

CONSEIL DE L'EUROPE

COUNCIL OF EUROPE

TRIBUNAL ADMINISTRATIF

ADMINISTRATIVE TRIBUNAL

CHAIR'S ORDER OF 21 DECEMBER 2017

Rona BROWN v. Secretary General of the Council of Europe

I, Chair of the Administrative Tribunal,

Having regard to appeal No. 585/2017 lodged by Ms Rona Brown on 18 September 2017;

Having regard to the appellant's letter of 7 November 2017 in which she informed the tribunal that she did not wish to pursue her appeal;

Having regard to the letter sent by the representative of the Secretary General of the Council of Europe on 7 November 2017 in which he states that he has no objection to the appeal being struck off the list;

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 that it is appropriate to apply the procedure provided for in the said articles;

Considering the fact that the appellant in appeal No. 575/2017 had, on 30 October 2017, submitted a request to intervene in the present appeal pursuant to Article 10 of the Statute of the Tribunal, on which request a ruling shall be made today, raises no obstacle to the striking off of the present appeal;

Having submitted a reasoned report to the Tribunal judges on 8 December 2017;

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

DECLARE

- appeal No. 585/2017 struck off the list on the grounds set out in the report appended hereto.

Done and ordered at Kifissia (Greece), on 21 December 2017, this order being notified to the parties.

The Registrar of the
Administrative Tribunal

The Chair of the
Administrative Tribunal

Sergio Sansotta

Christos Rozakis

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. 585/2017
Rona BROWN v. Secretary General of the Council of Europe**

This report concerns appeal No. 585/2017 lodged by Ms Rona Brown. 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 Tribunal's Statute.

THE PROCEEDINGS

1. The appellant lodged her appeal on 18 September 2017. On the same date, the appeal was registered under No. 585/2017.
2. The appellant submitted her additional pleadings on 26 October 2017.
3. On the same date, the Secretary General was invited to submit his observations by 26 November 2017.
4. On 30 October 2017, the appellant in appeal No. 575/2017 (Dossow v. Secretary General) submitted a request to intervene in the proceedings, pursuant to Article 10 of the Statute of the Tribunal in support of the appellant's submissions.
5. On 6 November 2017, the Secretary General submitted his observations, whereas the appellant failed to respond within the time-limit she had been given, which expired on 7 November 2017.
6. During the Chair's examination of this request to intervene, on 7 November 2017 the appellant informed the Chair that she did not wish to pursue her appeal before the Tribunal.
7. On the same date, the Secretary General informed the Tribunal that he had no objection to the appeal being struck off the list.
8. On 8 December 2017, the Chair of the Tribunal submitted the present report to the members of the Tribunal.

THE FACTS

9. The appellant was a permanent staff member of the Organisation.
10. On 10 April 2017, the appellant contacted the Directorate of Human Resources to ask about the extent of her rights in the event of permanent total invalidity.

11. She was given a copy of Rule No. 1332 of 25 May 2011. This Rule provided for a specific capital sum in the event of invalidity.
12. On 12 April 2017, the appellant submitted a request to be granted invalid status.
13. On 10 May 2017, the appellant was granted invalid status.
14. Upon finalising the procedure, on 18 May 2017 the appellant discovered that she would be entitled to a capital sum which was half the amount mentioned on 10 April 2017.
15. The information which the appellant had been given on 10 April 2017 had been inaccurate insofar as the aforementioned Rule No. 1332 was no longer in force on that date, having been repealed by Rule No. 1387 of 20 December 2016 on benefits in the event of death, permanent and total disability, partial disability or long-term care.
16. The appellant then had a discussion with the Directorate of Human Resources, which confirmed that the capital sum she would receive would be equivalent to 12 months' and not 24 months' salary.
17. On 15 June 2017, the appellant submitted an administrative complaint to the Secretary General under Article 59, paragraph 2, of the Staff Regulations.
18. On 19 July 2017, the Secretary General dismissed the administrative complaint.
19. On 18 September 2017, the appellant lodged the present appeal.

THE LAW

20. The appellant lodged her appeal in order to complain about the decision to pay her a capital sum corresponding to 12 months' rather than 24 months' salary. She set out her arguments in her additional pleadings which it is not necessary to summarise here.
21. Before the Secretary General submitted his observations, on 7 November 2017 the appellant gave notice that she no longer wished to pursue her appeal, explaining that she had reached this decision following the conclusion, that day, of a settlement agreement, proposed by the Secretary General as a means of resolving the dispute.
22. On the same date, the Secretary General informed the Tribunal that he had no objection to the appeal being struck off the list.
23. The Chair points out that under the terms of Rule 20, paragraph 1a of the Tribunal's Rules of Procedure, an appeal may be struck out if an appellant states that he or she wishes to withdraw it and according to paragraph 2 of the same provision, the Tribunal shall rule in accordance with the procedure set out in Article 5, paragraph 2 of the Tribunal Statute which applies in cases where an appeal is manifestly inadmissible.
24. The Chair, for his part, notes that there is no reason why the appeal should not be struck from the list. Admittedly, in her letter informing the Tribunal of her decision not to pursue her appeal, the appellant gave no indication of the terms of the settlement agreement

concluded between the parties outside these proceedings. Accordingly, the Chair is unable to carry out any review of this agreement, neither the rationale nor the ins and outs of the decision, but this omission is no reason not to order that the appeal be struck off the Tribunal's list of cases. Indeed, under Rule 20, paragraph 3, of the Rules of Procedure, "The Tribunal may decide to restore an appeal to its list of appeals if it considers that the circumstances justify such a course."

25. The fact that the appellant in appeal No. 575/2017 had asked to intervene in this appeal should not constitute a reason for not accepting the appellant's request for her appeal to be struck off the list.

26. The Chair further notes that the appeal is to be struck off according to the procedure provided for in Rule 20, paragraph 2, of the said Rules.

CONCLUSION

27. 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
Christos Rozakis