

Appeal No. 776/2025

I

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 alleged irregularities of the external competition in which the appellant took part.

THE FACTS

2. The appellant applied to take part in the external recruitment procedure No. 966/2025 organised for the recruitment of a human rights lawyer (grade A1/A2).

3. On 24 April 2025 the appellant was invited to participate in the assessment stage which comprised two tests. The invitation stated that the overall score would be marked on a range of 0 to 20, that to be placed on the pre-selection list, candidates should obtain a minimum overall mark of at least 10/20. However, this minimum overall mark might be increased depending on the number of successful candidates.

4. The appellant participated in both tests on 15 May 2025.

5. On 4 July 2025 the Directorate of Human Resources (DHR) informed the appellant that their final mark was 11.48/20 and that, taking into account the results of all candidates and the Organisation's recruitment needs, it had been decided to set the minimum final mark for pre-selection at 13/20. On that basis the appellant was not placed on the pre-selection list.

6. On 16 July 2025, the appellant requested the DHR to provide them with their answers to the two tests and the comments of the correctors, as well as to review the marking of their answers.

7. By an email, sent to the applicant's email address on 28 July 2025, the DHR provided the appellant with the requested documents and informed them that re-marking could be ordered only where the assessments made by the two correctors showed a significant discrepancy in marks (10% or more), which was not their case.

8. According to the appellant, the email of 28 July 2025 did not appear in their email inbox as it was automatically diverted to the spam folder. They discovered this email in their spam folder only on 9 August 2025.

9. On 5 September 2025 the appellant lodged a formal complaint with the Secretary General contesting both the marking of their tests and the raising of the qualifying threshold.

10. On 5 October 2025 the Secretary General dismissed the complaint in its entirety as inadmissible for being submitted too late and in any event unfounded. The Secretary General noted that the appellant had been informed about the results of the competition on 4 July 2025 but had lodged their formal complaint on 5 September 2025, that was outside the 30-day time limit provided for by paragraph 1450.3.3 of the Staff Rule on grievance procedures.

PROCEEDINGS

11. The appellant lodged their appeal on 4 December 2025. On 5 December 2025 the appeal was registered under number 776/2025.

12. On 26 January 2026 the appellant submitted their supplementary pleadings.

13. On 5 March 2026 the Secretary General forwarded his observations on the appeal.

14. On 11 March 2026 the Tribunal decided to dispense with an oral hearing.

THE LAW

I. THE APPLICABLE LAW

15. The relevant provisions of the Staff Regulations and Rules read as follows:

Article XIV of the Staff Regulations – Grievance procedures

(...)

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.

(...)

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

(...)

1430. CALCULATION OF TIME LIMITS

(...)

1430.2 (...) any formal complaint not submitted within the specified time limit shall be rejected as being out of time, save for exceptional cases where, for duly substantiated reasons, (...) a formal complaint lodged outside the specified time limit may be declared admissible. The failure to abide

by the time limits must result from reasons beyond the control of (...) the complainant (...) and the length of the delay must be reasonable having regard to the circumstances of the case.

(...)

1450. COMPLAINTS PROCEDURE

(...)

1450.2 The complaint must be lodged within 30 days from the date on which the outcome of the management review was notified or, in the absence of notification, within 30 days from the date on which the notification was due.

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;

(...)

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.

(...)

16. The relevant provisions of the Statute of the Administrative Tribunal read as follows:

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.

7.2 Any appeal must be lodged within 60 days of the date of notification or publication of the decision of the Secretary General which is contested.

(...)

7.3 In exceptional cases and for duly substantiated reasons, the Tribunal may declare admissible an appeal lodged outside the time limits laid down in this Article. The delay in question must, however, be reasonable having regard to the circumstances of the case. (...)

II. OBJECT OF THE APPEAL

17. The appellant asks the Tribunal to annul the Secretary General's decision of 5 October 2025 rejecting their administrative complaint and to order the Secretary General either to include them on the pre-selection list, or, in the alternative, to adopt a new decision on their inclusion in such a list. In the alternative, the appellant asks the Tribunal to order the Secretary General to conduct a new assessment of their written tests by independent correctors and to adopt a new decision on their inclusion in the pre-selection list on that basis.

18. The appellant also asks the Tribunal to order the Organisation to disclose the marking grid(s), assessment criteria and any internal guidance given to the correctors for the two tests.

19. The appellant further seeks any other relief which the Tribunal might consider appropriate in the circumstances, including possible compensation for the non-pecuniary damage caused by the contested decision.

III. AS TO ADMISSIBILITY

A. The parties' positions

1. *The Secretary General*

20. The Secretary General states that prescribed time limits are imperative, necessary to ensure the stability of legal situations, and cannot be departed from, even on grounds of equity.

21. Turning to the facts of the case, the Secretary General notes that the DHR informed the appellant by an e-mail of 4 July 2025 that their results did not qualify them to be placed on the pre-selection list. Accordingly, the appellant ought to have lodged their formal complaint against that decision within 30 days of the date of its notification, in accordance with the time limit laid down in paragraph 1450.3.3 of the Staff Rule on grievance procedures. The deadline for submitting their complaint thus expired on 4 August 2025. Their complaint, lodged on 5 September 2025, had therefore been lodged out of time.

22. The Secretary General further submits that there were no exceptional circumstances and no convincing explanations on the part of the appellant that would justify examination of their complaint outside the prescribed time-limits. The appellant fails to explain why they did not check their spam folder earlier, despite having requested feedback from the DHR and knowing that a reply was forthcoming. Furthermore, they fail to explain why they were unable to submit their complaint immediately after receiving the feedback, which, on their own account, occurred on 9 August 2025.

23. The Secretary General concludes that the appellant has not complied with the prescribed time limit for lodging a formal complaint. The present appeal is therefore manifestly inadmissible on the ground that the complaint has been lodged out of time.

2. *The appellant*

24. The appellant contends that on 4 July 2025 they were only informed of their mark and the raised threshold for pre-selection. Without access to their replies to the tests and the comments of the correctors, they were unable to identify any specific irregularities in the selection process. The email of 28 July 2025 from the DHR contained the requested information; however, it was not visible to the appellant as it had been automatically directed to their spam folder, where it was only discovered by them on 9 August 2025. They submit that it was only on that date that they became aware of the detailed reasons for their exclusion and the specific errors and inconsistencies in the marking of their test, and that their complaint of 5 September 2025 was accordingly lodged within 30 days from 9 August 2025.

25. The appellant further argues that in a system in which notification is made by email only, it cannot be assumed that every message will appear in the recipient's primary inbox or that external candidates will detect a misfiled message instantly. They submit that the applicable rule itself (paragraph 1450.3.3) acknowledges this reality by expressly referring to the date of awareness as the relevant trigger in the absence of effective notification.

26. The appellant further observes that their appeal to the Tribunal, lodged on 4 December 2025, was filed in a timely manner after the Secretary General rendered his decision on their complaint on 5 October 2025.

27. They add that Article 7.3 of the Tribunal's Statute applies to their case, in that they have provided duly substantiated reasons warranting that the Tribunal exceptionally declare their appeal admissible having regard to the circumstances of their case.

B. The Tribunal's assessment

28. As a preliminary point, it is recalled that, according to Article 7.1 of the Tribunal's Statute, the admissibility of an appeal is conditional upon the proper exhaustion of the internal means of redress namely the management review and/or, as the case may be, the administrative complaint, and compliance with the time-limits that apply to such a procedure.

29. The prior exhaustion of internal means of redress within the applicable time limits conditions the admissibility of an appeal (see, for example, Administrative Tribunal of the International Labour Organization (ILOAT), [judgment No. 5112 of 10 February 2026](#), S. v. Energy Charter Conference, consideration 6 and case law quoted). Compliance with such time limits is essential for the observance of the principle of legal security, in the interests of both the Organisation and its staff (Administrative Tribunal of the Council of Europe (ATCE), Appeal No. 672/2020, Kowalczyk-Kędziora v. Secretary General of the Council of Europe, [decision of 21 October 2021](#), §§ 30 and 31, with further references). Such compliance constitutes a fundamental requirement in order to avoid any discrimination or arbitrary treatment in the administration of justice (General Court of the European Union, [judgment of 23 October 2024](#), Anastasia Lianopoulou v. European Commission, T-1136/23, point 16).

30. In order to determine whether, in the present case, the 30-day time limit for filing an administrative complaint with the Secretary General has been complied with, it is first necessary to establish the starting date for its calculation, namely whether this time limit began to run from 4 July 2025 when the appellant was informed that their mark did not qualify them to be shortlisted, or from the later date of 28 July 2025 on which they were informed of the criteria used for determining their mark.

31. The Tribunal recalls its case law according to which the time limit for filing an administrative complaint must be calculated from the date on which the complainant obtained the information required to meaningfully exercise their right of complaint. Complainants must have access to at least a basic explanation of the reasons underlying the disputed decision. Failing this, they cannot validly substantiate their administrative complaint, nor provide the elements necessary to support their allegations (ATCE, Appeal No. 415/2008, Oreshkina v. Secretary General of the Council of Europe, [decision of 31 March 2009](#), § 43; ATCE, [Kowalczyk-Kędziora v. Secretary General of the Council of Europe](#), cited above, § 35).

32. In the present case, the information provided to the appellant in the DHR's communication of 4 July 2025, limited to the indication of the mark obtained, did not suffice to enable them to assess whether to challenge the decision not to shortlist them. While restricting the information shared with candidates at that stage may have been justified having regard to the large number of participants in the selection procedure (ATCE, Appeal No. 769/2025, M.-F. G. v. Secretary General of the Council of Europe, [judgment of 23 March 2026](#), § 85, with further references), such a circumstance has a bearing on their ability to assert their rights. In the present case, it was only once the appellant was provided with the reasons explaining how their mark had been determined, by the DHR's email of 28 July 2025, that they

could reasonably be considered to have had sufficient information to decide whether to challenge the decision concerning them.

33. As a consequence, the 30-day time limit for lodging an administrative complaint began to run from 28 July 2025 and the appellant had until 27 August 2025 for challenging the disputed decision before the Secretary General.

34. The appellant does not deny having received the communication from the DHR dated 28 July 2025. However, they justify their failure to lodge the complaint within the deadline of 27 August 2025 on the grounds that they only discovered the email in question on 9 August 2025, when they noticed it in their spam folder.

35. Independently of the fact that, as of 9 August 2025, the appellant still had 18 days remaining within which to lodge their complaint, the Tribunal observes that nothing prevented the appellant from reading the email of 28 July 2025 in their spam folder as soon as it was received, other than that they did not turn their attention to the contents of that folder until 9 August 2025. The appellant does not indicate having been prevented from opening the email containing the decision at issue and thereby duly taking note of it on that date.

36. The Tribunal considers that the contested decision of the DHR must be deemed to have been notified to the appellant, within the meaning of paragraph 1450.3.3 of the Staff Rule on grievance procedures, on the date that they were in a position to acquaint themselves meaningfully with the content of that decision, that is to say, on 28 July 2025, when they could have opened the email containing the decision (General Court of the European Union, judgment of 23 October 2024, cited above, point 28).

37. The Tribunal does not consider that the circumstance that the email containing the reasons of the contested decision was diverted to the appellant's spam folder was such as to justify, exceptionally, a departure from the mandatory nature of the time limits applicable to internal means of redress.

38. It is true that exceptions to the requirement to abide by the time limits for lodging a complaint are allowed, inter alia, "where the complainant has been prevented by *vis major* from learning of the impugned decision in good time, or where the organisation, by deliberately misleading the complainant or concealing some paper from her or him, has deprived that person of the possibility of exercising her or his right of appeal, in breach of the principle of good faith" (ILOAT, [judgment No. 3829 of 28 June 2017](#), R. v. Eurocontrol, consideration 7).

39. In the instant case, the appellant had themselves requested feedback from the DHR by email of 16 July 2025, and they could therefore have expected to receive a reply in the near future. In those circumstances, it was incumbent upon them to pay particular attention to any communication that might reach them at their email address, regardless of the folder in which such communication might be stored.

40. The Tribunal recalls that it has already had occasion to rule that where a candidate in a selection procedure is informed that all official communications concerning their participation in that procedure will be sent to their email address, it is incumbent upon them to take the necessary personal organisational measures to ensure access thereto (see, *mutatis mutandis*, ATCE, Appeal No. 416/2008, [Švarca v. Secretary General of the Council of Europe](#), decision of 24 June 2009, §§ 34 and 36). *A fortiori*, where a candidate has unimpeded access to their

personal email account, as was the case for the appellant, nothing could exempt them from the diligence required to monitor its contents with due care.

41. As regards the appellant's argument that the Tribunal should apply Article 7.3 of its Statute to their case, it should be noted that that provision is not applicable in the present instance. Indeed, Article 7.3 applies to appeals lodged out of time with the Tribunal, whereas the admissibility issue in the present case concerns the time limit for lodging a formal complaint with the Secretary General.

IV. CONCLUSION

42. In view of the foregoing, the Tribunal concludes that the appellant lodged their formal complaint with the Secretary General belatedly, and that there were no exceptional circumstances that would justify that delay. There has thus not been an exhaustion of available remedies in the prescribed manner and within the applicable time limits, prior to lodging the present appeal.

43. The Tribunal therefore declares the present appeal inadmissible.

FOR THESE REASONS, THE ADMINISTRATIVE TRIBUNAL:

Declares the appeal inadmissible and rejects it, together with all claims and requests formulated therein.

Decides that each party will bear its own costs.

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

The Registrar of the
Administrative Tribunal

Christina Olsen

The Chair of the
Administrative Tribunal

Paul Lemmens