ADMINISTRATIVE TRIBUNAL
TRIBUNAL ADMINISTRATIF

COUNCIL OF EUROPE
CONSEIL DE L'EUROPE

Appeal No. 770/2025

G. T.

v.

Secretary General of the Council of Europe

***

JUDGMENT

22 January 2026

The Administrative Tribunal, composed of:

Paul LEMMENS, Chair,
Lenia SAMUEL,
Thomas LAKER, Judges**,**

assisted by:

Christina OLSEN, Registrar,
Dmytro TRETYAKOV, Deputy Registrar,

has delivered the following judgment.

INTRODUCTION

1. The present appeal concerns alleged irregularities of the external competition in which the appellant took part.

THE FACTS

2. The appellant, G. T., applied to the external recruitment procedure No. e044/2024 organised for the recruitment of several Senior Project Officers (grade B5). Among the required competencies of professional and technical expertise, the vacancy notice listed the following: "experience in project management, preferably in an international context; good knowledge of project management methods and tools; knowledge of the standards and activities of the Council of Europe".

3. On 30 October 2024, the appellant was invited to the assessment stage which comprised several tests.

4. Having successfully passed test 1, on 13 November 2024 the appellant was invited by email of the Directorate of Human Resources (DHR) to sit tests 2 and 3. The invitation specified the dates and duration of both tests. Test 2 was a language proficiency test, while test 3 was to evaluate the technical expertise required for a Senior Project Officer role. The email further specified that the 100 best ranked candidates with an overall score of 10/20 or above in that assessment stage would be placed on the pre-selection list. It also listed the competencies that would be checked and two topics to choose from for test 3. It further provided the following explanation as to the manner in which the tests would be marked:

> « Each test will be marked on a range of 0 to 20. Test 2 is eliminatory. You must obtain a minimum mark of 10/20 in Test 2 for Test 3 to be marked. This minimum mark may be increased if the number of successful candidates is too high in proportion to our recruitment needs.
>
> The overall average mark will be calculated using the following weighting:
>
> Test 2 English test – 30% of overall average mark.
> Test 3 Professional paper – 70 % of overall average mark."

Test 3 consisted of two parts: part 1 contained ten multiple-choice questions, which were automatically corrected (10 points), while part 2 was of an essay type, for which the candidates

had to write papers on two tasks to be undertaken in a case study (topic) of the applicant's choice (to be chosen from two topics: "diversity and non-discrimination" viz. "judicial reform"). Part 2 was to be marked by two correctors (total of 10 points).

5. By email from the DHR dated 5 February 2025, the appellant was informed that he had obtained marks of 12.4/20 and 9.5/20 in tests 2 and 3 respectively, with an overall average of 10.37/20, and that he was not among the 100 best-ranked candidates. He was therefore not eligible to be placed on the pre-selection list.

6. On 6 February 2025, the appellant requested the DHR to review his results and overall candidacy, taking the view that his score in test 3, in particular, should have been higher. He further requested information on possible venues within the Council of Europe to challenge the results, as well as on the lowest overall score required to be placed on the pre-selection list. The appellant subsequently complemented his request by emails of 13 and 17 February 2025, in which he asked to be informed of the average score obtained by candidates who were successfully placed on the pre-selection list.

7. By email of 26 February 2025, the DHR replied to the appellant's query in these terms:

> "As indicated in our email informing you of the results, your overall average score was calculated using the following weighting: Test 2 - 30% of the overall average mark, Test 3 - 70% of the overall average mark.
>
> The marking of the tests was carried out strictly in accordance with our principles of confidentiality and fairness. I can inform you that the written part of Test 3 was marked independently and anonymously by two separate markers with proven expertise in the field of project management. Our marking system is designed to ensure fairness, consistency and accuracy through quality control measures. In order to maintain the integrity of the examination process and to ensure equal treatment for all candidates, we do not respond to individual requests for re-marking except in cases where the assessments made by the two correctors show a significant discrepancy, reflected by a variance in the marks of 10%, which was not the case here.
>
> You will find the correctors' comments on your answers to part 2 of Test 3 below:
>
> **Corrector 1:**
>
> Task 1: Different levels of results partially identified without logical link. Assumption identified.
>
> Task 2: Target group and end beneficiaries partially identified. Mechanisms to cooperate with stakeholders identified.
>
> **Corrector 2:**
>
> T1: Impact and outcomes correctly identified but formulation could be better. Outputs presented as activities. Links between result levels not done. Key assumptions identified. Drafting could be better.
>
> T2: Team profiles are weak and the need for specific expertise not identified. Limited suggestions on team management. Correctly identifies end beneficiaries and target groups but does not adequately identify project partner. Does not identify need for collaboration with EU/Helsinki Committee project and puts forward limited suggestions on SH coordination. Drafting is weak and lots of typos.
>
> The minimum score required to be ranked among the top 100 candidates was 12.80. While your score was solid, it was not sufficient to secure a place among the top 100 candidates retained.
>
> The purpose of our feedback is to provide clarity on performance, guide future improvement, and ensure transparency. We hope this has been provided, however kindly be advised that no further feedback will be given. Should you wish to complain against the decision not to place you on the pre-selection list, please note that you are entitled to challenge it by way of a formal complaint to the Secretary General, as provided by Article XIV of the Staff Regulations and Article 1450 of the Staff Rule on grievance procedures (Staff Regulations and Staff Rules - in PDF). If you decide to make a complaint, it should be sent to the mailbox recruitment@coe.int and indicating that your message is intended for the Director of Human Resources."

8. On 6 March 2025, the appellant lodged a formal complaint with the Secretary General against the decision not to include his name among the 100 best-ranked candidates placed on the pre-selection list, based on his results in the written tests (the "contested decision").

9. On 7 April 2025, the Secretary General dismissed the complaint in its entirety on the grounds that it was unfounded.

PROCEEDINGS

10. The appellant lodged his appeal on 6 June 2025. On 10 June 2025 the appeal was registered under number 770/2025.

11. On 9 July 2025, the Secretary General forwarded his observations on the appeal.

12. On 26 August 2025, acting in pursuance of Rule 7.1 of its Rules of Procedure, the Tribunal invited the Secretary General to submit to it the assignment for test 3 and the marking criteria used for its assessment, the appellant's answer to test 3 and the correctors' comments.

13. On 5 September 2025, the Secretary General provided the additional information requested by the Tribunal, requesting that the assignment for test 3 and the marking criteria used for its assessment be treated as confidential and not disclosed to the appellant. He also pointed out that test 3 consisted of two parts and the correctors were asked to assess only the second part while the first part was a set of multiple choice questions.

14. On 16 September 2025, the appellant submitted to the Tribunal a request for the disclosure of the assignment for test 3 and the marking criteria used for its assessment. He contended that "[w]ithout disclosure of the full assignment, the complete marking grid, and any calibration guidance applied to correctors, it is not possible to further substantiate before the Tribunal that my answers were not measured consistently against the same objective standards". He further asked for disclosure of "the confidential, non-public portions of the Council of Europe [Project Management Methodology (PMM)] Handbook 2016 and related internal materials that were used by item writers and correctors". The appellant further requested the disclosure of "aggregate statistics: the number of [job] applicants who were current staff, former staff or secondees of the Council of Europe who would have access to the restricted PMM material; how many of each group were placed on the Top 100 list; and the mean and median scores of each category".

15. A public hearing took place on 16 October 2025 in the Palais de l'Europe in Strasbourg. The appellant represented himself. The Secretary General was represented by Jörg Polakiewicz, Director (Jurisconsult) of the Directorate of Legal Advice and Public International Law, assisted by Benno Kilian, Head of the Legal Advice and Litigation Department of the Council of Europe, and Sania Ivedi, Head of the Litigation Division.

THE LAW

I. THE APPLICABLE LAW

16. The relevant provisions of the Staff Regulations and Rules regarding recruitment procedures read as follows:

ARTICLE IV of the Staff Regulations – Entry into service

4.1 The Secretary General shall have the power to appoint staff in conformity with Article 36 of the Statute of the Council of Europe. (…)
4.2 The paramount consideration in the appointment of staff members shall be the necessity of securing the highest standards of competence, professionalism and integrity. (…)
4.3 Selection shall be made on a competitive basis, without discrimination, in a manner that ensures the fairness and transparency of the process.
(…)

Staff Rule on entry into service

(…)
480. ADVERTISING VACANCIES
480.1 When a vacancy shall be filled through recourse to a recruitment procedure, a vacancy notice shall be advertised.
(…)
480.3 A vacancy notice shall include, in addition to the conditions for appointment referred to in Article 410, information relevant to the job inter alia the following:
480.3.1 job description;
480.3.2 requisite qualifications, competencies and experience;
480.3.3 the knowledge of languages required;
480.3.4 outline of the selection process;
480.3.5 maximum duration of appointment, where applicable;
480.3.6 deadline for submission of applications.

490. RECRUITMENT PROCEDURES
490.1 Candidates who meet the criteria set out in the Staff Regulations and Staff Rules and the vacancy notice and whose applications demonstrate the best profile in terms of qualifications, experience and motivation shall be shortlisted for the recruitment evaluation process. Where appropriate, the shortlisting process may involve staff members chosen by the Director of Human Resources who have substantive knowledge of the jobs falling within the ambit of the vacancy notice.
490.2 The evaluation process shall be appropriate to recruitment needs, shall be carried out on a competitive basis and may include consecutive eliminatory stages.
490.3 Those candidates who perform best in the evaluation process shall be placed on a pre-selection list. This list shall be valid for four years.
(…)

17. The relevant provisions of the Tribunal's Statute and Rules of Procedure concerning the disclosure to a party of the documents submitted by the other party read as follows:

Statute of the Administrative Tribunal
Article X - Case-processing

(…) 10.6 Any document communicated to the Tribunal by one party shall also be communicated to the other party without delay, subject to the confidentiality requirements inherent in certain documents.

Rules of Procedure of the Administrative Tribunal
Rule 7. Instructions

> 1. The Tribunal may, at any time, either on its own initiative or at the request of one of the parties, order the production of documents or such other evidence as it deems necessary.
> 2. a. In accordance with Article 10.6 of the Statute of the Administrative Tribunal, any document communicated to the Tribunal by a party shall be sent without delay by the Registrar to the other party, subject to the confidentiality requirements inherent in certain documents, in which case the provisions under b, c and d shall apply.
> b. Where a party to the proceedings relies on the confidential nature of a document to oppose its disclosure to the other party, it is for the Tribunal to determine whether the document in question is relevant to the determination of the dispute and, if so, whether the document or some of its elements are effectively of a confidential character. (…)

II. REQUEST TO ORDER THE DISCLOSURE OF CERTAIN DOCUMENTS

18. Having regard to the appellant's request for disclosure of documents deemed confidential by the Secretary General (paragraph 14), the Tribunal notes that this request is closely linked to the merits of the appeal and should therefore be joined to the merits.

III. THE PARTIES' POSITIONS

A. The appellant

19. In his appeal, the appellant seeks the annulment of the Secretary General's decision of 7 April 2025 dismissing his administrative complaint, as well as of the underlying decision of the DHR not to include him among the 100 best-ranked candidates placed on the pre-selection list. He further requests that the Tribunal order the Council of Europe to include him on the pre-selection list and grant any other relief deemed appropriate. In addition, he asks the Tribunal to amend the Organisation's practice regarding reliance on internal materials inaccessible to external candidates and to order the adoption of corrective measures.

20. In support of his appeal, the appellant essentially puts forward three grounds. He alleges (a) procedural and substantive errors in marking the tests, (b) unequal treatment of candidates and discrimination against external candidates arising from their lack of access to internal documents of the Council of Europe, and (c) misuse of discretion and breach of due process in his case.

1. First ground: procedural and substantive errors in marking the tests

21. The appellant maintains that the remarks of the two correctors on his test 3 paper are inconsistent and thus reveal a lack of uniform marking criteria. He complains that those remarks are insufficient and uneven, which, in his opinion, signals an irregular application of the grading system. He further criticises, under this head, the rule of the Organisation providing for the re-assessment of papers only if there is a variance of 10% between the marks of the two correctors, considering this rule arbitrary and unjustified, since it does not appear in the Staff Regulations or any official text.

2. Second ground: violation of the principle of equal treatment and non-discrimination

22. The appellant maintains that test 3 was based on internal project management materials of the Council of Europe, which are not openly available to external candidates. He notes that the Secretary General acknowledges that internal staff might "have a slight advantage," but

dismisses it as inconsequential. Such a stance, in the appellant's opinion, ignores the fact that knowledge of restricted methodologies might decisively influence success in a competitive test.

23. He maintains that, although the "2016 Project Management Methodology Handbook" was available on the website of the Council of Europe, key practical documents (logframes, risk registers, budgets) were withheld as "intellectual property." This partial secrecy fostered unequal access to the knowledge base, which he considers vital for success in test 3.

24. According to the appellant, merely asserting that no special internal resources were provided does not address the structural advantage held by staff who have used those tools in their daily work. He refers to the Tribunal's judgment of 31 January 2023 in appeal No. 712/2022, Kirbas v Secretary General of the Council of Europe, in which the Tribunal recognised that an "inherent inequality" might exist; however, it also indicated that one must examine whether the Administration took steps to mitigate or correct that inequality. In this instance, the appellant submits that no efforts were made to supply external applicants with internal references or with a briefing on the Council of Europe project management methodology materials and templates.

25. The appellant alleges that, as an external candidate, he was disadvantaged by the fact that candidates currently working for the Council of Europe had prior knowledge of these materials whereas candidates who were not working at the Council of Europe did not. He maintains that this situation is constitutive of "discriminatory treatment" and that he "was adversely affected by this *de facto* situation", arguing that the knowledge of the internal candidates of this "restricted methodology may decisively influence success in a competitive test".

3. Third ground: breach of due process and misuse of discretion

26. The appellant finally submits that, by ignoring the alleged inconsistencies in the marking and discounting the alleged structural disadvantage to outsiders, the Secretary General misused the margin of discretion, which not only disadvantages outside applicants, but also harms the Organisation. Thus, he contends that his exclusion from the top 100, with an overall average of 10.37/20, stems from an opaque and biased set of circumstances, especially where expected answers require inside knowledge of proprietary Council of Europe methods or key phrases only available to those with access to these restricted materials. Concluding that "no irregularity" occurred, while simultaneously conceding staff might have a "slight advantage," amounts to a manifestly erroneous conclusion contravening fair competition norms.

B. The Secretary General

27. The Secretary General, for his part, invites the Tribunal to find that the present appeal is unfounded and to dismiss it in its entirety.

1. On the alleged procedural and substantive errors in marking the tests

28. The Secretary General maintains that the written examination was prepared and conducted in conformity with all the applicable rules and principles. The choice of questions, the answers expected from candidates and the marking criteria applied within the scope of a competitive recruitment procedure fall within the broad discretionary power of the selection

authority. As a candidate, the appellant is not in a position to question the way his performance was assessed.

29. According to the Secretary General, the appellant's papers in part 2 of test 3 were properly assessed in an anonymous, impartial and objective manner. They were corrected independently by two different, duly qualified correctors with proven expertise in the field of project management. Furthermore, the correctors were supplied with concrete and objective marking criteria for the assessment of the papers and those same criteria were applied to all candidates with a view to guaranteeing consistency in the correctors' assessments. There is nothing to establish that the determination of the appellant's marks was vitiated by any error of assessment or that they did not faithfully represent both correctors' assessments of his papers, which were consistent in identifying shortcomings in the appellant's papers. In this respect, the Secretary General notes that the appellant does not substantiate in any way his allegation that the comments of the correctors are "demonstrably uneven". Contrary to the appellant's allegation, there is no contradiction between the correctors' comments, which are corroborative.

30. The fact that each corrector's comments reflect his or her own analysis and, to a limited extent, emphasise different aspects of the appellant's performance constitutes no irregularity in the procedure. It is precisely with a view to obtaining more than one opinion on the quality of an exam paper that evaluations of written exams systematically involve two correctors. Nothing in the file, nor in the arguments raised by the appellant, puts into question the objective and impartial assessment of the appellant's performance by the correctors.

31. The Secretary General further notes that, according to established practice, if there had been a discrepancy of more than two points in the marks given by the two correctors, they would have been asked to revise their assessment of the candidate's papers and discuss it further with each other and with the DHR with a view to reconciling their assessment. This was not necessary in the appellant's case as there was no such discrepancy: Corrector 1 awarded him a mark of 2/5 for each of his papers on respectively the first and second task, while Corrector 2 awarded him 2.5/5 for each of the papers on both tasks. Therefore, the marks attributed by the two correctors to the appellant's papers were very close, within a margin of 0.5 point out of 5 for each of both tasks.

2. On the alleged violation of the principle of equal treatment and non-discrimination

32. The Secretary General notes that all candidates taking part in the written tests were, without exception, provided with the same information and documents. Candidates currently working at the Council of Europe or with previous experience at the Council of Europe did not have access to any additional or internal documents for the purpose of passing the written tests. Moreover, insofar as the tests were designed to assess the candidates' knowledge of the basic concepts of project management in general, and not their specific knowledge of the Council of Europe's project management methodology, it was not necessary to have any knowledge of the latter, or to have access to any of the Council of Europe's documents to which the appellant refers, in order to be successful in this competition. Thus, contrary to the appellant's allegation, any prior "knowledge of restricted methodology" was neither required nor necessary to pass the written tests in this competition.

33. The Secretary General points out that the Council of Europe Project Management Methodology Handbook of 2016 is publicly available, and accessible to all, on the Council of

Europe's website. All candidates could therefore acquire knowledge of the Council of Europe's project management methodology. With regard to the appellant's request that "key practical documents" such as "logframe templates, risk registers, budget tools" be made publicly accessible, the Secretary General reiterates that it was not necessary to be familiar with those documents in order to pass the written tests. Thus, all candidates were treated on an equal footing and in an impartial manner.

34. Insofar as it might be assumed that candidates who have previously worked or who are currently working at the Council of Europe on project management may have benefited from a slight advantage due to their knowledge of the Organisation and of project management methodology, the Secretary General maintains that this is a *de facto* situation constituting an "inherent inequality", which does not amount to discrimination. Equality between the candidates was ensured throughout the procedure, whether in terms of the information provided to candidates and the documentation made available during test 3, or in terms of the marking criteria applied to assess the papers.

35. In this regard, the Secretary General also notes that the appellant has himself benefited from such an advantage, having worked as a consultant in project management for the Council of Europe since 2023. As he pointed out in his application, this experience has provided him with "knowledge of CoE standards and skills" and with experience in "manag[ing] CoE- and EU-funded projects". Therefore, he cannot claim to have been disadvantaged on this basis. Even assuming that candidates who have previously worked or who are currently working at the Council of Europe on project management might have benefited from a slight advantage, the appellant was in any case one of the candidates in such an advantageous situation.

3. On the alleged breach of due process and misuse of discretion

36. According to the Secretary General, there is no evidence of any irregularity whatsoever in the recruitment procedure or in the marking of the appellant's papers, nor is there anything to suggest that the competent correctors or decision-makers in any way exceeded their discretionary power or committed a manifest error of assessment with regard to the external recruitment procedure in question.

37. In the Secretary General's opinion, the appellant's allegations that the examination procedure lacked regularity and fairness are unsubstantiated and unfounded. The recruitment procedure was conducted in full compliance with the applicable rules and principles and the appellant has not demonstrated otherwise.

IV. THE TRIBUNAL'S ASSESSMENT

A. As to the alleged procedural and substantive errors in marking the tests

38. The Tribunal recalls that with regard to competitions, competent administrative authorities have wide discretion in determining how competitive examinations are conducted and managed, as well as how candidates and their performance are assessed (Administrative Tribunal of the Council of Europe (ATCE), appeal No. 736/2023, A. A. v. Secretary General of the Council of Europe, decision of 30 November 2023, § 18; ATCE, appeal No. 763/2024, M.-S. F. v. Secretary General of the Council of Europe, judgment of 3 June 2025, § 36). This discretion is not exempt from judicial review. The Tribunal can thus ascertain whether the challenged decision was taken by a competent authority, that it was in due form and that it was adopted following the applicable procedure. It is also for the Tribunal to assess, with regard to the internal legality, whether the administrative

authority's assessment took account of all relevant facts and whether it was not vitiated by a manifest error of assessment (ATCE, appeal No. 765/2024, L. Y. v. Secretary General of the Council of Europe, judgment of 23 September 2025, § 38). However, it is not for the Tribunal to substitute its assessment for that of the examination authority.

39. The Tribunal further reiterates that the guarantee of objectivity and lack of arbitrariness lies *inter alia* in the choice of competent and impartial correctors and in the conditions for the marking of papers, which ensure that the same rules are equally applied to everyone (see, as regards the latter aspect, Court of First Instance of the European Union, judgment of 14 July 2005, Vincenzo Le Voci v Council of the European Union, T-371/03, §§ 118-119).

40. As to the appellant's request for disclosure of the assignment of test 3, the Tribunal notes that he has obviously seen and read that assignment during the test. He is thus able to reconstruct the substance of the assignment on the basis of his own recollection and his answers to the assignment (which have been added to the file, see paragraph 13 above). In any event, on the basis of the appellant's answers and the comments given by the correctors on these answers (see paragraph 7, above), the Tribunal is able to assess whether or not the assessment was arbitrary or manifestly unreasonable. There is therefore no need, in the circumstances of the present case, to order the disclosure of the assignment.

41. With respect to the assessment of the appellant's paper, the Tribunal has no reason to doubt the independence and the qualifications of the correctors who were selected by the Administration. Their conclusions on part 2 of test 3 are corroborative, differ only by 0.5 point out of 5 (2/5 viz. 2.5/5, on each of the two papers), and are not contradictory. The fact that the correctors focused on different aspects of the appellant's performance does not render their comments inconsistent. The mere fact that the appellant disagrees with the correctors' assessment of part 2 of test 3 is not sufficient to establish that their assessment was arbitrary or manifestly unreasonable.

42. As to the appellant's allegations about a lack of uniform marking criteria in the assessment of part 2 of test 3, the Secretary General objects to those allegations and has presented a confidential document which according to him contains such criteria (see paragraph 13 above). The appellant in turn requests disclosure of that document "to further substantiate … that [his] answers were not measured consistently against the same objective standards", which, in the Tribunal's view, appears more like an invitation to re-assess his answers to part 2 of test 3. The Tribunal reiterates that it finds the conclusions of the correctors to be corroborative and not contradictory, and that there is nothing to suggest that their assessment is arbitrary or manifestly unreasonable. Therefore, in the absence of any evidence that the assessment was manifestly erroneous, and taking into account that it is not for the Tribunal to make its own assessment of the appellant's test paper, the Tribunal rejects the appellant's request for disclosure of the marking criteria used for the assessment of part 2 of test 3, as the said documents are not necessary for examining the appellant's allegations under this head.

43. Insofar as the appellant criticises the practice that the re-assessment of papers is ordered only if there is a variance of 10% between the marks of the two correctors, the Tribunal takes note of the explanations provided by the Secretary General as to the objective of such a practice – which is to avoid inconsistencies in the assessment of the tests by correctors - and of the fact that no reassessment was necessary in the appellant's case as there were no inconsistencies in assessments of his test. In the Tribunal's view, setting the threshold for an automatic re-

assessment falls within the discretionary power of the administrative authority, and setting it at 10% cannot be regarded as arbitrary or manifestly unreasonable.

B. As to the alleged violation of the principle of equal treatment and non-discrimination

44. As to the appellant's argument concerning discriminatory treatment, the Tribunal reiterates that at all stages of the competitive examination, whether in its organisation, conduct or marking of the papers, all candidates must be treated on an equal footing (Appeals Board of the Council of Europe, appeal No. 172/1993, Feriozzi-Kleijssen v. Secretary General of the Council of Europe, decision of 25 March 1994, § 31). At the same time, it falls within the Organisation's discretion to determine the appropriate scope of preparatory information made available to candidates (ATCE, appeal No. 763/2024, M.-S. F. v. Secretary General of the Council of Europe, judgment of 3 June 2025, § 45).

45. The Tribunal notes that although the principle *affirmanti incumbit probatio* - according to which the burden of proof in relation to an allegation lies on the party making such allegation - cannot be strictly applied in all instances (see, *mutatis mutandis*, European Court of Human Rights [GC], judgment of 16 September 2014, Hassan v. the United Kingdom, 29750/09, § 49) given that the Administration possesses considerably more information than what an appellant, especially an external job applicant could possibly obtain, it nevertheless remains incumbent on the party making allegations to demonstrate that they have at least a minimal factual basis.

46. The Secretary General submits that the Council of Europe Project Management Methodology Handbook of 2016 was sufficient to understand the project management methodology applied within the Organisation, and that this source of information was both publicly available and sufficient. He further maintains that the test was intended to assess knowledge of common technical requirements and generally used terminology, and not specific knowledge of the Council of Europe's project management methodology. The appellant, for his part, alleges that additional relevant materials were accessible only to persons working for the Organisation at the material time, thus placing external candidates at a disadvantage.

47. The Tribunal reiterates that the Administration must provide all candidates with the amount of information it deems necessary for participation in the impugned examination. It is indeed for the competent authorities to decide which information is indispensable and which documents are relevant for the purpose of the test (ATCE, appeal No. 712/2022, Kirbas v. Secretary General of the Council of Europe, judgement of 31 January 2023, § 32; ATCE, appeal No. 759/2024, D. S. v. Secretary General of the Council of Europe, judgement of 30 January 2025, § 54).

48. As regards the appellant's allegation that additional materials were necessary to achieve a better performance at the test, it is devoid of any substantiation. Admittedly, the appellant cannot demonstrate that restricted materials were indispensable for preparing for the test, as he had no access to them. However, the mere existence of those materials does not suffice to establish that the available materials were insufficient for a proper preparation for the test. In the documents submitted by the parties to the present proceedings, namely the vacancy notice and the invitation of 13 November 2024 to participate in tests 2 and 3 (see paragraphs 2 and 4 above), as well as the publicly available Council of Europe Project Management Methodology Handbook of 2016, there is nothing to suggest that the test was designed to assess knowledge so specific to the Council of Europe's project management methodology as to transform an

external competition into a *de facto* internal one. The vacancy notice clearly distinguished between the required competencies of "good knowledge of project management methods and tools", without any further specification, and "knowledge of the standards and activities of the Council of Europe" (see paragraph 2 above). None of the documents referred to any specific Council of Europe project management standards. Furthermore, nothing in the test assessments by the correctors (which are cited in full in paragraph 7 above) suggests that knowledge specific to the Council of Europe's internal project management tools was required, or that the absence of such knowledge affected the evaluation of the appellant's performance. Therefore, the appellant's allegation under this head is equally unfounded.

49. In the light of the above findings, the Tribunal also dismisses the appellant's request for disclosure of "the confidential, non-public portions of the Council of Europe [Project Management Methodology (PMM)] Handbook 2016 and related internal materials that were used by item writers and correctors" (see paragraph 14 above) as it does not consider that recourse to those materials is necessary for deciding the present case.

50. As to the appellant's request to order the disclosure of statistical information (paragraph 14), the Tribunal notes that although a person may seek access to statistical information which is ready and available, it does not mean that he or she shall be entitled to seek from the Administration to process and summarise information using specific parameters. In this respect it refers to the case-law of the European Court of Human Rights on that matter (judgment of 7 February 2017, Bubon v. Russia, no. 63898/09, §§ 43-44). The appellant does not provide any explanation as to whether the statistics he asks for ever existed. Therefore, there is no issue of disclosure with respect to the statistical information sought, given that it is not suggested that any document containing such statistics has ever existed or has to exist. Whether such statistical information should be collected and assessed, the Tribunal considers that in the light of the above findings and given the wide variety of variables that may influence an individual candidate's performance in an examination, there is no reason to resort to statistical data, as suggested by the appellant. Therefore, this request of the appellant is equally dismissed.

51. As to the appellant's allegation of a *de facto* situation of an "inherent inequality" leading to unequal treatment, the Tribunal notes that it has recognised the concept of "inherent inequality" in relation to an advantage enjoyed by some candidates over other candidates in the context of recruitment procedures. It has accepted that such a *de facto* situation between candidates does not necessarily amount to unequal treatment (ATCE, appeal No. 455/2008, Musialkowski v. Secretary General of the Council of Europe, decision of 30 October 2009, § 37; ATCE, appeal No. 712/2022, Kirbas v. Secretary General of the Council of Europe, decision of 31 January 2023, § 34). In the Musialkowski decision, such a difference concerned the command of language between native speakers and non-native speakers. In the Kirbas decision, the Tribunal recognised that "[t]here could be equally other types of experiences that put one candidate in a more advantageous situation than the others", such as "having worked for the Council of Europe". In this latter respect, the Tribunal observes, with the Secretary General, that the appellant himself, having worked for the Council of Europe, could arguably be considered to have been in a more advantageous situation than those candidates who had not worked for the Organisation.

52. In such a situation of "inherent inequality", it is for the Administration to take appropriate measures to mitigate any negative effect of that situation, in order to ensure that all candidates are treated on an equal footing. In the circumstances of the present case, this required the Administration to make sure that the information provided and available to internal and

external job candidates was sufficient to pass the test successfully without recourse to any additional sources. In the light of the earlier findings in paragraph 48 above, there is nothing to suggest that this requirement was not fulfilled. Therefore, this argument of the appellant is equally unfounded.

C. As to the alleged breach of due process and misuse of discretion

53. In the light of the Tribunal's findings under the two first grounds, the appellant's allegation that the Administration misused its discretion and failed to address irregularities in the marking of his test or in the provision of preparatory materials must likewise be dismissed as unfounded.

V. CONCLUSION

54. In view of the foregoing, the claims for annulment of the contested decision must be dismissed, as must the appellant's other requests.

FOR THESE REASONS, THE ADMINISTRATIVE TRIBUNAL:

Joins the request for disclosure of certain documents to the merits, and dismisses it;

Declares the appeal unfounded and rejects it;

Decides that each party will bear its own costs.

Delivered on 22 January 2026, the English text being authentic.

The Registrar of the Administrative Tribunal	The Chair of the Administrative Tribunal
Christina Olsen	Paul Lemmens