

CONSEIL DE L'EUROPE

COUNCIL OF EUROPE

TRIBUNAL ADMINISTRATIF

ADMINISTRATIVE TRIBUNAL

CHAIR'S ORDER of 7 March 2008

In the case of Ilknur YUKSEK v. Secretary General

I, Chair of the Administrative Tribunal,

Having regard to Appeal No. 395/2007 lodged by Ms Ilknur YUKSEK on 11 September 2007;

Having regard to the Secretary General's observations of 12 November 2007;

Having regard to the e-mail messages in which the appellant requested an extension of the time limit for lodging her observations in reply and was authorised to lodge them by 25 January 2008;

Having regard to the appellant's letter of 4 February 2008, in which she gave notice that she wished to withdraw the appeal;

Having regard to the Secretary General's letter of 11 February 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 29 February 2007;

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

DECLARE

- Appeal No. 395/2007 struck off the case list on the grounds set out in the report appended hereto.

Done and ordered at Göteborg on 7 March 2008, the present order being notified to the parties to the case.

The Registrar of the
Administrative Tribunal

S. SANSOTTA

The Chair of the
Administrative Tribunal

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. 395/2007

Ilknur YUKSEK v. Secretary General

This report concerns Appeal No. 395/2007 lodged by Ms Ilknur Yuksek. 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 Ilknur Yuksek is a Council of Europe staff member holding a fixed-term employment contract. She lodged her appeal on 11 September 2007. It was registered under No. 395/2007 on the same day.

2. At the end of the written proceedings, in a letter dated 4 February 2008, the appellant stated that she wished to withdraw her appeal.

3. On 11 February 2008 the Secretary General informed the Tribunal that he had no objection to striking the appeal off the Tribunal’s case list.

4. On 28 February 2008 the Chair of the Administrative Tribunal submitted this report to the members of the Tribunal.

THE FACTS

5. The appellant, a temporary staff member for four years, took part in an external recruitment procedure to fill fixed-term assistant lawyers' positions for Turkish nationals in the Registry of the European Court of Human Rights. After the competition, the appellant was offered a one-year contract with the indication that it would not be renewed. The appellant signed the employment offer. The appellant was subsequently provided with information concerning the duration of the contract and the limit (four years) of the contracts for young lawyers working in the Registry of the European Court of Human Rights.

6. On 5 June 2007 the appellant submitted an administrative complaint to the Secretary General under Article 59 of the Staff Regulations.

7. On 4 July 2007 the Secretary General dismissed the administrative complaint. The appellant was notified on 13 July 2007.

8. On 11 September 2007 the appellant lodged the present appeal.

THE LAW

9. The appellant lodged the appeal against the Secretary General's decision not to recalculate the maximum term of the contract.

10. The Secretary General pleads the inadmissibility of the appeal. On the merits, he requests that the Tribunal declare the appeal ill-founded and dismiss it.

11. In a letter dated 4 February 2008, the appellant informed the Tribunal that she wished to withdraw her appeal. She gave no explanation.

12. The Secretary General for his part raised no objection to striking the appeal off the Tribunal's case list.

13. The Chair would point 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 declares that he or she wishes to withdraw it. For her part, the Chair observes that in the present case there is no reason not to strike the appeal off the list. She notes that the appellant gives no reason in support of her request. However, she notes that the appellant, according to the indications given in the "Trombinoscope" of the Organisation, apparently continues to work in a Council of Europe Directorate General. In the absence of any other indication, the Chair considers that the appellant is satisfied with the development which took place after the appeal was lodged. She also 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

14. 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