

CONSEIL DE L'EUROPE— —COUNCIL OF EUROPE

TRIBUNAL ADMINISTRATIF ADMINISTRATIVE TRIBUNAL

CHAIR'S ORDER of 23 January 2004 in the case of P. WALCZAK v. Secretary General

I, Chair of the Administrative Tribunal,

Having regard to Appeal No. 315/2003 lodged by Mr P. Walczak on 16 July 2003;

Having regard to the appellant's e-mail of 10 September 2003, announcing that he wished to withdraw his appeal;

Having regard to the Secretary General's letter of 16 September 2003, whereby he raised no objection to the appeal's being struck out of the list of cases;

Having regard to Rule 20 of the Tribunal's Rules of Procedure;

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

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

Having submitted a reasoned report to the members of the Tribunal on 22 January 2004;

Noting that they raised no objections to this order, but on the contrary approved it;

DECLARE

- Appeal No. 315/2003 struck out of the list of cases for the reasons set out in the report appended hereto.

Done and ordered in Strasbourg on 23 January 2004, the present order being notified to the parties to the proceedings.

The Registrar of the
Administrative Tribunal

S. SANSOTTA

The Chair of the
Administrative Tribunal

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 IN ARTICLE 5 § 2 OF ITS STATUTE**

Appeal No. 315/2003

WALCZAK v. Secretary General

This report concerns Appeal No. 315/2003 lodged by Mr P. Walczak. It is drawn up for the purposes of the procedure provided for in Rule 20, paragraph 2, of the Administrative Tribunal's Rules of Procedure and in Article 5, paragraph 2, of its Statute.

PROCEEDINGS

1. Mr Walczak lodged his appeal on 16 July 2003.
2. The appeal was registered on 21 July under number 315/2003.
3. In an e-mail dated 10 September 2003 the appellant announced that he wished to withdraw his appeal. On 16 September 2003 the Secretary General informed the Tribunal that he had no objection to the appeal's being struck out of the Tribunal's list of cases.
4. On 22 January 2004 the Chair of the Administrative Tribunal submitted the present report to the members of the Tribunal.

THE FACTS

5. Mr Walczak is a staff member employed under a fixed-term contract at grade B5. He began working for the Council of Europe on 1 September 1992 in the Directorate of Human Rights and was subsequently assigned to the European Commission of Human Rights. Since 1 February 2001 he has been employed in the Migration Division of the Directorate General for Social Cohesion (DG III).
6. On 16 April 2003 the appellant sent a memorandum to the Director General of Administration and Logistics requesting his "integration" at grade A3. He pointed out that he had sat a general competitive examination for posts of Administrative Officer of Polish nationality at grade A2/A3 in 1993 and had since been on a reserve list. He also stated that the Director General of Social Cohesion had asked that his post be reclassified.
7. Having received no reply from the Administration, Mr Walczak lodged this appeal on 16 July 2003.

THE LAW

8. The appellant is requesting annulment of the Secretary General's decision not to reclassify his post at grade A3. He complains of the lack of a system for the integration of staff members with disabilities in posts of all grades. He considers himself a victim of psychological harassment and discrimination based on his physical condition. Lastly, he alleges failure to comply with the principle of equality of treatment and a lack of transparency and information on the integration/reclassification procedure.

9. The appeal was apparently lodged without an administrative complaint being made; the question may accordingly arise whether it is manifestly inadmissible since it fails to satisfy one of the admissibility conditions set out in Article 60, paragraph 1, of the Staff Regulations (Rule 19, paragraph 2, of the Tribunal's Rules of Procedure).

10. Be that as it may, the Tribunal has no need to consider the question, since in an e-mail of 10 September 2003 the appellant announced that he wished to withdraw his appeal. The reason he gave for his decision was that he wanted to allow the Administration more time to settle his specific case.

11. The Secretary General raised no objection to the appeal's being struck out of the Tribunal's list of cases.

12. The Chair points out that, under Rule 20, paragraph 1 a), of the Tribunal's Rules of Procedure, an appeal may be struck out where an appellant states that he or she wishes to withdraw it. He notes that, in the present case, there is no reason why the appeal should not be struck out. The Tribunal has moreover already had occasion to give decisions on the need to satisfy the admissibility conditions. The Chair further notes that the appeal is to be struck out of the list under the procedure provided for in Rule 20, paragraph 2, of the Rules of Procedure.

CONCLUSIONS

13. This report is submitted to the members of the Tribunal with a view to their exercising the scrutiny 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