my father 84 years old. My mother is now in her 5th year following a diagnosis of Alzheimer and my father has been caring for her 100%. My father is showing the early signs of the same illness and will soon have to admit that he is no longer able to drive. Looking after my mother has put tremendous strain on him and they are no longer able to meet the demands of daily life. They both

steadfastly refuse institutional help. I need to be able to return to the UK at very short notice to care for my parents. This is the reason that I am duty-bound to ask for leave without pay. I will have no source of income at all during the period of my leave as my parents require continuous care.

My big worry is that my youngest daughter, (...), is currently in her second year at Reading University. Without the support of the Council of Europe's family allowances (education and dependent child allowances) I will not be able to offer her the financial support she needs to continue her studies.

It is for this reason and in application of Article 6 of Appendix VII to the Staff Regulations that I am asking the Secretary-General exceptionally to grant a continuation of the payment of her child/education allowance during the time of my unpaid leave. This will allow [my daughter] to continue her studies and I will be able to dedicate my time to caring for my parents."

14. On 27 June 2016, the appellant's hierarchical superior approved the application for unpaid leave. However, she stated that her department was unable to grant the continued payment of the allowances in question.

15. On 26 August 2017, the Director of Human Resources told the appellant that her request for the continued payment of the two allowances had been refused. In this letter, he gave the following reasons:

"By letter dated 23 June 2016, you requested continued payment of the child allowance and the education allowance during your unpaid leave from 1 September 2016 to 31 August 2017 in order to be able to support your daughter's academic year at Reading University.

Article 6 of Appendix VII of the Staff Regulations states that 'the Secretary General may exceptionally, when such leave is granted, for one of the reasons referred to in paragraph 1. a. i, ii, iii, iv, v and vi of Article 3 and in serious social cases, arrange for continued payment of the allowance in respect of dependent children or other dependants and the education allowance'.

After careful examination of your file, I regret to inform you that the Deputy Secretary General has decided that a continued payment will not be granted. We have never applied this exception in the past despite an increase in staff requesting unpaid leave to care for elderly parents and we consider that in this difficult budgetary time it should only be applied in the most serious social cases.

We are sorry to hear of your parents' ill-health and wish you well for what is sure to be a difficult period for you."

16. On 31 August 2016, the appellant filed an administrative complaint with the Secretary General under Article 59, paragraph 2 of the Staff Regulations, requesting the annulment of the decision of 26 August 2016 because it failed to give reasons, as required by the general principles of law.

17. On 5 October 2016, the Secretary General rejected the administrative complaint as unfounded.

18. On 16 November 2016, the appellant lodged this appeal.

II. THE RELEVANT LAW

19. The subject of unpaid leave is governed by the relevant provisions of Appendix VII - Regulations on unpaid leave¹ – of the Staff Regulations.

20. Article 3 states:

“1. Two different types of unpaid leave are to be distinguished:

- leave for family events;
- leave for personal reasons.

Leave may be granted at the staff member’s request in particular for the following reasons:

a. in respect of leave for family events:

- i. to bring up a child;
- ii. to look after a close family member suffering from a disability or an infirmity, necessitating continuous care;
- iii. following an accident or a serious illness of a child, spouse or partner or ascendant;
- iv. to look after a close family member nearing the end of his/her life;
- v. following the death of a child, spouse or partner or ascendant;
- vi. for personal health reasons.

b. in respect of leave for personal reasons:

- i. for study or research work of value for the staff member’s training and/or the Council;
- ii. because of establishment of the staff member’s usual residence in a distant place from the place where he or she is serving, when such residence is in particular determined by the spouse’s or partner’s occupation;
- iii. to exercise a professional activity outside the Council, provided that such activity is not incompatible with the duties and obligations of staff as set out in staff and administrative regulations. Such activity must not be contrary to the principles set out in the Staff Regulations or with the aims pursued by the Organisation, and should not be such as to cause moral or material prejudice to the Council;
- iv. other reasons linked to the staff member’s personal development.

2. In taking his or her decision, the Secretary General shall have regard to the exigencies of the service and the nature of the reasons adduced. Any refusal of an application for unpaid leave must be duly justified in writing.”

21. Article 6 is concerned with remuneration, and reads:

“1. During the period of such leave the staff member shall not be entitled to any of the elements entering into his or her remuneration, although the Secretary General may exceptionally, when such leave is granted, for one of the reasons referred to in paragraph 1. a. i, ii, iii, iv, v and vi of Article 3 and in serious

social cases, arrange for continued payment of the allowance in respect of dependent children or other dependants or, for staff members recruited on or after 1 January 2017, the dependent child supplement and the education allowance.

2. The staff member shall not qualify for any increment or promotion.

3. The period of leave shall not be counted as a period of service in calculating the dates laid down for advancement from one step to the next.

4. When the leave is granted under paragraph 1. a. of Article 3, namely leave for family events, the period of leave shall be counted as a period of full-time work for the calculating of the number of years of service with regard to the granting of long service leave.”

THE LAW

22. The appellant lodged this appeal to secure the annulment of the Secretary General’s decision of 5 October 2016 to refuse to authorise continued payment of her dependent child supplement and education allowance during her unpaid leave. She also asks to be paid €6 000 for reimbursement of expenses incurred in these proceedings.

23. The Secretary General asks the Tribunal to declare the appeal ill-founded and to dismiss it. He considers that the request for reimbursement of expenses should also be rejected.

SUBMISSIONS OF THE PARTIES

A. The appellant

24. The appellant considers that the impugned decision was defective for several reasons.

25. In the first instance, the appellant acknowledges that the Secretary General’s decision whether or not to authorise continued payment of the supplement and allowance in question is of a discretionary nature. However, she has a legitimate interest in receiving consideration of the facts on which her application for leave is based and reasons for any refusal. In this context, she refers to the Tribunal’s case-law (ATCE, formerly ABCE, appeal No. 131/1986, Koenig v. Secretary General, decision of 25 July 1986, paragraph 50, and the case-law cited therein).

26. The appellant adds that in her administrative appeal she “essentially complained about the failure to give sufficient reasons” for the refusal, thus making it impossible for her to determine whether or not the Administration had taken account of the facts on which her case was based in assessing the seriousness of her personal and family social situation. On the other hand, the decision to dismiss the administrative complaint - unlike the decision to reject the request of 23 June 2016 - contained reasons that revealed a series of defects which, in her view, totally undermine its legality.

27. Having challenged the Secretary General’s contention that sufficient reasons were given for the impugned decision, the appellant argues that, following the rejection decision, the dispute

is now concerned with whether the statement of reasons is compatible with the general principles of law applicable in this case.

28. She therefore considers that, when taking the decision, the Secretary General committed errors of both law and fact, and violated the general principle of law which prohibits any misuse or abuse of authority.

29. Regarding the errors of law, the appellant maintains that the Secretary General has committed three errors.

30. The first error concerns the interpretation of the word “exceptionally” in Article 6, paragraph 1 (see paragraph 21 above). According to the appellant, the Secretary General considers that this refers, not to the frequency of decisions to continue paying allowances but to the situation described by the staff member concerned.

31. Yet she believes it clear that the wording obliges the Secretary General to take account, from a social standpoint, of the seriousness of the situation with which he is confronted.

32. He can decide to continue paying the allowances “in serious social cases”. However, the seriousness of the situation from the social point of view has nothing to do with the frequent or alternatively the rare and isolated character of the situation which is submitted to him. In other words, a situation that occurs frequently may be serious from the social point of view, while a situation that occurs only rarely may, for various reasons, be quite devoid of any such gravity.

33. According to the appellant, this error becomes even more evident from the conclusion reached by the Secretary General in the dismissal decision, namely that “such situations are increasingly common. It would not be possible to apply such an exception to your case without considering its application in identical situations”. In other words, if the Secretary General has to deal with a situation he deems to be frequent he then assumes, wrongly, that this exempts him from the simple duty of taking account of the details of the particular case before him.

34. Turning to the second error, the appellant notes that, bearing in mind the implications that a decision to authorise the allowances would have for identical situations, the Secretary General has granted himself the right not to examine “the facts on which [the application] is based”. Thus, having noted that situations like this occur frequently he decided that it was no longer necessary for him to examine all the facts which characterise the appellant’s situation to determine how socially serious it was. In short, he did not take account either of the letter of Article 6 or of the Tribunal’s case-law.

35. The third error of law concerns the attitude of the Secretary General, who considers that granting continued payment of the allowances would only be justified if the staff member making the request had no other option, in dealing with the difficulties faced, than to request and obtain unpaid leave. The appellant argues that there is no support for this requirement in the provision that the Secretary General claims to be applying. In fact, the gravity of the appellant’s social situation is quite unrelated to any possible alternative options that might be available to her, particularly as the Administration views the case.

36. Turning to the alleged errors of fact, the appellant maintains that the Secretary General's omissions with regard to his examination of the facts are closely bound up with the aforementioned errors of law.

37. According to her the Secretary General failed to take account of all the relevant facts, even though he was duty bound to do so. In particular, he abstained from taking into consideration account of all the appellant's family and personal circumstances. Yet, how could he know whether he was dealing with a serious social case while ignoring practically all of the relevant information?

38. In particular, the appellant highlights that as it was made clear in the request of 23 June 2016, her parents firmly reject any form of institutional care, are unwilling to leave their home and, more generally, refuse to recognise the medical condition from which they are suffering. The appellant and her brothers have sought unsuccessfully to persuade them to accept specific assistance from the social services, even though their geographical location constitutes an objective obstacle to the provision of such aid, since they live on a farm located more than three kilometres from the nearest inhabited area.

39. The appellant therefore states that her only option, is to look after her parents herself.

40. The appellant recalls that she had discussions – going back to March 2015 – with the Administration and with her hierarchical superior aiming at exploring other possible administrative solutions. However, the deterioration in the symptoms of her two parents' conditions means that these options are no longer viable. Without going into unnecessary detail, it suffices to underline that continuous supervision and assistance are essential to prevent unfortunate incidents.

41. According to the appellant, the Secretary General also appears to be unaware of, or at least unconcerned about, the potential effects of his decision on her daughter, who is in her third year of university. The Secretary General's decision will prevent the appellant from paying the university tuition fees, or meeting her daughter's accommodation costs and living expenses. As a result the latter, who wishes to complete her studies and gain a qualification, will be obliged to interrupt these studies for a certain period (at least one year) to look for unqualified employment to enable her to meet her needs and pay her university tuition fees.

42. Finally, in connection with the alleged misuse of authority, the appellant states that Article 6 requires the Secretary General to take account, first and foremost, of the seriousness of the social situation of the staff member who has been granted unpaid leave. Naturally, budgetary and financial considerations can play a certain role and influence the decision, in so far as the latter is exceptional in nature. However, she considers it clear that the Secretary General has chosen to be guided solely by financial considerations and has ignored all social aspects, despite the fact that these take priority. Incidentally, in her opinion, the Secretary General felt bound by the appellant's hierarchical superior.

43. The appellant concludes from this that the Secretary General's attitude as manifested in his written contributions, and above all in the impugned decision, provides a whole body of evidence of a misuse of authority.

44. In conclusion, the appellant asks the Tribunal to annul the Secretary General's decision of 5 October 2016.

B. The Secretary General

45. The Secretary General states first that the appellant has no entitlement to continued payment of the dependent child supplement and education allowance during her unpaid leave. He adds that such continuation, exceptionally and in serious social cases, is simply an option that is left to the Secretary General's discretion.

46. The Secretary General highlights that according to the case-law on matters that come within the scope of international organisations' discretionary authority, such decisions are only subject to limited scrutiny and can only be annulled if they were not taken by a competent authority, are vitiated by a formal or procedural defect, are based on an error of fact or law, fail to take account of essential facts, are vitiated by an abuse of power or rely on conclusions wrongly drawn from the evidence in the file (see ATCE, No. 226/1996, Zimmermann v. Secretary General decision of 24 April 1997, paragraph 37, and Judgment No. 2040 of the Administrative Tribunal of the ILO in the case of Durand Smet (no. 4), 31 January 2001, paragraph 5).

47. He adds that, as the Administrative Tribunal has stated in its decision of 23 December 2013 in appeal No 541/2013, Giovanni Palmieri (VIII) v. Secretary General, when it has been called upon "to rule on appeals relating to the Secretary General's discretionary power the Tribunal has always upheld the legal theory that it is not for the Tribunal to substitute its assessment for that of the Secretary General; its role is simply to verify whether he took his decision without exceeding the limits of his discretionary power and with due regard for the principle of legality."

48. Firstly, the Secretary General states that, in his view, in this case the appellant's situation did not justify the continued payment of the relevant supplement and allowance.

49. Thus, the appellant's case is not exceptional, since it is not exceptional for staff members to ask for unpaid leave to care for parents suffering from age-related medical conditions. Such situations are more and more common because of the increase in life expectancy. It would not be possible to apply this exception in the appellant's case without considering its application in identical situations.

50. Moreover, the Secretary General considers that the appellant's situation does not amount to a serious social case within the meaning of Article 6, paragraph 1 of the Regulations on unpaid leave. In fact, her case does not arise from a situation where she had no choice but to suddenly cut short her professional career to deal with an unanticipated situation. Given their age, her parents' health situation was a known and gradually evolving state of affairs. Moreover, her

unpaid leave reflects her decision to be alongside her parents and take direct and principal responsibility for their care, to enable them to remain in their own home. Other options might have been envisaged to enable the appellant's parents to receive domiciliary care, with the possibility of her working part time so that she could spend more time with them.

51. Secondly, the Secretary General makes a number of points in response to the appellant's claim that in reaching the impugned decision, he failed to pay due attention to all the relevant information about her situation.

52. The appellant provides further details about her personal and family circumstances which, in her view, would justify consideration of her situation as a serious social case within the meaning of Article 6, paragraph 1 of the Regulations on unpaid leave.

53. The Secretary General underlines that, a detailed examination was made of the appellant's request for the continued payment of the dependent child supplement and the education allowance, in which the reasons she gave in support of her request were taken fully into account. The allegation that her request only received a cursory examination that failed to take account of her own personal circumstances is totally unfounded.

54. Thirdly, the Secretary General also seeks to refute the appellant's claim that he has failed to inform staff of the criteria he uses to identify situations that justify continued payment of the relevant allowances and that this is incompatible with his duty to treat staff members objectively.

55. According to the Secretary General, it is impossible to lay down an *a priori* and abstract rule on the type of situation that would justify the continued payment of these benefits. Nor has he introduced any new criterion, but has simply confined himself to applying those laid down in Article 6, paragraph 1 of the Regulations on unpaid leave, namely the exceptional nature of the measure and the fact that it can only be granted in serious social cases. If the continued payment of the dependent child supplement and the education allowance is to be approved, these two criteria must be met.

56. In the appellant's case, the Secretary General considers that neither criterion has been met.

57. In the first place, the appellant's situation is not exceptional, since a growing number of staff members are having to deal with their parents' age-related health problems. If it were found necessary to authorise continuation of the relevant allowances to the appellant, this would imply that all the staff members in a situation similar to that of the appellant would have to be treated in the same way. This would be quite contrary to the wishes of the Organisation, who chose to restrict such a measure solely to exceptional cases, in view of the certain risk of a multiplicity of identical situations.

58. Any departures from this principle must remain completely exceptional, if they are not to become the rule.

59. Second, the Secretary General considers that the appellant has failed to establish that her situation constitutes a serious case. She has been unable to show that there was no other possible solution.

60. Despite the appellant's contention to the contrary, she offers no evidence to show that the decision not to grant continued payment of the dependent child supplement and education allowance entailed any error of law or fact. She simply substitutes her own interpretation of the facts for those of the authority empowered to do so, namely the Secretary General.

61. Finally, the Secretary General considers it necessary to respond to the appellant's allegation that the way that budgetary and financial considerations were taken into account when the impugned decision was reached constituted an abuse or misuse of authority.

62. As regards the financial considerations the Secretary General admits that they were taken into account since a decision to continue payment of the dependent child supplement and the education allowance could have a significant impact on the budget. In this regard, contrary to what the appellant maintains, he notes that financial considerations are quite compatible with the purposes of Article 6, paragraph 1 of the Regulations on unpaid leave. It was precisely in order to limit the budgetary impact of any continued payment of the supplement and allowance concerned that the Organisation stipulated that it should only be authorised as an exceptional measure.

63. However, the Secretary General has amply demonstrated that financial considerations were not the only ones to have influenced the decision and that, in the appellant's case, the purposes of Article 6, paragraph 1 of the Regulations were taken fully into account.

64. The Secretary General concludes that he has not infringed any regulations, or the practice or general principles of law. Nor has there been any wrongful assessment of the relevant facts, erroneous conclusions or misuse of authority.

65. In the light of all the foregoing, he therefore asks the Tribunal to declare the appeal ill-founded and to dismiss it.

II. THE TRIBUNAL'S ASSESSMENT

66. The Tribunal notes first that it is unclear from the appellant's submissions whether or not, in her case before the Tribunal, she is continuing to rely on her contention in the administrative complaint that insufficient reasons were given for the decision of 26 August 2016. From the arguments adduced in the written and oral proceedings this would appear not to be the case. Nevertheless, the Tribunal considers it appropriate to state that, although brief, the Secretary General's decision was sufficiently well explained to enable the appellant to exercise her statutory rights.

67. As regards the complaints developed before it, the Tribunal notes that, generally speaking, the legal arguments and factual evidence produced by the appellant to support her

contention that the proceedings were defective, are not of a convincing nature. More specifically, the Tribunal makes the following points with regard to each argument.

68. In connection with the errors of law, the Tribunal notes with regard to the first argument that it cannot be inferred from the wording of the decision of 26 August 2016 that the Secretary General might have interpreted the term “exceptionally” in the manner indicated by the appellant, namely that he was referring to the appellant’s situation and that he did not consider himself bound by the obligation to take account of the details of the case. Nor did he indicate in the rejection decision that he benefitted from such a dispensation: he merely stated that he had to take account of the implications of his decision for identical cases. This comes within his margin of appreciation. The fact that the Directorate of Human Resources did not at any time put questions to the appellant in order to go deeper into the different aspects of her personal, financial and family situation cannot be seen as grounds for concluding that there has been an error of law.

69. The second error of law cited by the appellant overlaps with her complaints of errors of fact, so the Tribunal considers that its comments below on these errors of fact also apply here.

70. In the case of the third error of law, the Secretary General’s conclusions, as perceived by the appellant, come within the scope of his discretionary authority in this area. In any event, it should be emphasised that there is nothing in the contested decision of 26 August 2016 to substantiate the appellant’s interpretation of how the Secretary General viewed the situation.

71. This complaint must therefore be dismissed.

72. Regarding the errors of fact, the Tribunal recalls that, according to the appellant, the Secretary General failed to take account of all the relevant facts, even though he was duty bound to do so. She also maintains that he should have asked her about the impact of her new situation on her living conditions, particularly from a financial standpoint.

73. Yet the Tribunal is bound to observe that in her request of 23 June 2016 (paragraph 13 above), the appellant provided no information whatsoever on which the Secretary General might base a decision to apply the exception provided for in Article 6, paragraph 1 permitting the continued payment of the supplement and allowance in question.

74. The appellant did, admittedly, refer to her parents’ state of health and her daughter’s education.

75. However, the former, and the possible ways of dealing with the situation, are more relevant to the decision whether or not to grant unpaid leave, a subject that is quite separate from that of the continued payment of the disputed allowances. In the appellant’s case, the two are also unrelated since she did not link her request for unpaid leave with an application to retain the supplement and allowance.

76. Turning to the matter of her daughter's education, the appellant did not supply any information that could offer the basis for assessing the real financial impact of her losing the relevant allowances.

77. The appellant has indicated that this matter had been raised in discussions fifteen months earlier with the Directorate of Human Resources (see paragraph 11 above). However, the Tribunal considers that in the absence of any reference to these discussions – of which, moreover, no concrete evidence has been produced of the range of subjects covered – in the request of 23 June 2016, the Secretary General was not required to take them into account and thus was not responsible for excluding them from consideration.

78. The Tribunal must add that nor did the appellant supply any financial information to justify continued payment of the relevant supplement and allowance, either in her administrative complaint or before the Tribunal. In particular, at the hearing of 20 March 2017 the Tribunal asked her about the impact of the rejection of the complaint on her financial situation but she simply repeated, without any further details, that this was affecting her daughter's studies. According to information previously provided by the appellant in the course of the proceedings, the latter would be obliged not to terminate these studies but to interrupt them for a year.

79. The appellant therefore has no grounds for complaining that the proceedings were defective because of failure to consider the facts.

80. In the light of these circumstances, the appellant cannot hold the Secretary General responsible for failing to take account of information she had not supplied.

81. The complaint must therefore be dismissed.

82. Finally, regarding the misuse of authority the appellant criticises the fact that the Secretary General was guided solely by budgetary considerations.

83. The Tribunal notes that misuse of authority consists in using a power for purposes other than those for which that power was conferred.

84. Despite the Secretary General's statements at the hearing of 20 March 2017 that the budgetary issue would not have been an obstacle to the continued payment of the impugned supplement and allowance has he considered such continuation necessary, the Tribunal believes that these considerations could have played a role.

85. However, the appellant has provided no evidence of a misuse of authority and although she alleges that the Secretary General based his decision exclusively on budgetary considerations the observations she makes are not calculated to establish these claims.

86. Even if budgetary considerations had been the only ones taken into account by the Secretary General, they could not constitute a misuse of authority in this case, having regard to the Tribunal's finding concerning the alleged factual errors.

87. Nevertheless, the Tribunal can only welcome the fact that, as he indicated at the hearing, the Secretary General did not base his decision not to apply the exception in Article 6, paragraph 1, solely on budgetary considerations.

88. In conclusion, this complaint is also ill-founded and the appeal must be dismissed.

III. CONCLUSION

89. The appellant's complaints are ill-founded and must be dismissed.

For these reasons, the Administrative Tribunal:

Declares the appeal ill-founded and dismisses it;

Decides that each party will bear its own costs.

Adopted by the Tribunal in Geneva on 29 May 2017 and delivered in writing pursuant to Article 35, paragraph 1, of the Tribunal's Rules of Procedure on 12 May 2017, the French text being authentic.

The Registrar of the
Administrative Tribunal

The Chair of the
Administrative Tribunal

S. SANSOTTA

C. ROZAKIS