

Appeal No. 775/2025

P. R.

v.

Secretary General of the Council of Europe

JUDGMENT

4 June 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 the Administration's refusal to allow the appellant to retake an online test as part of an external recruitment procedure, following alleged technical problems during the initial test.

THE FACTS

2. Following the publication of vacancy notice no. 1018/2025, the appellant, P. R., applied to take part in an external competition organised for the recruitment of a lawyer specialising in Italian law.

3. By e-mail dated 6 October 2025, the Directorate of Human Resources (hereinafter "DHR") informed the appellant that she had been selected for the assessment phase of the competition.

4. In an e-mail from the DHR dated 9 October 2025, the appellant was informed of the procedure for the tests, in particular that the first one would consist of a multiple-choice questionnaire scheduled for 4 November 2025 at 9 a.m., that it would last 30 minutes and that it would be eliminatory. The e-mail read as follows (translation):

"The tests will be conducted online from a location of your choice, with remote invigilation provided by our independent service provider, TestReach. You are strongly recommended to consult the Protocol Department setting out the conditions under which these tests will be held. Make sure you've read it before the exam. It contains a candidate exam checklist to help you check that your environment is adapted to the test(s)."

5. The instructions in the Protocol Document in question described the computer requirements for sitting the online tests:

"Computer requirements:

- o Laptop / computer with 4GB of RAM (no Chrome books, tablets, Surface Pro or touch screen devices)
- o A Windows v7.0+ or Mac10.8+ operating systems
- o Intel Core i3 (or equivalent) and 4GB of free RAM
- o A working webcam that can be used to scan the room, microphone and speakers
- o Internet connectivity with continuous internet speed of a minimum of 2.0 Mbps

If you're using a Mac, please ensure screen recording is enabled for the TestReach application before test day:

- 1) Quit the TestReach app (you may need to use Command + Option + Esc and select Force Quit).
- 2) Go to Apple Menu > System Settings/Preferences > Privacy & Security > Screen Recording.
- 3) Toggle TestReach on. If prompted, click Quit & Reopen.
- 4) If the toggle is greyed out, click the lock icon (bottom left) and enter your password.

For more information, please see here: [Control access to screen and system audio recording on Mac – Apple Support \(UK\)](#)

If you are unsure on the steps above or need more assistance, please contact TestReach Support.”

6. The Protocol Document also stated the following:

“Candidates are advised to be in their chosen test location 20 to 30 minutes before their scheduled test start time in order to login, enter test and go through the system checks. Fifteen minutes before the test, the “connect” option will activate, and candidates can click on this to commence the pre-validation process.

Note: Candidates will be permitted to commence the test up to 30 minutes after the scheduled start time. They will however not be given additional test time to make up for the delayed start. If a candidate has not connected within 30 minutes, their session will time out and they will not be able to do the test.”

7. On the day of the test, 4 November 2025, the appellant logged into the TestReach platform more than 30 minutes before the start of the test, which was due to begin at 9.45 a.m. CET (i.e. 8.45 a.m. GMT).

8. During the pre-validation process, the TestReach invigilator noted that the appellant was experiencing a problem with screen sharing and recording, which was preventing the test from starting. To resolve this issue, the invigilator instructed the appellant to log out of the TestReach platform and then log back in once the screen-sharing function had been enabled.

9. Despite these instructions and subsequent attempts to resolve the issue with the assistance of TestReach’s support team, the problem could not be resolved in time, as the window for commencing the test late closed 30 minutes after the scheduled start time, i.e. 10.15 a.m. in the appellant’s case.

10. On the same day, the appellant sent several e-mails to the DHR and TestReach stating that she had been unable to access the first test due to technical problems when logging into the TestReach platform. She requested that the first test be rescheduled.

11. On 5 November 2025 the Administration Division of the Registry of the European Court of Human Rights (hereinafter “the Court”) informed the appellant that, following verification, it appeared that the difficulties she had encountered had been caused by a technical issue relating to the screen-sharing function, which was not working on her computer, thereby preventing the invigilator from seeing her screen. It was stated that this feature may be affected when using a Mac computer, and that the settings must be correctly configured before the day of the test, as explained in the Protocol Document. By the time the problem had been resolved with the help of TestReach’s support team, too much time had elapsed since the start of the test and it was no longer possible to allow late entry. It was noted that candidates had been informed of the need to consult the Protocol Document and follow the setup instructions, particularly for candidates using a Mac computer. Consequently, it was not possible to reschedule this test to allow the appellant to retake it.

12. In the days that followed – between 11 and 14 November 2025 – the appellant sent several communications by e-mail, as well as by fax and registered letter, to the Registrar and the Deputy Registrar of the Court, the Secretary General and the DHR, using similar wording to explain the problems she had encountered on the day of the test. The appellant stated that she considered her exclusion from the test to be contrary to the principles of fairness and transparency set out in Article 4.3 of the Staff Regulations, and that an amicable solution to the dispute “would be much better in the interests of the institutions and the candidates”. The appellant asked to be allowed to resit the entrance test so that she could take part in the tests scheduled for 18 November 2026. Reiterating a request she had sent to the DHR on 7 November 2025, the appellant also asked to see the records of her test.

13. The Secretary General, the Registrar and the Deputy Registrar of the Court did not respond to the appellant’s communications. On 14 November 2025 the DHR sent her an e-mail which read as follows:

Dear [...],

We take note of your e-mails by which you explain the technical issues you encountered to enter the MCQ exam for competition 1018/2025 — Lawyer — Italian Law.

As per your request, please find attached your log information which confirms the presence of a firewall or security programme installed on your device which made it impossible for the required system checks to be completed.

Within the logs, you will see multiple “Dashboard Loaded” entries. This is typical behaviour and is recorded when a firewall or security program is present, which can cause repeated failures to pass the system check.

Additionally, in the screenshot at 08:31, where it says “System check failed — Microphone off or too low,” this entry, combined with the repeated “Dashboard Loaded” entries that follow, is a common indicator within the log data of a firewall or enhanced security program being installed and/or running at the time the candidate was attempting to access the exam platform.

If the candidate successfully passes the system check, this will be reflected in the log data with the entry ‘system check successfully passed’ appearing in the data. This would indicate that the device setup was compatible and able to complete the check, allowing the candidate to proceed to the next stage, which is connecting to the Invigilator.

As specified in the Protocol which you received, it is the responsibility of the candidates to ensure that their technical equipment is compatible with the requirements specified therein. The Protocol also includes clear instructions relating to the use of a MacBook.

On this basis we cannot reschedule the test to allow you to sit it at another time.

We inform you that you may submit a formal complaint in accordance with Article 14 of the Staff Regulations of the Council of Europe if you disagree with our decision.

Sincerely,

Council of Europe Recruitment Team

PROCEEDINGS

14. The appellant lodged her appeal on 18 November 2025. On the same day, the appeal was registered under number 775/2025. In her appeal, the appellant requested, in particular, access to the full recording of her login session for the test held on 4 November 2025.

15. On 13 February 2026 the Secretary General submitted his observations on the appeal, together with the recording of the appellant's login session, which he had been given by the service provider TestReach.

16. On 20 February 2026 the appellant filed submissions in reply.

17. On 26 February 2026 the Secretary General informed the Tribunal that he did not wish to file a rejoinder.

THE LAW

I. THE RELEVANT LAW

18. The relevant regulatory provisions read as follows:

Staff Regulations Article IV– 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.

(...)

Article XIV– Grievance procedures

14.1 The Secretary General shall establish appropriate procedures to deal with staff members' grievances relating to their terms of employment or working conditions.

14.2 In cases of dispute, amicable resolution shall be encouraged whenever possible. A mechanism for independent mediation shall be established to assist in the prevention and non-contentious resolution of disputes.

14.3 Staff members who consider that an administrative decision is prejudicial to their interest and conflicts with their terms and conditions of appointment, or with any pertinent provisions of the Staff Regulations, Rules, Instructions or Policies, may initiate the process of management review, allowing for the correction of an improper decision or, where a decision was properly taken, its confirmation along with a reasoned explanation. The modalities of the review shall be set out in Staff Rules adopted by the Secretary General.

14.4 After pursuing management review, staff members who are not satisfied with the outcome thereof may lodge a formal complaint with the Secretary General against the contested administrative decision adversely affecting them, provided that they have a direct and existing interest in doing so. The modalities of the complaints procedure shall be set out in Staff Rules adopted by the Secretary General.

14.5 The Secretary General's decision on the complaint may be appealed to the Administrative Tribunal of the Council of Europe in accordance with the provisions of the Tribunal's Statute. While an appeal is pending, the Secretary General shall refrain from taking any further measure in respect of the staff member which, if the appeal was upheld, would make the redress sought impossible.

14.6 An appeal may be lodged with the Administrative Tribunal by a staff member, without first lodging a formal complaint with the Secretary General, against the imposition of a disciplinary sanction, with the

exception of a written warning. An appeal may also be lodged by a staff member directly with the Administrative Tribunal against a decision taken by the Secretary General personally, or against an administrative decision implementing a legislative measure of general character adopted by the Committee of Ministers, provided that the staff member has a direct and existing interest in challenging such a decision.

(...)

14.10 In addition to staff members, the complaints and appeals procedure shall be open mutatis mutandis to:

(...)

14.10.3 job candidates, insofar as their complaint or appeal concerns irregularities of the selection process directly affecting them;

(...)

Staff Rule on grievance procedures

(...)

1440. MANAGEMENT REVIEW

(...)

1440.5 The following administrative decisions are not subject to management review:

(...)

1440.5.4 A decision addressed to the persons referred to in Article 14.10 of the Staff Regulations.

1450. COMPLAINTS PROCEDURE

(...)

1450.3 A formal complaint may also be lodged:

(...)

1450.3.3 by those referred to in Article 14.10.1 to 14.10.3 of the Staff Regulations, within 30 days from the date on which the contested administrative decision was notified to them or, in the absence of notification, from the date on which they became aware thereof;

(...)

1450.4 A formal complaint must be made in writing and submitted to the Secretary General via the Director of Human Resources, who shall acknowledge receipt to the complainant.

1450.5 The complainant shall be notified of a reasoned decision on the complaint within 30 days from the date on which the complaint was received by the Director of Human Resources. Failure to notify the complainant within the time limit is deemed to be a rejection of the complaint by the Secretary General.

(...)

1460. APPEALS PROCEDURE

1460.1 The Secretary General's rejection, in whole or in part, of a formal complaint may be appealed to the Administrative Tribunal of the Council of Europe in accordance with the provisions of the Tribunal's Statute and Rules of Procedure.

(...)

Statute of the Administrative Tribunal of the Council of Europe

Article VII - Admissibility

7.1 An appeal shall be admissible only where the administrative decision which it contests is final and where the appellant has exhausted all remedies available under the Staff Regulations, in the prescribed manner and within the applicable time limits. The appeal brought before the Tribunal must raise in substance the same grievance as that in respect of which such available remedies were sought.

(...)

Article VIII – Manifest inadmissibility

If the Chair of the Tribunal considers that an appeal or a request for rectification, interpretation, revision or execution under Article 17 of the present Statute is manifestly inadmissible, this shall be set out in a reasoned report to the judges of the Tribunal called upon to sit. If no objections are raised within the time limit fixed by the Chair, the report shall be transmitted to the appellant without delay together with the notification that the appeal or request has been declared inadmissible.

II. THE PARTIES' POSITION

A. Admissibility

1. *The Secretary General*

19. The Secretary General argues, first of all, that the appellant has not complied with the relevant rules regarding the exhaustion of internal remedies. He maintains that, in accordance with Article 14 of the Staff Regulations, the appellant should have lodged an administrative complaint before bringing the matter before the Administrative Tribunal. He notes that the appellant merely sent various requests to the Administration, all seeking permission to retake the test, following the refusal notified to her by the Registry of the Court on 5 November 2025.

20. The Secretary General further observes that, in its e-mail of 14 November 2025, the DHR expressly informed the appellant of the possibility of lodging an administrative complaint against the contested decision, referring explicitly to the aforementioned Article 14. He points out that the appellant herself had already referred to the Staff Regulations in her previous correspondence and that she had access to the relevant texts, namely the Staff Regulations and the related Staff Rules. The Secretary General notes that, instead of pursuing that remedy, the appellant brought the matter directly before the Tribunal without exhausting the internal procedures available to her. He considers that, as she is a lawyer herself, it was reasonable to expect the appellant to comply with the preliminary procedures, such compliance being a pre-condition for the admissibility of her appeal.

21. The Secretary General therefore concludes that, as the appellant did not challenge the decision of 5 November 2025, confirmed on 14 November 2025, through an administrative complaint, the appeal before the Tribunal cannot be accepted and must be declared inadmissible for failure to exhaust all internal remedies. He invites the Tribunal to apply the procedure laid down in Article VIII of its Statute for cases where an appeal is manifestly inadmissible.

2. *The appellant*

22. With regard to the plea of inadmissibility, the appellant contends that she has satisfied the requirement of prior exhaustion of internal remedies, having submitted her administrative complaint to the Secretary General in several ways, namely by e-mail, by certified electronic mail, by registered letter with acknowledgement of receipt and by fax.

23. The appellant therefore considers that no further formalities can be required of her, as to do so would be contrary to the principles of good administration, good faith and fairness. She further states that she expressly indicated, at the beginning of each of her complaints addressed to the Secretary General, that she was acting in accordance with Article 4.3 of the Staff Regulations, which requires that selection procedures be conducted on a competitive basis, without discrimination, in a fair and transparent manner.

24. Lastly, the appellant contends that the Secretary General's failure to reply must be construed as an implicit rejection, thus opening the way for an appeal before the Administrative Tribunal. She therefore concludes that her appeal is admissible.

B. Merits of the appeal

1. The appellant

25. In her appeal, the appellant asks the Tribunal to allow her to participate in the next stage of the procedure, with the opportunity to sit the three scheduled tests.

26. In support of her appeal, the appellant essentially raises two grounds of appeal, based on (a) lack of adequate technical assistance and (b) breach of the principle of equal access and non-discrimination in the competitive procedure.

a) Lack of technical assistance

27. The appellant maintains that she complied with all the instructions and that her computer equipment met the requirements of the Protocol Document for remote invigilated tests, as evidenced by her successful participation in other tests organised under similar arrangements. She states that she logged into the platform more than 30 minutes before the start of the test, in order to avoid any technical or connection difficulties. The invigilator, however, reportedly did not log in until 10 to 15 minutes after they were officially due to do so. At their request, the appellant immediately carried out the necessary technical adjustments; when she logged in again, however, she was no longer able to access the test. She therefore disputes the assertion that invigilation was operational from 9.31 a.m., arguing that, had that been the case, she would have been able to complete the technical procedures within the allotted time. She notes that she immediately contacted the technical support team, who advised her to ask the Administration for a new test date.

28. The appellant further argues that she should have been provided with proper technical assistance and reasonable timeframes for resolving the problems encountered, in accordance with the principles established by the case law of the Court of Justice of the European Union and the recommendations of the European Parliament. She maintains that, in striking the necessary balance between the Administration's discretionary power and the fundamental right of access to the competition, and therefore to employment, protected in particular by Articles 8 and 14 of the European Convention on Human Rights, it is the requirements of transparency, fairness and respect for fundamental rights that must take precedence.

b) Breach of the principle of equal access and non-discrimination in the competitive procedure

29. The appellant emphasises the requirement to ensure equal treatment and non-discrimination among all candidates, as per the vacancy notice and the Organisation's established standards. She contends that her exclusion from the competition is disproportionate and discriminatory, in that it fails to take account of the uncertainties inherent in the computer-based format of the tests, which may affect candidates differently depending on their equipment, their speed of execution or their level of computer literacy.

2. The Secretary General

30. Without prejudice to the ground for declaring the appeal to be manifestly inadmissible, the Secretary General submits that no irregularity marred the conduct of the test. The Secretary

General therefore asks the Tribunal to declare the appeal unfounded and to reject the appellant's request to be allowed to participate in the next stage of the selection procedure.

a) Alleged lack of technical assistance

31. The Secretary General points out that it is apparent from the technical evidence in the file, in particular the log information (see reference to "log information" in paragraph 13 above), that the technical problem encountered by the appellant on the day of the test was due to the fact that her computer was not set up properly, and specifically to a failure to activate in advance the screen-sharing and screen-recording settings required to access the test. He emphasises that the appellant had been specifically informed, via the Protocol Document attached to the invitation, of the need to check that her equipment was compliant and to make all the necessary adjustments before the test. The Protocol Document also specified that TestReach's technical support would be available before the day of the test to assist candidates should they encounter difficulties with these procedures. The Secretary General concludes that the technical support offered on the day itself could not replace the obligation for each candidate to prepare in advance and that the difficulties encountered by the appellant are entirely her own responsibility.

b) Alleged breach of the principle of equal access and non-discrimination in the competitive procedure

32. The Secretary General argues that the principles of equal treatment, fairness and transparency were fully respected. All candidates were subject to the same rules and received identical instructions, no discriminatory measures having been identified or demonstrated. The Secretary General also refutes the allegation that there was a delay by the TestReach support team, stating that the connection between the appellant and the invigilator was in fact established within the time stipulated in the Protocol Document.

33. With regard to the appellant's doubts as to the accuracy of the log information concerning her connection to the TestReach platform, the Secretary General explains that the discrepancy between the times shown in the log and the times at which the appellant logged into the TestReach platform is due to the time zone difference between the United Kingdom, where TestReach is based, and Italy, where the appellant was on the day of the test.

III. THE TRIBUNAL'S ASSESSMENT

A. Admissibility

34. The Tribunal notes that "prior to bringing an appeal (...), an appellant must submit an administrative complaint to the Secretary General, thereby affording the latter the opportunity to redress the matter if the grievances prove to be well-founded (see, *mutatis mutandis*, ATCE, Appeal No. 673/2021, C v. Governor of the Council of Europe Development Bank, [judgment of 27 January 2022](#), §§ 54 to 56, and case law quoted). The purpose of the exhaustion rule in administrative disputes involving the Organisation is to enable the Secretary General to prevent or put right potential violations for which the Organisation may bear responsibility (ATCE, Appeals Nos. 561-564, Kacsandi (I, II, III, and IV) v. Governor of the Council of Europe Development Bank, [decision of 26 April 2016](#), § 112)." (Administrative Tribunal of the Council of Europe (ATCE), Appeal 763/2024, [judgment of 3 June 2025](#), M.-S. F. v. Secretary General of the Council of Europe, § 50).

35. In the context of participation in an external competition, it follows from Article 14.10.3 of the Staff Regulations that the internal remedy which must be exhausted before lodging an appeal with the Tribunal is an administrative complaint to the Secretary General.

36. In the present case, the Tribunal notes that, following the incident which prevented the appellant from taking part in the online test on 4 November 2026 and the Administration's refusal to allow her to retake the test on another day, the appellant sent letters and e-mails to several authorities within the Organisation, including the Secretary General, without expressly describing any of these communications as an administrative complaint.

37. For the purposes of determining whether an appellant has in fact previously lodged the requisite administrative complaint, the fact that they did not expressly state such an intention is not decisive. In effect, "for a letter addressed to an organisation to constitute a complaint, it is sufficient for the person concerned to clearly express in it his or her intention to contest the decision complained of, for the request thus formulated to be meaningful and for it to be likely to be accepted, irrespective of whether the complaint is formally accompanied by an explicit statement of reasons in law or in fact (ILOAT, Judgment 3067, 8 February 2012, MEEEA v. Technical Centre for Agricultural and Rural Cooperation (CTA), paragraph 16)." (ATCE, Appeal No. 665/2020, Yuksek (II) v. Secretary General of the Council of Europe, [decision of 12 February 2021](#), § 56). A degree of flexibility is therefore called for in determining whether the conditions of form and substance for filing such a complaint have been met.

38. It should be noted here that in her e-mails and letters of 13 November 2025 to the Registrar of the Court and the Secretary General, the appellant complained that the impugned decision "does not comply with the principles of fairness and transparency referred to in Article 4.3 of the Staff Regulations". However, in seeking an amicable resolution to her dispute, she requested that "[she] be given the opportunity to resit the admission test". In the appeal form she submitted to the Tribunal, she states that she had "sought an amicable settlement by making a hierarchical request", addressed to the Registrar of the Court and the Secretary General. A hierarchical request is distinct from an administrative complaint, however.

39. In any event, it is quite clear that the reply of 14 November 2025, signed by the "Council of Europe Recruitment Team", could not be regarded as a decision rejecting an administrative complaint. Not only was this reply not drafted by or on behalf of the Secretary General, but it also unambiguously invited the appellant to lodge an administrative complaint under Article 14 of the Staff Regulations if she disagreed with the team's decision.

40. The fact is, however, that, on that occasion, the appellant did not raise the point that she had already completed such a formality and ask the Organisation to recognise one of those previous communications as an administrative complaint.

41. In addition, if the appellant, who is an experienced lawyer, believed that she had already satisfied the requirement to have lodged an administrative complaint beforehand and was unsure as to whether the Secretary General would respond to it, she should have been aware that the Secretary General had 30 days in which to reach a decision on her complaint, pursuant to paragraph 1450.5 of the Staff Rule on grievance procedures – a time limit whose expiration may, furthermore, determine the admissibility of the appeal (ATCE, Appeal No. 466/2010, Kravchenko v. Secretary General of the Council of Europe, [decision of 28 January 2011](#), § 93

and the case law cited). In this instance, however, the appellant did not wait for that time limit to expire before bringing the matter before the Tribunal.

42. In these circumstances, the Tribunal considers that the appellant cannot be regarded as having lodged an administrative complaint in accordance with paragraph 14.10.3 of the Staff Regulations and paragraph 1450.3.3 of the Staff Rule on grievance procedures. It follows that the appeal is inadmissible for failure to exhaust all internal remedies.

B. Merits

43. In any event, even supposing that the appellant had exhausted the available internal remedies, the Tribunal considers that the claims raised by the appellant on the merits must be dismissed as unfounded.

44. With regard to the first ground of appeal, alleging a lack of technical assistance, it is apparent from the file that the technical problem which prevented the appellant from logging in on the day of the test was attributable to an omission on her part, since she had failed to comply with the recommendations of the Protocol Document, with which she had nevertheless had an opportunity to familiarise herself on 9 October 2025. Even though the appellant had several weeks before the scheduled test date to make the necessary adjustments to her IT equipment, she found herself rushing to do so within the limited time available between logging on to the platform and the deadline for starting the test. Furthermore, the appellant has not presented any argument to show that she was prevented from anticipating the technical problem cited by following the instructions in the Protocol Document. Nor is she justified in complaining that the TestReach invigilator was late to respond, given that the Protocol Document expressly stipulated that invigilation would not be available until 15 minutes before the scheduled start time, regardless of when candidates logged in.

45. As regards the second ground of appeal, alleging a breach of the principle of equality and non-discrimination on account of the technical requirements relating to IT equipment, the Tribunal observes that this argument cannot be accepted. The fact is that the appellant has at no point alleged or shown that, by reason of her personal circumstances, she was prevented from complying with the technical requirements of the Protocol Document, or penalised as a result of them. In these circumstances, this ground of appeal is irrelevant and must be dismissed.

IV. CONCLUSION

46. In view of the foregoing, the Tribunal concludes that the present appeal is inadmissible.

FOR THESE REASONS, THE ADMINISTRATIVE TRIBUNAL:

- Declares the appeal inadmissible and dismisses it;
- Orders each party to bear its own costs.

Delivered on 4 June 2026, the French text being authentic.

The Registrar of the
Administrative Tribunal

Christina Olsen

The Chair of the
Administrative Tribunal

Paul Lemmens