CONSEIL DE L'EUROPE———

———COUNCIL OF EUROPE

TRIBUNAL ADMINISTRATIF
ADMINISTRATIVE TRIBUNAL

Appeal No. 639/2020
(Isabela MIHALACHE (II) v. Secretary General of the Council of Europe)

The Administrative Tribunal, composed of:

Ms Nina VAJIĆ, Chair,
Ms Françoise TULKENS,
Mr Christos VASSILOPOULOS, Judges,

assisted by:

Ms Eva HUBALKOVA, Deputy Registrar,

has delivered the following decision after due deliberation.

PROCEEDINGS

1. The appellant, Ms Isabela Mihalache, lodged her appeal on 16 March 2020. It was registered the same day under No. 639/2020.

2. On 30 April 2020, the Secretary General forwarded her observations on the appeal.

3. Having been invited to file her submissions in reply, the appellant did not submit any documents.

4. As the parties had agreed to waive oral proceedings, the Tribunal decided on 16 June 2020 that there was no need to hold a hearing. The appellant was assisted by Ms Nathalie Verneau, a member of the Organisation's staff. The Secretary General was represented by Mr Jörg Polakiewicz, Director of Legal Advice and Public International Law (Jurisconsult).

THE FACTS

I. THE CIRCUMSTANCES OF THE CASE

5. The appellant was a temporary Council of Europe staff member.

6. She had previously lodged a first appeal to contest a procedure which had consisted in appointing a staff member to a position which had until then been held by the appellant who, in the meantime, had taken part in a recruitment procedure to fill this same role.

7. The Tribunal set aside the impugned decision in a decision of 30 October 2019 (ATCE, Appeal No. 604/2019 – Mihalache v. Secretary General of the Council of Europe). The Tribunal refers to its aforementioned decision of 30 October 2019 for further details regarding the facts that gave rise to this first dispute.

8. In its decision (paragraph 48), the Tribunal summarised the appellant's grievances as follows:

> "48. The appellant considers that she was unfairly and wrongfully replaced in the role in which she had been employed under the JUSTROM project. She asks that the Directorate of Human Resources acknowledge that she is entitled to be offered an arrangement that would allow her to resume working at the Council of Europe on the JUSTROM project, and that it complete the recruitment procedure set in motion by the competition in 2016."

9. In executing this decision (Article 60, paragraph 6, of the Staff Regulations), the Secretary General notified the Tribunal on 29 November 2019 of the implementing measures which she had taken pursuant to the decision. The letter was worded as follows:

> *"I am writing to inform you, pursuant to Article 60, paragraph 6, of the Staff Regulations, of the execution of the decision of the Administrative Tribunal of the Council of Europe of 30 October 2019 in Appeal No. 604/2019.*
>
> *For reference, it follows from paragraph 112 of the decision that the Tribunal set aside the dismissal of 31 October 2018 of the appellant's administrative request dated 28 September 2018. In its decision, the Tribunal explicitly stated that it was not setting aside the decision to appoint another staff member of the Organisation to run the JUSTROM programme (paragraph 103), nor the decision not to offer the appellant a new temporary contract (first sentence of paragraph 104). Furthermore, the Tribunal underlined that it was not within its power to order the Secretary General to award a contract to the appellant. The Tribunal also noted that it had been given no indication as to where on the reserve list the appellant had been placed (paragraph 104).*
>
> *Executing the annulment of the impugned act, the Secretary General notified Ms Mihalache, on 29 November 2019, of a new reply to her administrative request. In this reply, the appellant was informed that no vacancies corresponding to the profile described in vacancy notice no. e178/2016 were available at that time. Should any such vacancies arise, they would be offered, in order of merit, to the candidates on the reserve list. The appellant was informed that this reserve list was still valid since it had recently been renewed for a period of two years. She was also informed that she had been ranked in fourth place on this list, which was comprised of five candidates listed in order of merit.*
>
> *In addition, on 27 November 2019, the sum of 4 000 euros corresponding to the amount awarded by the Tribunal to the appellant in compensation for non-pecuniary damage was paid. (...)"*

10. On the same day, the Directorate of Human Resources sent the appellant the following letter:

> *"...*
>
> *ln its judgment of 30 October 2019 the Administrative Tribunal of the Council of Europe concluded (§ 112) that the rejection on 31 October 2018 of your administrative request should be annulled.*
>
> *In execution of this judgment, please find below a new reply, on behalf of the Secretary General, to your administrative request made under Article 59 § 1 of the Staff Regulations. This reply replaces the reply dated 31 October 2018.*
>
> *You asked the Secretary General to identify a solution allowing you to continue to work for the Council of Europe's JUSTROM programme. You also requested that the recruitment procedure under vacancy notice e178/2016 in which you participated be finalised. Finally, you asked that your willingness to work with the Council of Europe in any position suitable for your professional background and experience be taken into consideration.*
>
> *1 appreciate your willingness to work with the Council of Europe but regret to inform you that currently there are no vacancies corresponding to the job profile described in the vacancy notice e178/2016. Should any such vacancies occur, candidates on the reserve list will be considered by order of merit. The reserve list in question will remain valid until 8 October 2021 and all candidates remain on the list unless they request to be removed. 1 would like to inform you that you are ranked in fourth place on this reserve list which comprises five candidates, on the basis of your results in the competition.*
>
> *I trust that you will find that the above elements constitute a satisfactory reply ta your administrative request."*

11. On 18 June 2019, the appellant submitted an administrative complaint to the Secretary General (under Article 59, paragraph 2, of the Staff Regulations) "with a view to challenging the execution of the decision in Appeal No. 604/2019". She maintained, in particular, that:

> *"In my view, [the new reply to my administrative request of 28 September 2019], from which it is clear that the Secretary General has decided to leave a person in charge of the JUSTROM programme who has not passed (or even sat) the competitive examination to fill this post, is contrary to the Tribunal's decision and constitutes an 'administrative act adversely affecting me' within the meaning of Article 59, paragraph 2, of the Staff Regulations. The Secretary General's interpretation of the decision prevents it from being fully executed since it is limited to compensation for non-pecuniary damage. No account has been taken of the outcome of the competition organised for a specific role, namely the project officer responsible for the JUSTROM project, with the result that the Secretary General is still not complying with the applicable regulatory provisions in the instant case.*
>
> *(...)*
>
> *It (...) is evident from the [Tribunal's] decision that the decision of the Directorate of Human Resources to appoint a staff member who was not on the reserve list for the competition to run the JUSTROM programme must be set aside. Accordingly, the proper execution of the decision requires the recruitment process set in motion by the 2016 competition to be completed. This must be achieved by appointing a candidate from the reserve list drawn up following the competition.*
>
> *(...)*
>
> *I would therefore ask you, in the light of the Tribunal's decision in Appeal No. 604/2019, to:*
>
> *- set aside the decision to appoint a person who has not sat and passed competition no. e178/2016 to run the JUSTROM project.*

- complete the recruitment procedure further to vacancy notice no. e178/2016 and to take into account my specific skills and experience in the choice of the person to be appointed, as well as the fact that I held the role in question for four years to the general satisfaction of all concerned."

12. On 17 January 2020, the Secretary General rejected the administrative complaint, deeming it inadmissible and ill-founded. She observed, in particular, that:

> *"It should be noted that the requests made in the present administrative complaint are the same as the first set of claims already considered by the Tribunal in connection with your appeal. In your administrative complaint, you ask for the appointment of a staff member of the Organisation to the role of senior project officer of the JUSTROM project to be revoked and for priority consideration to be given to your application in the choice of the person to be appointed to this position.*
>
> *The fact is, however, that the Tribunal has already held, in paragraphs 101 to 105 of its decision, in a clear and unambiguous manner, that these claims are to be dismissed.*
>
> *Likewise, with regard to your request to be awarded a contract, the Tribunal [replied in the negative] (see paragraph 104 of the decision).*
>
> *(...)*
>
> *The Tribunal, therefore, has not set aside the decision to appoint a staff member of the Council of Europe to the position of senior project officer for JUSTROM, nor has it overturned the decision not to recruit you on a fixed-term contract after the recruitment procedure further to vacancy notice no. e178/2016. The Tribunal's decision not to set aside these decisions constitutes res judicata. Contrary to what you allege (...), there was no requirement for the Secretary General to act on her own initiative to revoke the appointment of the staff member to the position in question.*
>
> *(...)*
>
> *Furthermore, as explicitly stated in paragraph 112 of the decision, the only decision which has been set aside by the Tribunal is the one taken on 31 October 2018 to dismiss your administrative request of 28 September 2018.*
>
> *For the purpose of executing the decision, and in order to replace the act set aside, a further reply to your administrative request of 28 September 2018 was sent to you, informing you that should a vacancy corresponding to the profile described in vacancy notice no. e178/2016 become available, it would be offered to the applicants on the reserve list in order of merit.*
>
> *You were also informed that you were ranked in fourth place on this list, which consisted of five candidates listed in order of merit. (...)*
>
> *Lastly, it should be noted that it was because the available remedies had not been exhausted that the Tribunal rejected your request to set aside the decision to deploy a permanent staff member in the role in question, insofar as this request was not included either in your administrative request of 28 September 2018 or, more importantly, in your administrative complaint of 29 November 2018. The present complaint, in which you seek the annulment of that appointment, is not such as to remedy the fact that the request is inadmissible since, even supposing it did not conflict with the res judicata principle, it would in any event be out of time under Article 59, paragraph 3, of the Staff Regulations, which requires that the complaint be lodged within 30 days of the date of notification of the administrative act complained of. You were, however, informed of the appointment of a permanent staff member to the position of senior project officer for the JUSTROM project on 4 September 2018 and the present complaint, lodged on 18 December 2019, is therefore manifestly out of time."*

13. On 16 March 2020, the appellant lodged the present appeal.

II. RELEVANT LAW

14. Article 59, paragraph 2, of the Staff Regulations concerns the lodging of administrative complaints and reads as follows:

> "2. Staff members who have a direct and existing interest in so doing may submit to the Secretary General a complaint against an administrative act adversely affecting them, other than a matter relating to an external recruitment procedure. The expression "administrative act" shall mean any individual or general decision or measure taken by the Secretary General or any official acting by delegation from the Secretary General."

15. The execution of the Tribunal's decisions is governed by Article 60, paragraph 6, of the Staff Regulations which reads as follows:

> "6. Decisions of the Administrative Tribunal shall be binding on the parties as soon as they are delivered. The Secretary General shall inform the Tribunal of the execution of its decisions within thirty days from the date on which they were delivered."

16. When there is no guidance in the statutory and regulatory texts and unlike other courts that provide for a procedure for requesting enforcement, it is recognised in the Tribunal's case law that challenges to the execution of a first decision may give rise to an administrative complaint and subsequently, if necessary, to the lodging of an appeal with the Tribunal.

THE LAW

17. In her appeal, the appellant challenges the arrangements for executing the decision of 30 October 2019 in Appeal No. 604/2019. She states that she stands by the claims made in her administrative complaint of 18 December 2019 (see paragraph 11 above) and asks the Tribunal to:

a) set aside the Secretary General's decision to appoint as the head of the JUSTROM project a person who has not sat and passed competition no. e178/2016;

b) order the Secretary General to complete the recruitment procedure further to vacancy notice no. e178/2016, and to take the appellant's specific skills and experience into account in the choice of the person to be appointed, as well as the fact that she had performed the role in question for four years to the general satisfaction of all concerned.

18. The Secretary General invites the Tribunal to declare the appeal inadmissible and, in the alternative, ill-founded and to dismiss it.

I. THE ADMISSIBILITY OF THE COMPLAINT

A. The Secretary General

19. The Secretary General argues that the appeal is inadmissible on two grounds: the general principle of res judicata has been ignored and the request the appellant made in her administrative complaint was out of time.

20. The Secretary General first contends that the Tribunal has already ruled on the facts and grievances set out by the appellant in its decision of 30 October 2019 in Appeal No. 604/2019. The Tribunal, therefore, has already definitively settled the dispute between the appellant and the Organisation concerning the recruitment process set in motion by vacancy notice no. e178/2016 and the appointment of a Council of Europe staff member, with effect from 1 October 2018, to the position thrown open to competition.

21. On this point, the Secretary General refers to international administrative case law according to which:

> "[T]he principle of 'res judicata operates to bar a subsequent proceeding if the issue submitted for decision in that proceeding has already been the subject of a final and binding decision as to the rights and liabilities of the parties in that regard'. The principle applies when the parties, the purpose of the suit and the cause of action are the same as in the earlier case (see Judgments 1216, under 3, and 1263, under 4)" (Judgment No. 2993 of the ILO Administrative Tribunal of 2 February 2011).

22. The parties to Appeal No. 604/2019 and the present appeal are the same. The purpose of the appeals is also identical (see paragraph 17 above and paragraph 91 of the decision of 30 October 2019). And lastly, the cause of action is the same, insofar as the purpose of both appeals is to establish that the appointment of a staff member to the position thrown open to competition was unlawful.

23. Consequently, as the present appeal does not concern new facts or new grievances, the principle of res judicata prevents the appellant from re-submitting the same claims as those made in Appeal No. 604/2019.

24. The Secretary General adds that, in accordance with Article 60, paragraph 6, of the Staff Regulations, the decisions of the Tribunal are binding on the parties as soon as they are delivered. Similarly, Article 12 of the Statute of the Tribunal (Appendix XI to the Staff Regulations) provides that no appeal lies from the Tribunal's decisions.

25. At the same time, the res judicata authority of decisions cannot be circumvented simply by reformulating requests which the Tribunal has already considered in a previous case, thus enabling acts and procedures which have been submitted to the Tribunal before and definitively ruled upon to be constantly challenged. Consequently, insofar as the present appeal directly conflicts with the general principle of res judicata, it must be declared inadmissible in this respect.

26. Furthermore, even supposing the present appeal did not conflict with the res judicata principle, the Secretary General maintains that the appellant's request to set aside the decision to

appoint a staff member to the position of senior project officer for JUSTROM with effect from 1 October 2018 was out of time. The Secretary General notes that this request was dismissed by the Tribunal in Appeal No. 604/2019 on the ground that the available remedies had not been exhausted (paragraphs 101 to 103 of the decision).

27. In the Secretary General's view, the fact that the appellant explicitly formulated this request in her administrative complaint of 18 December 2019 is not such as to make it admissible since, even supposing it did not conflict with the res judicata principle, it was, in any event, out of time.

28. In order to sustain her objection, the Secretary General refers to the thirty-day time limit set out in Article 59, paragraph 3, of the Staff Regulations, the need for stability in legal situations and the case law of the Tribunal (Appeal No. 312/2003 David Schmidt v. Secretary General, decision of 5 December 2003, paragraph 33), the ILO Administrative Tribunal (Judgments No. 1106 of 3 July 1991, No. 955 of 27 June 1989, No. 752 of 12 June 1986 and No. 612 of 5 June 1983), the European Court of Human Rights with regard to compliance with the time limit of six months from the final domestic decision, and the Community judicature (Order of the Court of First Instance of the European Communities of 7 June 1991, Georges Weyrich v. Commission of European Communities).

29. With regard to the instant case, the Secretary General notes that the appellant was informed of the appointment of a permanent staff member to the position of senior project officer for the JUSTROM project on 4 September 2018. Consequently, the administrative complaint lodged by the appellant on 18 December 2019 seeking the annulment of that decision was manifestly out of time.

30. In the view of the Secretary General, therefore, the present appeal is inadmissible on those grounds.

B. The appellant

31. The appellant did not file any submissions in reply to those of the Secretary General (see paragraph 3 above). In the grounds of her appeal, she made no distinction between the admissibility and the merits of the appeal. Insofar as her arguments may also relate to the admissibility of the appeal, they can be summarised as follows.

32. According to the appellant, in rejecting her administrative complaint of 18 December 2019, the Secretary General misinterpreted paragraphs 101 to 103 of the Tribunal's decision when she argued that the claims made in the above-mentioned administrative complaint had already been considered and rejected by the Tribunal.

33. The appellant notes that, in her administrative complaint, she took issue not with the fact that the Administration had appointed another staff member, and not her, to the position opened to competition, but with the fact that it had failed to complete the recruitment process set in motion by vacancy no. e178/2016 by appointing someone from the reserve list drawn up after the competition for the purpose of filling this specific role.

34. The appellant further submits that, contrary to what the Secretary General alleges, the failure to complete the recruitment procedure launched by the aforementioned competition constitutes the main purpose of her administrative request of 28 September 2018, her administrative complaint of 29 November 2018 and her second administrative complaint. Furthermore, with regard to the matter of the continuation of the recruitment procedure, the Tribunal had been unequivocal in its finding: "It is also clear that the Organisation has never taken any decision as to the administrative outcome of the recruitment procedure in order to terminate it" (paragraph 82 of the decision).

35. The appellant maintains that, in her further reply of 29 November 2019 regarding the execution of the decision, the Director of Human Resources did not complete the recruitment process launched by the competition in 2016 but noted that should any vacancies corresponding to the profile described in vacancy notice no. e178/2016 arise, the position would be offered to candidates on the reserve list in order of merit. Having been renewed for a period of two years, the list would remain valid until 8 October 2021. In the view of the appellant, announcing this hypothetical offer can in no way be deemed to constitute proper execution of the Tribunal's decision, since it was competition no. e178/2016 itself that had to be completed.

C. The Tribunal's assessment

36. The Tribunal does not consider it necessary to examine the objections to admissibility raised by the Secretary General, the present appeal being in any case unfounded for the reasons set out below.

II. ON THE MERITS

A. The appellant

37. In addition to the arguments raised in the section on the admissibility of the complaint above, which are to be repeated here insofar as they may concern the merits of the appeal, the appellant submits the following.

38. Regarding the reference to her exact position on the reserve list, she points out that this was not binding. In any event, she refers to the Tribunal's reasoning according to which "Each of these individuals is nevertheless entitled to expect the Organisation, when filling the roles opened to competition, to choose from among the people on the said list as long as it remains valid, except where duly substantiated legal reasons make it impossible to do so" (paragraph 88 of the decision).

39. The appellant adds that the Secretary General, in her decision rejecting the administrative complaint, refers to a request by the appellant to "be awarded a contract". However, the appellant points out that she had acknowledged that she was aware of the provisions of Rule No. 1232 laying down the conditions of recruitment and employment of temporary staff members, according to which there was no guarantee that her contract would be renewed, and that being placed on the reserve list did not give her the right to an appointment within the Organisation.

40. The appellant further submits that, in its decision, the Tribunal specified that:

> "The Secretary General focuses – wrongly - on the issue of the renewal of the appellant's temporary contract and the rights to which, he alleges, she has laid claim. The fact is, however, that the appellant has not, at any time, claimed any rights in this respect. Instead, she merely talks about "legitimate expectation", which is not the same thing (paragraph 76)."

41. The appellant concludes from this that proper execution of the decision requires the recruitment process set in motion by the 2016 competition to be completed, and must be achieved by appointing a candidate from the reserve list drawn up after competition no. e178/2016.

B. The Secretary General

42. The Secretary General begins by pointing out that, through the present appeal, the appellant seeks to contest the execution by the Organisation of the Tribunal's decision of 30 October 2019 in Appeal No. 604/2019. The fact is, however, that the import of the Tribunal's decision was fully respected since the Secretary General took into account both the operative part of the decision and the grounds on which it was based.

43. The Secretary General states that the Tribunal made a distinction, in paragraph 91 of the decision, between two sets of claims submitted by the appellant. It is clear that the requests made in the present appeal correspond to the first set of claims considered by the Tribunal in the appeal (the annulment of the appointment, with effect from 1 October 2018, of a staff member of the Organisation to the position of senior project officer for the JUSTROM project and consideration of her profile in the choice of the person to be appointed to that position).

44. The fact is, however, that the Tribunal has already ruled in a clear and unambiguous manner, in paragraphs 101 to 105 of its decision, that these claims must be rejected outright. Furthermore, the Tribunal made it very clear in paragraph 112 of its decision that the act set aside in Appeal No. 604/2019 was not the appointment decision which the appellant is now trying to challenge, but rather the reply of 31 October 2018 to her administrative request of 28 September 2018. The appellant has no grounds, therefore, for claiming that the administrative act which was annulled by the Tribunal's decision in Appeal No. 604/2019 was the Secretary General's decision to appoint a person in charge of the JUSTROM programme who had not passed (or even sat) the competitive examination to fill this specific role.

45. With regard to the appellant's request to be awarded a contract in Appeal No. 604/2019, the Tribunal considered the matter (paragraph 104 of the decision), before concluding that the appellant's first set of the claims was to be rejected outright (in paragraph 105 of its decision).

46. In the Secretary General's view, the Tribunal did not in any way revoke the decision to appoint a Council of Europe staff member to the position of senior project officer for JUSTROM, nor did it overturn the decision not to recruit the appellant on a fixed-term contract after the recruitment procedure further to vacancy notice no. e178/2016. The Tribunal's decision to reject the appellant's requests in that regard constitutes res judicata. Contrary to what the appellant alleges, there was no requirement for the Secretary General to act on her own initiative to revoke the appointment of the staff member to the position in question.

47. According to the Secretary General, it follows from the clear wording of the decision of 30 October 2019 that only the appellant's second set of claims, namely the award of compensation for the non-pecuniary damage suffered, was granted by the Tribunal.

48. Insofar as the only decision set aside by the Tribunal was the one taken on 31 October 2018 to dismiss the appellant's administrative request of 28 September 2018, it was for the Secretary General, in executing the decision, to replace the annulled act. To this end, a new reply to the administrative request of 28 September 2018 was sent to the appellant on 29 November 2019, informing her that should a vacancy corresponding to the profile described in vacancy notice no. e178/2016 arise, it would be offered to the applicants on the reserve list in order of merit.

49. The Secretary General states that, drawing the appropriate conclusions from the remarks made by the Tribunal in this respect, she also saw to it that the appellant was informed, in this new reply, that, based on her performance in the competition, she had been ranked fourth on the reserve list comprising a total of five candidates listed in order of merit. It should be noted, therefore, were a vacancy corresponding to the profile in question to arise, the appellant's application would be considered in order of merit, taking into account the fact that three other applicants were ranked higher than her on the reserve list drawn up after the competition announced in vacancy notice no. e178/2016.

50. The Secretary General concludes that she acted with strict regard to the meaning and scope of the Tribunal's decision of 30 October 2019. The appellant's claims, which are based on an alleged improper execution of that decision, are therefore unfounded.

C. The Tribunal's assessment

51. The Tribunal agrees with the Secretary General that the grievances in the present appeal and the one filed under No. 604/2019 are set out in a similar, if not identical, fashion. However, the Tribunal is not persuaded by the Secretary General's argument that the present appeal does not relate to new facts. As the present appeal concerns the execution of the decision handed down in the previous appeal, its subject-matter is different from that of Appeal No. 604/2019. Furthermore, the appellant lodged a new administrative complaint (see paragraph 14 above) to which the Secretary General replied (see paragraph 15 above).

52. The Tribunal accepts that the fact that the complaints in the two appeals were of a similar nature, or even the same, can be explained by the objective which the appellant seeks to achieve, namely to secure the completion of the recruitment procedure launched by vacancy notice no. 178/2016 and the appointment of a person who sat and passed competition no. e178/2019 to manage the JUSTROM project.

53. In this connection, the Tribunal noted, in its decision in Appeal No. 604/2019, that the former Secretary General did not have the right to place a staff member who had not taken part in the recruitment procedure in the position, without first terminating that competition and declaring the list null and void, and that he had not taken the legal approach which should have been followed. For these reasons, the Tribunal set aside the former Secretary General's reply of

31 October 2018 to the appellant's administrative request dated 28 September 2018 (see paragraphs 87 and 90 of the decision).

54. The Tribunal observes that pursuant to its decision in Appeal No. 604/2019, the appellant received a new reply to her administrative request of 28 September 2018 from the Director of Human Resources on behalf of the Secretary General on 29 November 2019. In it, the appellant was informed that there were no available vacancies corresponding to the job profile described in vacancy no. e178/2016, but that should one arise, it would be offered to the applicants on the reserve list, in order of merit. She was also informed that she had been ranked fourth on the reserve list, which would remain valid until 8 October 2021 (see paragraph 10 above). However, the Secretary General did not undertake any administrative steps leading to the completion of the recruitment procedure which was sought by the appellant.

55. The Tribunal notes that in the light of the material in the present case file, the Secretary General has pointed out that, in setting aside the decision to dismiss the appellant's administrative complaint, the Tribunal did not call into question either the recruitment process or any appointments already made. Although the Tribunal's annulment of the decision to dismiss her complaint in Appeal No. 604/2019 implicitly relates to the process in question and any appointments made, the appellant has not submitted any new grievance to that effect.

56. More generally, the appellant has merely restated the grievances already raised in Appeal No. 604/2019 and, despite being invited to do so, did not file submissions in reply to the Secretary General's observations on the merits and admissibility.

57. Accordingly, the present appeal must be dismissed as unfounded.

III. CONCLUSION

58. In conclusion, there is no need to rule on the objections to admissibility raised by the Secretary General, as the appeal is unfounded and must be dismissed.

For these reasons,

The Administrative Tribunal:

Does not consider it necessary to examine the objections to admissibility raised by the Secretary General, declares the appeal unfounded and dismisses it.

Adopted by the Tribunal sitting via videoconference, on 29 October 2020, and delivered in writing in accordance with Rule 35, paragraph 1, of the Tribunal's Rules of Procedure on 30 November 2020, the French text being authentic.

The Deputy Registrar of the Administrative Tribunal	The Chair of the Administrative Tribunal
E. HUBALKOVA	N. VAJIĆ