

CONSEIL DE L'EUROPE

COUNCIL OF EUROPE

TRIBUNAL ADMINISTRATIF ADMINISTRATIVE TRIBUNAL

CHAIR'S ORDER of 8 December 2008 in the case of Laura TOMASI v. Secretary General

I, Chair of the Administrative Tribunal,

Having regard to Appeal No. 411/2008 lodged by Ms Laura TOMASI on 5 June 2008;

Having regard to the appellant's letter received on 8 October 2008, in which she gave notice that she wished to withdraw the appeal;

Having regard to the Secretary General's letter of 10 October 2008 in which he raised no objections to striking the appeal out of the case list;

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 Tribunal;

Considering it appropriate to apply the procedure provided for in the above provisions;

Having submitted a reasoned report to the judges of the Tribunal on 1st December 2008;

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

DECLARE

- Appeal No. 411/2008 struck off the case list on the grounds set out in the report appended hereto.

Done and ordered at Göteborg on 8 December 2008, the present order being notified to the parties to the case.

The Registrar of the
Administrative Tribunal

The Chair of the
Administrative Tribunal

S. SANSOTTA

E. PALM

**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. 411/2008

Laura TOMASI v. Secretary General

This report concerns Appeal No. 411/2008 lodged by Ms Laura TOMASI. It has been drawn up for the purposes of the procedure provided for in Rule 20, paragraph 2, of the Rules of Procedure of the Administrative Tribunal and Article 5, paragraph 2, of the Statute of the Tribunal.

Rule 20

“1. The Tribunal may strike an appeal out of its list of cases:

- a. Where the appellant states that he wishes to withdraw his appeal;
- b. Where the circumstances, in particular the appellant’s failure to provide information requested or to observe time-limits set, lead to the conclusion that he does not intend to pursue his appeal.

2. In this case, the Tribunal shall also rule in accordance with the procedure set out in Article 5, paragraph 2 of the Statute. It shall inform the appellant of its decision, of which a copy shall be sent to the Secretary General.

3. The Tribunal may decide to restore an appeal to its list of appeals if it considers that the circumstances justify such a course.”

Article 5 – Admissibility

“1. An appeal shall not be admissible unless it complies with the conditions laid down in Article 60, paragraphs 1 and 3, of the Staff Regulations.

2. If the Chair states, in a reasoned report to the judges of the Tribunal, that he or she considers the appeal to be manifestly inadmissible, and if the judges raise no objections within two months, the appellant shall be informed without delay that his or her appeal has been declared inadmissible for the reasons stated in the report, a copy of which shall be communicated to him or her.”

THE PROCEEDINGS

1. Ms Laura Tomasi is a temporary staff member of the Council of Europe. She lodged her appeal on 5 June 2008. It was registered under No. 411/2008 on the same day. The appellant then took the opportunity to file a supplementary memorial.

2. On 7 July 2008, the Secretary General submitted his observations.

3. On 1st August 2008, the appellant filed her observations in reply.

4. On 8 October 2008, the appellant filed a statement with the Registry, withdrawing the appeal.

5. On 10 October 2008, the Secretary General informed the Tribunal that he had no objections to the appeal being struck off the list of cases.

6. On 1st December 2008, the Chair of the Administrative Tribunal submitted this report to the members of the Tribunal.

THE FACTS

7. The appellant, a temporary staff member of the Council of Europe, works in the Registry of the European Court of Human Rights (legal assistant, grade B3). She applied to take part in the competitive examination for the recruitment of administrative officers open to nationals of Council of Europe member states (vacancy notice no. e84/200).

8. The appellant was not shortlisted to take part in the competition. Following a review of her application, on 13 February 2008 the appellant was informed that the Appointments Board had upheld its decision not to shortlist her.

9. On 26 March 2008, the appellant lodged an administrative complaint with the Secretary General (Article 59 of the Staff Regulations).

10. On 17 March 2008, the appellant was informed that she had been allowed to take part, on a provisional basis, in the written tests of the competition in question, to be held on 4 April 2008.

11. On 7 April 2008, the Secretary General dismissed the administrative complaint.

12. On 5 June 2008, the appellant lodged the present appeal.

13. On the same day, the appellant applied to the Chair of the Administrative Tribunal for a stay of execution of the decision complained of (Article 59, paragraph 7, of the Staff Regulations). On 20 June 2008, the Chair rejected the said application.

14. On 15 September 2008, the appellant was informed that she had not achieved the average mark required in order to be invited to an interview.

THE LAW

15. The appellant lodged the appeal against the decision not to shortlist her for the competitive examination for the recruitment of administrative officers open to nationals of Council of Europe member states (vacancy notice no. e84/200).

16. In a statement filed with the Registry on 8 October 2008, the appellant informed the Tribunal that she wished to withdraw her appeal. She gave no explanation. She did, however, say that she had taken the decision in the light of the results of the written tests.

17. The Secretary General, for his part, raised no objections to the appeal being struck off the list of cases.

18. The Chair points out that under Rule 20, paragraph 1.a of the Tribunal's Rules of Procedure, an appeal may be struck off the case list if the appellant states that he or she wishes to withdraw it. For her part, the Chair observes that in this particular case, there is no reason why the appeal should not be struck off the list. She notes that the appellant gives no reason in support of her request but merely states that she took the decision in the light of the results of the written tests. In the absence of any further details, however, the Chair considers that there is no reason why the appellant should

not withdraw her appeal. She further observes that the appeal must be struck off the case list in accordance with the procedure set out in Rule 20, paragraph 2, of the Tribunal's Rules of Procedure.

CONCLUSIONS

19. This report is being submitted to the Tribunal judges 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

Elisabeth PALM