

CONSEIL DE L'EUROPE

COUNCIL OF EUROPE

TRIBUNAL ADMINISTRATIF ADMINISTRATIVE TRIBUNAL

CHAIR'S ORDER of 10 December 2004 in the case of X v. Secretary General

I, Chair of the Administrative Tribunal,

Having regard to Appeal No. 313/2003 lodged by X on 16 May 2003;

Having regard to the appellant's letter dated 15 October 2004, in which she gave notification of her desire to withdraw the appeal;

Having regard to the letter from the Secretary General dated 27 October 2004, in which he raised no objection to the aforementioned withdrawal;

Having regard to Rule 20 of the Rules of Procedure of the Administrative Tribunal;

Having regard to Article 5, paragraph 2 of the Statute of the Administrative Tribunal;

Considering that it is appropriate to apply the procedure provided for in the above-mentioned rule and article;

Having submitted a reasoned report to the judges of the Tribunal on 9 December 2004;

Noting that the judges raised no objection and that, on the contrary, they gave their consent to this order;

DECLARE

- Appeal No. N° 313/2003 struck off the list for the reasons given in the report appended hereto.

Done and ordered in Strasbourg on 10 December 2004. The parties to the case shall be notified of this order.

The Registrar of the
Administrative Tribunal

The Chair of the
Administrative Tribunal

S. SANSOTTA

K. HERNDL

REPORT DRAWN UP FOR THE PURPOSES OF THE PROCEDURE PROVIDED FOR IN RULE 20 OF THE RULES OF PROCEDURE OF THE ADMINISTRATIVE TRIBUNAL AND ARTICLE 5, PARAGRAPH 2 OF THE STATUTE OF THE TRIBUNAL

Appeal No. 313/2003

X v. Secretary General

This report concerns Appeal No. 313/2003, lodged by X, and is drawn up for the purposes of the procedure provided for in Rule 20, paragraph 2 of the Rules of Procedure of the Tribunal and Article 5, paragraph 2 of the Statute of the Administrative Tribunal.

THE PROCEEDINGS

1. The Appeal was submitted by X on 16 May 2003 and registered on 19 May 2003 under No. 313/2003.
2. On the same day the appellant asked the Chair of the Administrative Tribunal to defer examination of the appeal and consequently not to set her a deadline for the submission of a supplementary memorial. The reason given for this request was that the appellant hoped to reach an agreement with the Secretary General. She said that the Council of Europe mediator had been actively involved since March 2002 and that she would continue to seek his assistance.
3. The Chair acceded to this request.
4. The appellant and the Secretary General consequently asked that the above-mentioned deadline be deferred so that they could continue to seek an agreement.
5. In a letter dated 15 October 2004, the appellant gave notification that she wished to withdraw her appeal. On 27 October 2004 the Secretary General informed the Tribunal that he had no objection to the appeal being struck off the Tribunal's case-list.
6. On 9 December the Chair of the Administrative Tribunal submitted this report to the members of the Tribunal.

THE FACTS

7. On 13 November 2002 the appellant asked the Secretary General to allow her to take part in the exceptional recruitment procedure provided for in Resolution (2002) 4 of the Council of Europe. This procedure was introduced under Rules Nos. 1095 of 10 April 2002 and. 1124 of 30 September 2002.
8. On 7 February 2003, as the Secretary General had not replied to this request, the appellant lodged an administrative complaint, pursuant to Article 59 of the Staff Regulations.

9. On 18 March 2003 the Director General of Administration and Logistics informed the appellant on the Secretary General's instructions that her administrative complaint had been dismissed.

10. On 16 May 2003 the appellant lodged the present appeal against the dismissal of her administrative complaint.

THE LAW

11. The appellant appealed against the Secretary General's implicit decision to refuse her request to be allowed to take part in the exceptional recruitment procedure provided for under Resolution (2002) 4 of the Council of Europe. This procedure had been introduced under Rules Nos. 1095 of 10 April 2002 and 1124 of 30 September 2002.

12. After lodging the appeal, the appellant sought a friendly settlement of her case with the assistance of the Council of Europe mediator.

13. On 15 October 2004 the appellant gave notification that she wished to withdraw her appeal because a friendly settlement had been reached through mediation.

14. For his part, the Secretary General raised no objections to its being struck off the list.

15. The Chair would point out that, under Rule 20, paragraph 1a of the Tribunal's Rules of Procedure, an appeal may be struck off the Tribunal's list if an appellant wishes to withdraw it. He notes that the parties have reached a friendly settlement and that in the instant case there is no reason why the appeal should not be struck off. He further notes that the appeal is to be struck off the list in accordance with the procedure provided for in Rule 20, paragraph 2 of the Rules of Procedure.

CONCLUSIONS

16. This report is being submitted to the judges of the Tribunal so that they may exercise the supervision provided for in Article 5, paragraph 2 of the Statute of the Tribunal, to which Rule 20, paragraph 2 of the Rules of Procedure refers.

The Chair

Kurt HERNDL