Case law compilation of the Council of Europe Administrative Tribunal

JUDGMENTS AND STAY OF EXECUTION ORDERS
2015 – 2025

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60 YEARS
1965
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COUNCIL OF EUROPE
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Case law compilation

2015-2025

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Foreword

This publication offers readers a concise overview of the jurisprudence developed by the Administrative Tribunal of the Council of Europe over the past decade.

Through a curated selection of excerpts from the Tribunal's most recent decisions, key procedural and substantive principles of international civil service law are distilled and presented alongside targeted keywords. These extracts shed light on the legal reasoning that underpins the Tribunal's decision-making and illustrate the core principles that continue to guide its work.

While reading the full judgments remains essential to fully appreciate the reasoning applied to the specific facts of each case, this publication is intended to serve as a practical tool for understanding the rights and obligations of individuals subject to the Tribunal's jurisdiction, as well as the corresponding duties of the Organisation.

Published on the occasion of the Tribunal's 60th anniversary, this volume accompanies a dedicated conference on the right to a fair trial before international administrative tribunals. Insofar as access to case law can play a decisive role in the effective exercise of this fundamental right, it is hoped that, however modest it may be, this compilation will help support applicants in their undertakings. More broadly, the ongoing efforts to facilitate access to the Tribunal's case law – of which this publication is but one example – aim at promoting respect for the rule of law in the Council of Europe and at fostering confidence in its internal justice mechanism.

Paul Lemmens
Chair of the Administrative Tribunal
Council of Europe

Introduction

In 2015, our Tribunal marked the fiftieth anniversary of its establishment. Ten years later, the 60th anniversary of our Tribunal offers an opportunity to take stock of the body of case law it has developed over the past decade. The present compilation aims to contribute to this exercise by bringing together a representative selection of decisions delivered between 2015 and 2025.

In the tradition of the early jurisprudential collections produced at the time of the Appeals Board of the Council of Europe – the predecessor to the current Administrative Tribunal – this publication offers a mosaic of excerpts reflecting the Tribunal's assessment of a wide range of issues relevant to international civil service law. It includes passages from judgments addressing both the admissibility and merits of appeals, as well as excerpts from orders ruling on requests for a stay of execution.

To provide a meaningful overview of the Tribunal's case law from 2015 to 2025, the first step was to define its scope by identifying keywords that capture the most significant passages from the relevant decisions. The selection of these keywords – numbering 89 – was based on three main criteria:

- Harmonisation with the practices of other international jurisdictions, through alignment with the thematic vocabularies used in the case law indexes of other administrative tribunals, such as the Administrative Tribunal of the International Labour Organization (ILOAT) or the Court of Justice of the European Union (CJEU);
- Relevance to the main themes of international civil service litigation, as identified by specialised legal doctrine;
- Consistency with the terminology of the regulatory framework in force at the Council of Europe, particularly the Staff Regulations and their implementing rules.

The first part of this compilation presents excerpts of case law grouped by keyword, which are themselves organised by thematic domain: applicable law; staff rights and obligations; recruitment, competition and promotion procedures; working conditions, health and safety; remuneration, allowances and pensions; social security coverage; disciplinary matters; litigation procedure; and the administration's managerial prerogatives. For each keyword, the excerpts appear in reverse chronological order (from the most recent to the oldest decision).

The second part presents the list of keywords in alphabetical order, with references to the decisions from which the related excerpts are drawn.

Particular care has been taken in selecting excerpts that articulate a legal principle, an interpretation or a line of reasoning likely to be generalised and applied, *mutatis mutandis*, to other cases falling within the scope of international administrative litigation.

Taken as a whole, this body of material forms a guiding thread that, we hope, will help users better navigate the often complex landscape of staff litigation within the Council of Europe.

Most common acronyms

Acronym	Meaning
ATCE	Administrative Tribunal of the Council of Europe
BCE	European Central Bank (*Banque centrale européenne*)
CCNR	Central Commission for the Navigation of the Rhine
CDD	Fixed-term contract (*Contrat à durée déterminée*)
CDI	Indefinite-term contract (*Contrat à durée indéterminée*)
CJEC	Court of Justice of the European Communities
CPAM	Local Health Insurance Fund (*Caisse primaire d'assurance maladie*)
CPI	International Criminal Court (*Cour pénale internationale*)
DGA	Directorate General of Administration of Council of Europe
DHR	Directorate of Human Resources of the Council of Europe/ of the Development Bank of the Council of Europe
EASA	European Union Aviation Safety Agency
ECHR	European Court of Human Rights
EU	European Union
FAO	Food and Agriculture Organization of the United Nations

FRA	European Union Agency for Fundamental Rights
IBRD	International Bank for Reconstruction and Development
ILO	International Labour Organization
ILOAT	Administrative Tribunal of the International Labour Organization
ISRP	International Service for Remunerations and Pensions
N+1	Direct manager
NATO	North Atlantic Treaty Organization
OECD	Organisation for Economic Co-operation and Development
ONUDI	United Nations Industrial Development Organization (*Organisation des Nations Unies pour le développement industriel*)
OPCW	Organisation for the Prohibition of Chemical Weapons
SG	Secretary General of the Council of Europe
UN	United Nations
UNAT	United Nations Appeals Tribunal
UNDT	United Nations Disputes Tribunal
UNESCO	United Nations Educational, Scientific and Cultural Organization
WBAT	World Bank Administrative Tribunal
WHO	World Health Organisation
WIPO	World Intellectual Property Organization

Contents

Extracts from ATCE case law[1]

1. APPLICABLE LAW

General principles of law

- "The principle of transparency, as codified in paragraph 480.3 of the Staff Rule on entry into service, requires that vacancy notices be publicised and that the eligibility criteria, as well as the main stages of the recruitment procedure, be clearly communicated in advance to all candidates. Recruitment procedures must strictly comply with the internal rules and remain consistent with the criteria set out in the vacancy notice. (…). Furthermore, the obligation to state reasons for the exclusion of a candidate contributes to the transparency of the process and reflects the Organisation's broader duty to adhere to the principles of good administration.

  In parallel, the principle of fairness requires that all candidates be assessed impartially and on the basis of the same pre-established and objective criteria. This entails an obligation of equal treatment and the prohibition of any arbitrary distinctions (see, *mutatis mutandis*, ATCE, Appeal No. 730/2022, Conrad (III) v. Secretary General of the Council of Europe, decision of 10 November 2023, § 42 and case law quoted ; EU General Court, 24 September 2002, Girardot v. Commission of the European Communities, T-92/01, § 25; EU Civil Service Tribunal, 4 September 2008, Dragoman v. Commission of the European Communities, F-147/06, § 3)."
  - ATCE, appeal No. 763/2024, *M.-S. F. v. SG*, judgment of 3 June 2025, paras 33 and 34

- ATCE, appeals Nos. 587/2018 and 588/2018, *Devaux (II) and (III) v. SG*, judgment of 9 October 2018, paras 98 and 99, also cited under "**Scope of judicial review**"

Good faith

- "[T]he failure to observe the applicable deadlines for the appraisal procedure had an impact on the appellant by depriving her of crucial information which she could have taken into account to progressively improve her performance and meet her superiors' expectations. According to the relevant case law, "a staff member whose service is not considered satisfactory is entitled to be informed in a timely manner as to the unsatisfactory aspects of his or her service so that steps can be taken to remedy the situation"; this, it holds, is a fundamental aspect "of the duty of an international organisation to act in good faith towards its staff members and to respect their dignity" (ILOAT, Judgment No. 2414 of 2 February 2005, consideration 23)."
  - ATCE, appeal No. 747/2024, *M.-L. L. v. SG*, judgment of 30 January 2025, para 53

- "[I]t is necessary for both staff members and other individuals concerned to inform the Administration without undue delay and in unequivocal manner about their personal situation, if they believe that the Administration should take this information into account for the purposes of adopting a decision which affects them (see mutatis mutandis, ATCE, appeal No. 581/2017 – Manuel Antonio de Almeida Pereira v. Secretary General, decision of 7 March 2018, paragraph 47; and ATCE, appeal No. 674/2021 – Paméla Mendez Carvalho v. Secretary General, decision of 27 January 2022, paragraph 70). Likewise, if a staff member considers that he or she has been wronged by conduct

[1] This compilation has been prepared by the Registry and is not binding on the Tribunal.

attributable to the Administration, he or she should raise this matter as soon as possible so that the Administration can palliate its shortcomings. This requirement reflects the general principle of good faith, which applies reciprocally in relations between an international organisation and its staff members."

- ATCE, appeal No. 729/2022, *Ramazanova v. SG*, judgment of 12 June 2023, para 50

- ATCE, appeals Nos. 640/2020-644/2020, 646/2020-648/2020, *Parsons (V) and Others v. SG*, and appeals Nos. 649/2020, 652/2020-660/2020 and 664/2020, *Verneau (II) and Others v. SG*, judgment of 20 April 2021, paras 209 and 216, also cited under "**Legal security**"

- ATCE, appeals Nos. 587/2018 and 588/2018, *Devaux (II) and (III) v. SG*, judgment of 9 October 2018, paras 108 and 109, also cited under "**Duty of care**"

Right to be informed

- "[T]he written warning serves the specific purpose of informing the staff member of the consequences which they face if they fail to remedy shortcomings in conduct, performance or of any other kind which might justify certain measures, such as dismissal, being taken against them. In the context of Article 8 c) of Rule No. 1234 [laying down the conditions of recruitment and employment of locally recruited temporary staff members working in Council of Europe Duty Stations located outside of France], the written warning should therefore enable staff members in situations of manifest unsuitability or unsatisfactory work to understand the criticisms levelled against them and attempt to remedy the shortcomings, in the knowledge that they risk losing their jobs if they fail. This differs from the situations provided for in Article 8 a) and b), where the wrongdoing staff members are accused of is of such a nature and seriousness that granting them the benefit of this "last chance" to improve their conduct is not justified."

  - ATCE, appeal No. 737/2023, *G. T. v. SG*, judgment of 25 January 2024, para 36

- ATCE, appeal No. 665/2020, *Yuksek (II) v. SG*, judgment of 12 February 2021, para 62, also cited under "**Duty of care**"

- "[T]he appellant cannot allege a breach of the principle of transparency since she did not request any information during the administrative stage prior to the commencement of proceedings. The fact that the Secretary General did not provide her spontaneously with that information during the administrative complaint stage does not warrant a change of opinion on the Tribunal's part."

  - ATCE, appeals Nos. 555/2014 and 556/2014, *Mayer and Kellens v. SG*, judgment of 28 April 2015, para 84

Acquired rights

- "[T]he conditions of appointment of international civil servants are in most cases laid down both by a contract containing certain strictly individual clauses and by the Staff Regulations to which that contract refers. In reality, the latter contains two sets of provisions which are different in nature: on the one hand, provisions relating to the organisation of the international civil service and to non-personal and variable benefits and, on the other, provisions setting out the individual status of the staff member, which were such as to motivate the staff member to enter into employment.

Provisions relating to non-personal and variable benefits are of a regulatory nature and may be amended at any time in the interests of the service, subject to compliance with the principle of non-retroactivity and any limitations which the competent authority may itself have placed on this power of amendment. However, where this would result in a fundamental modification of the structure of the contract concluded with the staff member, such changes may confer on him or her a right to compensation.
(…)
[T]he right to receive a pension and the principle of adjusting the amount of that pension are acquired rights, the abolition or substantial modification of which is liable to fundamentally change the general structure of the employment contract and, consequently, to affect those rights."

- ATCE, appeals Nos. 640/2020-644/2020, 646/2020-648/2020, *Parsons (V) and Others v. SG*, and appeals Nos. 649/2020, 652/2020-660/2020 and 664/2020, *Verneau (II) and Others v. SG*, judgment of 20 April 2021, paras 181, 182 and 184

- "[T]he application over a long period of time of a particular pension adjustment method does not confer any acquired right on the persons concerned preventing the Committee of Ministers from introducing a new method if the circumstances so require."
  - ATCE, appeals Nos. 640/2020-644/2020, 646/2020-648/2020, *Parsons (V) and Others v. SG*, and appeals Nos. 649/2020, 652/2020-660/2020 and 664/2020, *Verneau (II) and Others v. SG*, judgment of 20 April 2021, para 196

- "[T]he Tribunal reiterates, where the breach of acquired rights is concerned, that "a right is acquired if its holder can enforce it, regardless of any amendments to a text. A right conferred by a rule or regulation and significant enough to have induced someone to join an organisation's staff must be deemed an acquired right. Curtailment of that right without the holder's consent is a breach of the terms of employment which civil servants are entitled to assume will be honoured" (ATCE, appeal N° 557/2014 – Hedman v. Secretary General, judgment of 10 December 2015, paragraph 75)."

  However, the Tribunal notes that, as was the case in the Hedman appeal, in the present case, contrary to the appellants' claims, the introduction of a contribution forming a percentage of the amount actually paid to the service provider affected neither the status of staff nor the medical and social cover from which they might benefit. Furthermore, the appellants have not put forward any arguments that might justify their right to have a benefit maintained throughout their career. This measure does not breach the acquired right to receive the salary due to them in accordance with their respective grade and step, as the granting of supplementary insurance for the spouse is not taken into account in the calculation of their salary. Moreover, the change introduced has not had a disproportionately adverse effect on their interests, and the appellants have not demonstrated that the benefit in question constituted for them a job-related advantage that had induced them to accept the Organisation's offer of employment. (…)"
  - ATCE, appeals Nos. 571-576 and 578/2017, *Brannan (II) and Others v. SG*, judgment of 14 November 2017, paras 157 to 159
    See also:
  - ATCE, appeal No. 557/2014, *Hedman v. SG*, judgment of 10 December 2015, paras 74 to 77
  - ATCE, appeals Nos. 548-553/2014, *Cucchetti Rondanini and Others v. SG*, judgment of 28 April 2015, paras 66 to 70

- "The position of staff members employed by the Organisation on the basis of fixed-term contracts was clarified by the introduction of Article 20 bis of the Regulations on Appointments, which took effect from 7 July 2010. However, bearing in mind the aforementioned principle of acquired rights the Tribunal believes that this rule could not validly be applied to the appellants' case, since they had been recruited two years previously when the content of the old Article 20 of the Regulations on Appointments gave them a legitimate expectation of being able to continue their respective professional careers with the Council of Europe, one option being that they would be able to take part in a new recruitment competition."
    - ATCE, appeals Nos. 548-553/2014, *Cucchetti Rondanini and Others v. SG*, judgment of 28 April 2015, para 69

Legitimate expectation

- "As to the appellant's outstanding appraisals, which are not contested, the Tribunal points out that it is the established case law that the legitimate expectation of the renewal of a fixed-term contract cannot be created by very good or outstanding performance (United Nations Administrative Tribunal, Judgment No. 1137 of 25 July 2003, White v. Secretary General, section VI).

  As to the signals of support which her superiors showed her, the appellant does not demonstrate that these were "precise, unconditional and consistent assurances originating from authorised, reliable sources" capable of giving rise to a legitimate expectation worthy of legal protection (Court of Justice of the European Union, judgment of 16 July 2020, ADR Center v. Commission, C-584/17 P, EU:C:2020:576, paragraph 75 and cited case law). Neither does the appellant provide any evidence of the allegation in her submissions that the draft contract renewal was approved by the Office of the Secretary General. Nor do the nature of the functions performed by the appellant (having no connection with the Russian Federation) or the way in which her work was financed (through a post retained in the budget) amount to such "precise, unconditional and consistent assurances".

  Likewise, the fact that the Appointments Board recommended the definitive appointment of the appellant and that the Board's opinion was forwarded to the DHR cannot be equated with statements capable of legally binding the Organisation (ATCE, Appeals Nos. 469/2010 and 473/2011, decision of 20 April 2012, *Seda Pumpyanskaya (II) and (III) v. Secretary General*, paragraph 59). Of course, these facts could have given the appellant hope that her contract renewal would be completed; however, at no point could she consider that the Organisation had made any promise to her to this effect.

  In any event, a plea based on a breach of a legitimate expectation is bound to fail as soon as it contravenes a rule of the Organisation (see *mutatis mutandis*, ILOAT, judgment No. 3776, consideration 11). The appellant could not legitimately expect to have her contract renewed beyond 1 June 2022, when on this date, she no longer met one of the requirements for entitlement to employment laid down in Article 14 a of the Staff Regulations."
    - ATCE, appeal No. 723/2022, *Zaytseva v. SG*, judgment of 12 June 2023, paras 50 to 53

- "[T]he appellants were not entitled to receive a new contract solely on the basis of their satisfactory performance during probation, nor did this circumstance alone suffice to

justify any legitimate expectation of renewal of their contract. This is because satisfactory performance is only one among other criteria which may come into play when adopting the discretionary decision to confirm in appointment, in accordance with Article 20, paragraph 5 of the Regulations on Appointments".

- ATCE, appeals Nos. 722/2022, 731/2022, 732/2022 and 733/2022, *Orekhova and Others v. SG*, judgment of 4 April 2023, para 55

- "In answer to [the question whether the time taken to remedy the identified irregularity was appropriate having regard to the principles of legal certainty and legitimate expectation], the Tribunal concludes that the Organisation did not violate [these principles] in dealing with the appellant's situation [and updating the scale used to calculate her pension] in August 2020, five months after noticing the irregularity".
  - ATCE, appeal No. 670/2020, *Weidmann (II) v. SG*, judgment of 21 October 2021, para 47

- ATCE, appeal No. 604/2019, *Mihalache v. SG*, judgment of 30 October 2019, paras 83 to 88, also cited under "**Appointment – Recruitment – Entry into service**"

Equal treatment / Prohibition of discrimination

- "[T]he Administration did not violate the principle of non-discrimination in deciding to treat the appellant differently from staff members of other nationality and/or on other types of contracts, who are thus not in a situation comparable to that of the appellant."
  - ATCE, appeal No. 742/2023, *I. S. v. SG*, judgment of 22 March 2024, para 43

- "[F]ollowing a rigorous review to verify that there were objective reasons justifying the differential treatment of the appellants [on account of their nationality], the Tribunal considers that the contested transfers pursued a legitimate aim and remained proportionate to the aim pursued. It follows that the transfers in question may not be regarded as amounting to a breach of the principle of equal treatment and non-discrimination."
  - ATCE, appeals Nos. 739, 740 and 741/2023, *E. T. and Others v. SG*, judgment of 22 March 2024, para 78

- "[T]he Administration does not discriminate if, in an internal competition to fill a vacancy in another category, it uses the criterion of grade to assess the level of responsibility of internal candidates, even though no such criterion is applicable to external candidates in a recruitment process. (…)

  [Similarly] the Administration [does not discriminate when it takes] into account only the years of experience [of a staff member] which determine eligibility for participation in [an internal] competition, namely the years as a permanent staff member, since the years of experience as a temporary staff member [have] already been taken into account at the time when the staff member concerned was recruited."
  - ATCE, appeal No. 738/2023, *C. A. v. SG*, judgment of 25 January 2024, para 39 and 40

    See also:
  - ATCE, appeal No. 745/2024, *Z. G. v. SG*, judgment of 22 March 2024, para 33

- "[T)he Tribunal considers that it is within the competence of the Organisation to require its staff members to be citizens of its member States and this requirement is neither unreasonable nor discriminatory. This requirement is clearly provided in Article 14 (a) of the Staff Regulations and has been systematically mentioned in the recruitment procedures. The nationality criterion laid down in this provision is an objective condition that applies equally to all staff members and is binding on the Administration, which cannot derogate from it".
    - ATCE, appeals Nos. 722/2022, 731/2022, 732/2022 and 733/2022, *Orekhova and Others v. SG*, judgment of 4 April 2023, para 65

- "The rule of non-discrimination is one of the general principles of law which prevails in the legal system of the Council of Europe where it is enshrined in Article 14 of the European Convention on Human Rights. This rule protects individuals, placed in analogous situations, from discrimination and prohibits different treatment for which there is no objective and reasonable justification".
    - ATCE, appeal No. 719/2022, *Gurin v. SG*, judgment of 31 January 2023, para 59
      See also:
    - ATCE, appeal No. 557/2014, *Hedman v. SG*, judgment of 10 December 2015, para 64

- "[A] breach of the principle of equal treatment is deemed to have occurred when two categories of persons whose situations in fact and in law display no essential differences are treated differently and there is no objective justification for such difference in treatment. In this respect, differences in treatment, justified according to an objective and reasonable criterion, and proportionate to the aim sought by the differentiation in question, do not constitute a breach of the principle of equal treatment."
    - ATCE, appeals Nos. 661/2020 and 662/2020, *Bohner (VII) and Cagnolati v. SG*, judgment of 27 April 2021, para 90

- "[D]iscrimination cannot be established unless it is proved that staff members in identical situations have been treated differently."
    - ATCE, appeal No. 625/2019, *Brannan (IV) v. SG*, judgment of 30 November 2020, para 61
      See also:
    - ATCE, appeal No. 617/2019, *Ubowska v. SG*, judgment of 17 December 2019, para 35

- "[T]he Organisation did not base its decision on a practice [of paying, in the interests of the children, the allowances provided for in Articles 4 and 5 of Appendix IV to the Staff Regulations to the spouse whose basic salary was not the higher of the two] which favoured one sex over the other. The Directorate of Human Resources applied an objective criterion, namely basic salary. [Consequently, there is no infringement of the principle of equal treatment between staff members.]"
    - ATCE, appeal No. 623/2019, *Smith v. SG*, judgment of 6 April 2020, para 105

- "[T]he principle of equality requires that persons in the same position in fact and in law be treated equally. Failure to do so would constitute unequal or even discriminatory treatment. In the present context, this implies that the administrative practice [of refusing to grand one day's special leave to move at the end of a fixed-term contract]

should be applied consistently to all staff members leaving the Organisation regardless of the type of contract under which they have been employed."

- ATCE, appeal No. 617/2019, *Ubowska v. SG*, judgment of 17 December 2019, para 34

- "[E]xcluding a staff member from a post on the ground of his or her nationality, when no particular nationality is required for the post and no such requirement has been indicated, would amount to a breach of Article 3 of the Staff Regulations."
  - ATCE, appeal No. 590/2018, *Korljan v. SG*, judgment of 30 January 2019, para 95

- "[T]he Tribunal observes that the appellant (…) secured (…) a five-year fixed-term contract (…). When this contract ended (…) the appellant held the grade B5, step 2. (…) [T]he appellant was offered a three-month temporary contract at grade B5, step 1, resulting in a reduction in salary and the loss of certain financial benefits (…).

  The reasons for the said decrease in step – and the ensuing reduction in pay – were administrative, and had to with the change in the type of contract (…)

  The Tribunal observes, however, that the Organisation, in offering the appellant a temporary contract (…), acted in accordance with the relevant rules, namely Rule No. 1232, Article 10 of which clearly states that "the remuneration of temporary members of staff shall be calculated by reference to the first step of the basic salary for the appropriate grade on the lists appearing in Appendix I". (…)

  That said, the Tribunal cannot disregard the fact that the appellant, (…) as a temporary staff member, (…) was de facto in a situation similar if not identical to the one in which she had been as a staff member on a fixed-term contract, yet was subject to different rules [The appellant continued performing the same tasks, duties and functions as she had performed during her fixed-term contract.]

  Having noted that the Organisation proceeded in accordance with the rules in force, the Tribunal nevertheless reminds it that international organisations are bound to abide by the principle of equal treatment and in particular to comply with the requirement that there be equal pay for work of equal value; if their rules do not ensure adherence to that principle and the requirement of equal remuneration, it is their duty to initiate procedures that do (see ILOAT, judgment no. 2313, Z.P. v. the World Health Organization, of 4 February 2004, paragraphs 5-6). At the same time, where an international organisation is required to apply the principle of equal treatment to officials in dissimilar situations, the organisation has a broad discretion to determine the extent to which the dissimilarity is relevant to the rules concerned and to define rules taking account of that dissimilarity (see ILOAT, judgment no. 3034, the complaints filed against the European Organisation for the Safety of Air Navigation and against Eurocontrol of 6 July 2011, paragraph 24).

  The Tribunal concludes that the situation in which the appellant found herself as a temporary staff member was a direct result of the strict application of the existing rules. Referring to the case law mentioned, however, the Organisation should consider defining appropriate rules in order to prevent further cases of de facto unequal treatment from occurring. As a source of law, moreover, Rule No. 1232 is subordinate to the general principles of law and to the Staff Regulations, Article 3 of which aims to ensure equal

treatment between staff members and which applies to temporary staff by reason of Article 2.1 of Rule No. 1232. »

- ATCE, appeals Nos. 587/2018 and 588/2018, *Devaux (II) and (III) v. SG*, judgment of 9 October 2018, paras 63 to 70

- "[W]hen it introduced the reform that the appellant is challenging the Organisation set in train a system that treats all retired staff equitably. The Tribunal acknowledges that, since the reform of the medical and social coverage scheme, the appellant has been treated less favourably than under the previous system, but her situation - resulting from the fact that she did not complete what is termed a "long career" in the Organisation – cannot be deemed to be discrimination within the meaning of Article 3 of the Staff Regulations. By taking length of service as a basis for setting the level of contributions, the Organisation adopted an objective criterion that enables it to treat all pensioned staff on an equal footing, thereby putting an end to the disadvantageous treatment suffered by retired Council of Europe staff who, unlike the appellant, spent their entire careers in the Organisation."
  - ATCE, appeal No. 557/2014, *Hedman v. SG*, judgment of 10 December 2015, para 65

Patere legem

- "[T]he latin maxim *tu patere legem quam ipse fecisti*, according to which the Organisation is bound by its own rules, in the present case those that limit participation to recruitment procedures only to those candidates who fulfill the recruitment conditions, applies. It is irrelevant that the rules did not explicitly foresee the possibility to remove the appellant from the recruitment procedure, since the normative basis for such a decision was provided by the Organisation's duty to ensure that only entitled candidates took part in recruitment".
  - ATCE, appeal No. 719/2022, *Gurin v. SG*, judgment of 31 January 2023 , para 52

- "Because the appellant could no longer show that she met the requirements that would entitle her to benefit from the Swiss scale, her administrative situation was contrary to the applicable rules and the Administration had a duty to take the steps necessary to bring her situation into line with them. (…) [It is a general principle of law that every authority is required to comply with the rules which it has itself laid down, as long as they do not amend, suspend or revoke them (the principle of *tu patere legem quam ipse fecisti*)".
  - ATCE, appeal No. No. 670/2020, *Weidmann (II) v. SG*, judgment of 21 October 2021, para 41

Proportionality

- "[I]n assessing the proportionality of a disciplinary measures in relation to the seriousness of the facts, the Tribunal must take into account the fact that the determination of the sanction is based on an overall assessment by the Secretary General of all the concrete facts and circumstances of each case."
  - ATCE, appeal No. 651/2020*, B v. SG*, judgment of 13 July 2021, para 171

- "[W]here a disciplinary measure imposed on an official is out of proportion to the subjective and objective nature of the offence, it must be quashed because it is flawed with a mistake of law. Applying that rule calls for special caution when the sanction is

dismissal (see ILOAT, Mr S.C. v. the International Telecommunication Union, 29 January 1991, Judgment 1070, under 9). (…)

In this context, the Tribunal considers that it is not clear from the impugned decision or from the opinion of the Disciplinary Board that, before determining the appropriate sanction, the Disciplinary Board and the Deputy Secretary General considered why removal from post was the only possible and the most appropriate disciplinary measure. In effect, the sanction of removal from post was proposed and adopted without taking into account, in a comprehensive and proportionate manner, on the one hand, the aggravating circumstances, in this case tarnishing the official symbol of the Court and the image of the Organisation and interfering with the private and family life of the appellant's victim and, on the other hand, the mitigating circumstances, namely the appellant's work record, including the positive annual appraisals of his dealings with his colleagues, the positive comments made by some of his colleagues (…) and the fact that there were no other verified instances of misconduct."

- ATCE, appeal No. 624/2019, *Martz v. SG*, judgment of 6 April 2020, paras 62 and 65

- "[I]n assessing whether the disciplinary measure imposed was proportionate in relation to the seriousness of the facts established, the respondent was required to have regard to a number of considerations, including circumstances that might mitigate or aggravate the staff member's conduct, in determining the seriousness of the wrongdoing and in deciding on the most appropriate disciplinary measure".
  - ATCE, appeal No. 591/2018, *Brechenmacher v. SG*, judgment of 2 April 2019, para 91

Good administration

- ATCE, appeal No. 616/2019, *Lourenco Agostinho v. SG*, judgment of 17 December 2019, para 70, also cited under "**Exhaustion of internal remedies/Management review/Administrative complaint**"

- ATCE, appeals Nos. 555/2014 and 556/2014, *Mayer and Kellens v. SG*, judgment of 28 April 2015, para 84, also cited under "**Right to be informed**"

Duty of care

- "[T]he Tribunal echoes the position of the NATO Administrative Tribunal, which in its judgment of 24 May 2022 [No. 2021/1327, UK v. NATO International Staff] (§§ 59 and 62) held that, by informing its staff as best it could about their tax obligations according to the information available to it at the time, the Organisation had acted with due care, and a change in approach by a particular tax administration did not retroactively alter this."
  - ATCE, appeals Nos. 746/2024 and 748 to 758/2024, *A. S. T. and Others v. SG*, judgment of 5 February 2025, para 70

- "As to the appellants' claim that the contested decisions breached the duty of care, the Tribunal stresses that according to the relevant case-law, a transfer may take place in the interest of the Organisation to the detriment of other interests, including the interests of the individuals affected (ILOAT, Judgment No. 325). In the present case, the Tribunal finds that the Secretary General did not overlook the appellants' interest to keep their former jobs but found that there were overriding interests pertaining to the Organisation's reputation, functioning and security which prevailed. Within her wide scope of discretion, the Secretary General decided that the interests of the Organisation carried greater

weight than those of the individual staff members to remain in their jobs (ILOAT, Judgment No. 883, consideration 3)."

- ATCE, appeals Nos. 739, 740 and 741/2023, *E. T. and Others v. SG*, judgment of 22 March 2024, para 86

- ATCE, appeal No. 671/2020, *Nectoux v. SG*, judgment of 21 October 2021, para 58, also cited under "**Probationary period**"

- "The Tribunal notes that staff members of an international organisation enjoy a right to information and that such right is inherent to the duty of loyalty and good faith which governs their relations with the international organisation employing them (ILOAT, Judgment 946, Fernandez-Caballero v. the United Nations Educational, Scientific and Cultural Organization (UNESCO)). The case law also has it that "an organisation, as part of its duty of care for its staff, is expected to help any staff member who is mistaken in the exercise of a right, if such help will enable the staff member to take useful action. If it is not too late, the organisation should also provide the staff member with procedural guidance" (ILOAT, Judgment No. 2345, E.K. v. UNESCO, paragraph 1c)."

  - ATCE, appeal No. 665/2020, *Yuksek (II) v. SG*, judgment of 12 February 2021, para 62

- "[T]he competent authority should, when taking a decision concerning the situation of a member of staff, take into consideration all the factors which may affect its decision and, in particular, the interests of the staff member concerned. That is a consequence of the administration's duty to have regard for the welfare of its staff, which reflects the balance of the reciprocal rights and obligations established by the staff regulations and, by analogy, the conditions of employment of other servants, in the relationship between a public authority and civil servants (see judgment of the European Union's Civil Service Tribunal of 4 May 2010, case no. F-47/09)."

  - ATCE, appeals Nos. 587/2018 and 588/2018, *Devaux (II) and (III) v. SG*, judgment of 9 October 2018, para 100

- "[T]he Tribunal points out that the principle of good faith and the concomitant duty of care demand that international organisations treat their staff with due consideration in order to avoid causing them undue injury; an employer must consequently inform officials in advance of any action that may imperil their rights or harm their rightful interests (see ILOAT, judgment no. 3861, L.G. v. CPI, paragraph 9)

  The Tribunal considers that the manner in which the Administration acted in the present case is entirely contrary to the said principle. There is no denying that the appellant had no vested right to be offered a new temporary or other contract that would have allowed her to continue working for the Organisation. The fact that appointments have been renewed in the past does not amount to a promise of renewal (see UNAT, Hepworth v. Secretary General of the United Nations, 22 July 2009, paragraph 42; and, mutatis mutandis, UNAT, M., A., M., E. and F. v. the International Criminal Court, no. 3444, paragraph 3), since the non-renewal decision is discretionary in nature (see ILOAT, no. 3444 cited above, paragraph 4). Given the many years for which she had been working for the Organisation, however, the appellant deserved to be treated with greater respect, as befitted her status. The Tribunal concedes that the Secretary General needed to make cutbacks in response to the very serious budgetary difficulties facing the Organisation and which, generally speaking, might have been considered valid grounds for the decision not to renew a contract (see NATO Administrative Tribunal, case no. 2014/1011,

paragraph 36, 12 November 2014). It is of the opinion, however, that in the particular circumstances of the present case, where all the conditions for renewing the temporary contract for a period of at least two months or even three months had been met (…) and where the Organisation had already waived the waiting-period rule, having offered the appellant a temporary contract immediately after her fixed-term contract ended, the refusal to offer her a new contract, which would have been in the interests of the department, was contrary to the interests of the Organisation and appellant alike."

- ATCE, appeals Nos. 587/2018 and 588/2018, *Devaux (II) and (III) v. SG*, judgment of 9 October 2018, paras 108 and 109

  See also:
- ATCE, appeal No. 723/2022, *Zaytseva v. SG*, judgment of 12 June 2023, paras 57 to 61

- "[T]he aim of the Council of Europe is to safeguard human rights, democracy and the rule of law. It must not only perform that role in an outward direction, vis-à-vis the member states, but also inside the Organisation, vis-à-vis its staff. The Tribunal stresses therefore in this context that the Administration, which is responsible for "human resources" questions, must treat staff in a manner that respects their human dimension. This rule applies in particular in the case of questions relating to pensions. As well as being very important and sensitive for staff, these questions are usually very complex.
  The Tribunal therefore considers that the Administration should offer staff effective assistance at every stage in order to explain to them how the system works and ensure that they have a good understanding of these questions and feel supported."

- ATCE, appeal No. 546/2014, *Devaux v. SG*, judgment of 30 January 2015, para 22

  See also:
- ATCE, appeals Nos. 548-553/2014, *Cucchetti Rondanini and Others v. SG*, judgment of 28 April 2015, para 71

Legal security / Legal certainty / Certainty of the law

- "[T]he primary purpose of the (…) time limit [to submit a complaint and lodge an appeal] is to maintain legal certainty. It must be ensured that cases raising general points of law or concerning the regulations of an international organisation such as the Council of Europe are examined within a reasonable time and that the authorities of the Organisation and/or other persons concerned are not kept in a state of uncertainty for a long period of time (see, *mutatis mutandis*, European Court of Human Rights (ECHR), Case of Sabri Güneş v. Turkey [Grand Chamber], No. 27396/06, paragraph 39, 29 June 2012).These time limits also enable a potential appellant to consider submitting a complaint and, where applicable, lodging an appeal with the Tribunal."

- ATCE, appeal No. 672/2020, *Kowalczyk-Kędziora v. SG*, judgment of 21 October 2021 , para 30

  See also:
- ATCE, appeal No. 668/2020, *Kalovska Roussou v. SG*, judgment of 24 June 2021, para 43
- ATCE, appeals Nos. 661/2020 and 662/2020, *Bohner (VII) and Cagnolati v. SG*, judgment of 27 April 2021, para 70
- ATCE, appeals Nos. 640/2020-644/2020, 646/2020-648/2020, *Parsons (V) and Others v. SG*, and appeals Nos. 649/2020, 652/2020-660/2020 and 664/2020, *Verneau (II) and Others v. SG*, judgment of 20 April 2021, para 45

- "[T]he principle of legal certainty requires the rules of law to be clear and precise and is intended to guarantee the foreseeability of the situations and legal relationships of the persons concerned. (…)

  [T]he non-retroactivity of a regulatory provision constitutes a general principle of law, whereby a regulatory provision applies only to the future. This principle is a corollary of the concept of legal certainty, which aims to protect the rights acquired under the older norm. In other words, non-retroactivity is the principle whereby a new legal norm does not jeopardise legal situations prior to that new norm."
    - ATCE, appeals Nos. 640/2020-644/2020, 646/2020-648/2020, *Parsons (V) and Others v. SG*, and appeals Nos. 649/2020, 652/2020-660/2020 and 664/2020, *Verneau (II) and Others v. SG*, judgment of 20 April 2021, paras 209 and 216

- ATCE, appeal No. 625/2019, *Brannan (IV) v. SG*, judgment of 30 November 2020, para 53, also cited under "**Internal rules of the Organisation**"

- ATCE, appeal No. 603/2019, *Ana v. SG*, judgment of 22 October 2019, paras 47 and 52, also cited under "**Time-limits**"

- ATCE, appeal No. 589/2018, *Soloveytchik v. SG*, judgment of 29 November 2018, para 53, also cited under "**Administrative decision adversely affecting an individual**"

- [T]he principle of non-retroactivity is a corollary of the concept of legal certainty, according to which Council of Europe staff should be able to determine, in advance and precisely, the rights, benefits and disadvantages arising from rules and regulations adopted by the Organisation.

  Although, properly speaking, the instant case does not represent a traditional example of the retrospective application of a regulation, since both the Secretary General's signing of the Rule and the application of the new contribution rate took place in January 2014, the month in which the appellant learnt of this development, the Tribunal considers this situation to be improper from an administrative standpoint. The Secretary General has provided no evidence of any administrative or other form of impediment to prevent the signing of Rule no. 1364 before its date of entry into force (…).

  In these circumstances, the Tribunal considers that the Organisation has proceeded in a manner that is incompatible with the principle of legal certainty, one aspect of which is the non-retroactivity of rules of law."
    - ATCE, appeal No. 557/2014, *Hedman v. SG*, judgment of 10 December 2015, paras 69 to 72

- ATCE, appeal No. 546/2014, *Devaux v. SG*, judgment of 30 January 2015, paras 34 and 35, also cited under "**Interpretation of the law**"

Right to bring evidence

- "[I]nternational case law has established the principle that an official must, as a general rule, have access to the evidence on which an authority bases or intends to base a decision that adversely affects them (see Administrative Tribunal of the International Labour Organisation (ILOAT), Judgment No. 4663 of 7 July 2023, M.-C. v. Interpol, consideration 6; ILOAT, Judgment No. 4839 of 8 July 2024, J. (No. 3) v. IOM, consideration

9). According to this case law, "a statement in a staff regulation or other internal document that a report is confidential will not 'shield a report [...] from disclosure to the concerned official'. Moreover, '[i]n the absence of any reason in law for non-disclosure of the report, such non-disclosure constitutes a serious breach of the complainant's right to procedural fairness'" (see ILOAT, Judgment No. 3264 of 5 February 2014, M.J. v. ILO, consideration 16; ILOAT, Judgment No. 3831 of 28 June 2017, S. (No. 8) v. IAEA, consideration 17). Insofar as the initial decision by the Director of Human Resources to take no further action on her complaint of harassment was based on the investigation report, the appellant was entitled to receive a copy of it.

(…)

[T]he obligation to disclose the investigation report must be balanced against the need to respect the confidential nature of the witness statements taken in the course of the investigation into the alleged harassment, not least in order to ensure witnesses' protection and freedom of expression (ILOAT, Judgment No. 3995 of 26 June 2018, B. (No. 3) v. IFAD, consideration 5; Judgment No. 4217 of 10 February 2020, L. v. IFAD, consideration 4). Accordingly, it may be necessary to balance the need to preserve the confidential nature of the witness statements against the person's right to an adversarial procedure (Court of Justice of the European Union (CJEU), judgment of 25 June 2020, HF v. European Parliament, C-570/18 P, paragraph 63; see, on the subject of the rights of the person accused of harassment, Administrative Tribunal of the Council of Europe (ATCE), Appeal No. 651/2020, B v. Secretary General of the Council of Europe, Appeal No. 651, decision of 13 July 2021, § 120). To achieve this aim, certain techniques may be used, such as disclosing the substance of the witness statements in the form of a summary, or the redaction (hiding) of some of the content of those statements (ATCE, Appeal No. 651/2020, B v. Secretary General of the Council of Europe, Appeal No. 651, decision of 13 July 2021, § 121; CJEU, judgment of 25 June 2020, HF v. European Parliament, C-570/18 P, paragraph 66; General Court of the European Union, judgment of 2 February 2022, LU v. European Investment Bank, T 536/20, paragraph 58; General Court of the European Union, judgment of 26 June 2024, PB v. Single Resolution Board, T-789/22, paragraph 193). In this case, the investigation report contains summaries of witness statements. In principle, this approach ensures a balance between the various rights and interests at stake.

(…)

[T]he Director of Human Resources was entitled to provide the appellant with summaries only to protect the confidentiality of the persons who gave evidence to the investigators. Yet the appellant also had to be sufficiently informed of the content of the witness statements taken during the investigation, in order to be able to challenge or rectify them if necessary (ILOAT, Judgment No. 3732 of 8 February 2017, G. (No. 2) v. UPU, consideration 6; ILOAT, Judgment No. 4108 of 6 February 2019, B. (No. 2) v. ILO, consideration 4; ILOAT, Judgment No. 4781 of 31 January 2024, X v. ITU, consideration 9; see also, on the rights of persons accused of harassment, ATCE, Appeal No. 651/2020, B v. Secretary General of the Council of Europe, decision of 13 July 2021, § 121)."

- ATCE, appeal No. 766/2024, *L. D. (III) v. SG*, judgment of 24 June 2025, paras 28, 32 and 69

International treaties

- ATCE, appeal No. 589/2018, *Soloveytchik v. SG*, judgment of 29 November 2018, para 57, also cited under "**Interpretation of the law**"

Internal rules of the Organisation

- ATCE, appeals Nos. 640/2020-644/2020, 646/2020-648/2020, *Parsons (V) and Others v. SG*, and appeals Nos. 649/2020, 652/2020-660/2020 and 664/2020, *Verneau (II) and Others v. SG*, judgment of 20 April 2021, paras 181, 182 and 184, also cited under "**Acquired rights**"

- "[A]ny measure adopted by the Organisation which directly or indirectly affects its staff must have a legal basis. It further notes that the procedure preceding the adoption of a particular measure must be transparent to all staff members concerned and must follow the established rules of procedure."
  - ATCE, appeal No. 625/2019, *Brannan (IV) v. SG*, judgment of 30 November 2020, para 53

- "[T]he system of social protection within the Co-ordinated Organisations, including the Council of Europe, has been developed with the necessary detailed consideration in such a way as to provide broad financial support for staff and, at the same time, to protect the interests of the Organisation as such (see for example ATCE, No. 401/2007, Gorey v. Secretary General, paragraph 25, judgment of 19 December 2008). The Tribunal emphasises that any financial support is not unlimited and to an appropriate extent constrained by conditions and requirements which have to be respected both by the Organisation and by its staff members.

  The Tribunal notes that all provisions governing the system of granting social benefits or reimbursement of different costs and expenses must be formulated in a clear, precise and transparent manner so that all staff members of the Organisation can understand them in order to act accordingly. Last but not least, the Tribunal underlines that even the best system of awarding different benefits or reimbursement of diverse costs can only function properly when all the individual provisions are applied properly and transparently, in a way that respects good administrative principles and therefore establishes a consistent practice."
  - ATCE, appeals Nos. 619/2019, 620/2019 and 621/2019, *Gorey (IV), Gorey (V) and Bjerregaard*, judgment of 27 February 2020, paras 82 and 83

- "[The Tribunal] notes that, because of its unique and unprecedented nature in the practice of the Council of Europe, the specific situation in which the appellant found himself was not expressly provided for in the relevant regulatory texts. It accepts that, as the Secretary General has pointed out, those texts cannot anticipate every single situation. Consequently, the Tribunal must ascertain whether, because of this gap in the rules, the Secretary General had no option but to apply mutatis mutandis the provisions of Article 10, paragraphs 3 and 5, of Rule No. 1355 laying down procedures for the implementation of the Regulations on Appointments by analogy to the appellant's situation."
  - ATCE, appeal No. 590/2018, *Korljan v. SG*, judgment of 30 January 2019, para 76

- "The Tribunal nevertheless wishes to draw the Organisation's attention to the desirability of regulating the filling of these posts by means of rules laid down in advance with a sufficient degree of certainty and clarity. The Tribunal is aware that these are senior management posts subject to specific rules in respect of which some definite latitude must be left to the Secretary General. The fact remains, however, that these are Council

of Europe posts and, as such, must be filled in accordance with settled rules and procedures clearly laid down in advance in order to ensure sound management of the Organisation (see, mutatis mutandis, ATCE, appeals Nos. 258/2000 and 261/2000 - José-Maria Ballester v. Secretary General, decision of 31 January 2002, paragraph 50)."

- ATCE, appeals Nos. 555/2014 and 556/2014, *Mayer and Kellens v. SG*, judgment of 28 April 2015, para 86

- ATCE, appeals Nos. 548-553/2014, *Cucchetti Rondanini and others v. SG*, judgment of 28 April 2015, paras 62 and 63, also cited under "**Locus standi**"

- "The Tribunal points out firstly that the expression "in accordance with the law" not only requires that the impugned measure should have some basis in domestic law but also refers to the quality of the law in question, requiring that it should be accessible to the person concerned and foreseeable as to its effects. As regards foreseeability, a norm cannot be regarded as a "law" unless it is formulated with sufficient precision to enable the citizen to regulate his conduct: he must be able – if need be with appropriate advice – to foresee, to a degree that is reasonable in the circumstances, the consequences which a given action may entail. Those consequences do not need to be foreseeable with absolute certainty: experience shows this to be unattainable. Again, whilst certainty is highly desirable, it may bring in its train excessive rigidity and the law must be able to keep pace with changing circumstances (ATCE, *Yeo v. Secretary General*, Appeal No. 476/2011, decision of 13 December 2011, paragraph 49)."

  - ATCE, appeals Nos. 548-553/2014, *Cucchetti Rondanini and others v. SG*, judgment of 28 April 2015, para 65

- "If the legislator's intention had been different, (…), he would have had to formulate the relevant provision with sufficient precision to enable the individuals concerned to regulate their conduct and foresee, to a degree that was reasonable in the circumstances, the consequences which their appointment (…) might entail. In the Tribunal's view this was not the case and the provision in question was not sufficiently clear."

  - ATCE, appeals Nos. 548-553/2014, *Cucchetti Rondanini and others v. SG*, judgment of 28 April 2015, para 68

- "Whilst conceding that the Administration should act as a "pater familias" and take care of its staff by informing them of their rights and obligations in respect of various insurance options, the Tribunal takes the view that staff members should also show initiative on such matters."

  - ATCE, appeals Nos. 548-553/2014, *Cucchetti Rondanini and others v. SG*, judgment of 28 April 2015, para 74

Practice

- "[Un]der the relevant case law, the interpretation that an organisation wilfully and consistently gives to a rule for years may become a binding element of personnel policy, to be applied to everyone who is in the same position in law and in fact. However, it is commonly accepted that "just as a staff rule must not conflict the staff regulation under which it is made, so a statement of practice must not conflict the rule it is elaborating" (ILOAT, Judgment 486 of 3 June 1982, consideration 8)."

  - ATCE, appeal No. 744/2024, *I. S. V. v. SG*, judgment of 14 August 2024, para 54
    See also:

- ATCE, appeal No. 745/2024, *Z. G. v. SG*, judgment of 22 March 2024, para 31

- "As regards the required compatibility of the practice at hand with the rules which it purports to interpret, the Tribunal finds that the wording of the relevant provisions does not contain any ambiguity which would make it necessary to clarify the provisions' scope. Paragraph 540.1 of the Staff rule on career development in force at the time of the proposal to promote the appellant clearly states that the first condition for a staff member to be eligible for promotion to grade A3 is that he/she has served the Organisation in the A2 grade for a period of six years, without any further specification.
(…)
[T]he lack of any specification in the applicable rule as to the continuous nature of the six year period of service appears to be a deliberate choice of the legislator.

  The Tribunal further finds that the Administration's restrictive interpretation of the requirement of the six years of service as being necessarily uninterrupted has adverse effects on staff members. Effectively, by excluding from the six year calculation the years of service accrued prior to a contract interruption, the administrative practice unduly restricts staff members' rights.

  Given the above, the Tribunal considers that the administrative practice in question, rather than clarifying the law to which it relates, deviates from it by introducing an additional condition not provided for in the applicable provisions. That practice cannot therefore serve as a legitimate basis for calculating the appellant's seniority."
  - ATCE, appeal No. 744/2024, *I. S. V. v. SG*, judgment of 14 August 2024, paras 55 to 59

- "[U]nder the relevant case law, a construction which an organisation wilfully and consistently puts on a rule for years may become a binding element of personnel policy to be applied to everyone who is in the same position in law and in fact. That flows from the general principles that an organisation must show good faith and frame personnel policy in objective terms (Administrative Tribunal of the International Labour Organisation (ILOAT), Judgment 1125, consideration 8)."
  - ATCE, appeal No. 738/2023, *C. A. v. SG*, judgment of 25 January 2024, para 31

- "[M]ere allegations [by the appellant] concerning the existence of other precedents [which would demonstrate the inconsistent nature of a practice], without any further details, have no evidential value. Such allegations are not of a kind to cast doubt on the settled nature of the practice in question and are not sufficient to shift the burden of proof onto the Administration."
  - ATCE, appeal No. 738/2023, *C. A. v. SG*, judgment of 25 January 2024, para 35

- "As to the appellant's argument that the impugned practice is arbitrary, the Tribunal considers that the question to be examined in response to that plea is whether the practice has an objective and reasonable basis and whether it is consistent with the objective pursued by the rules whose implementation it allows."
  - ATCE, appeal No. 738/2023, *C. A. v. SG*, judgment of 25 January 2024, para 36

- "[T]he Tribunal recalls that any measure imposed on a staff member or decision taken in his or her respect must have a legal basis. In this connection it points out that it is well established in the Tribunal's own case-law as well as in the international administrative case law, that a practice cannot become legally binding if it contravenes a written rule that is already in force (see ATCE, Barbara Ubowska, appeal No. 617/2019, judgment of 17 December 2019, paragraph 29; A. v. World Health Organisation (WHO), ILOAT judgment No. 4029 of 15 May 2018, consideration 19). Indeed, a practice can be created by an announcement, by an administrative circular or otherwise (see, V.K. v. Organisation for the Prohibition of Chemical Weapons (OPCW), ILOAT judgment No. 3680 of 6 July 2016, consideration 12)."
    - ATCE, appeal No. 638/2020, *Zrvandyan v. SG*, judgment of 30 November 2020, para 49
      See also:
    - ATCE, appeal No. 617/2019, *Ubowska v. SG*, judgment of 17 December 2019, para 29

- ATCE, appeal No. 638/2020, *Zrvandyan v. SG*, judgment of 30 November 2020, para 56, also cited under "**Error of law**"

- "[T]he appellant had come to an agreement with his wife to share the family allowances. It has also been established that, initially, the appellant raised no objection to DHR's practice of paying, in the interests of the children, the allowances provided for in Articles 4 and 5 of Appendix IV to the Staff Regulations to the spouse whose basic salary was not the higher of the two. Combined with the application of other rules, this practice resulted in the Organisation paying more in allowances than the spouses would have been entitled to if the allowances had been paid to the staff member with the higher basic salary. (…)

  [T]he appellant raised no objections as to the lawfulness of this administrative practice (…)

  From the outset, however, the appellant was aware of the way in which the Organisation was implementing the provisions relied upon in the present case. Instead of asking the Organisation to change its practice, he preferred to come to an agreement with his wife in order to retain the benefits of that choice. In essence, he accommodated himself to the situation. (…)

  On the basis of that finding, the Tribunal concludes that the appellant's first plea concerning retroactive payment of the allowances in question is unfounded and must be rejected."
    - ATCE, appeal No. 623/2019, *Smith v. SG*, judgment of 6 April 2020, paras 95, 96, 100 and 104

- ATCE, appeals Nos. 619/2019, 620/2019 and 621/2019, *Gorey (IV), Gorey (V) and Bjerregaard*, judgment of 27 February 2020, paras 82 and 83, also cited under "**Internal rules of the Organisation**"

- "[T]he fact that Article 13, paragraph 1, of Rule No. 1343 using the words "may authorise" gives the Director of Human Resources full discretion to decide whether or not to grant any type of leave described in this provision. In other words, there is no right to which staff members who leave the Organisation could lay claim.

By consistently applying Article 13 of Rule No. 1343 [providing that the Director of Human Resources may authorise periods of absence in case of change of the staff member's place of residence (removal)] in refusing to grant special leave to move to a new place of residence to a particular group of persons [staff members whose request for leave is linked to the termination of the staff member status], the Director of Human Resources merely interpreted this provision in a particular way within the scope of the discretion afforded her, thus establishing consistent administrative practice. The Tribunal notes that this practice did not modify or otherwise affect the content of Article 13 of Rule No. 1343. The Tribunal therefore concludes that the practice was legally binding.
(…)
[T]he aim of an administrative practice is to establish certain guidelines which a legal entity (the Organisation) has decided to follow in the administration and implementation of its internal rules (the Staff Regulations) either generally or with respect to specific types of situations. Accordingly, the legally binding administrative practice is applied automatically. In short, the decision made in the present case was based on the legally binding administrative practice which was rightly applied to the person (appellant) belonging to a particular group of persons in a specific situation (persons leaving the Organisation following the end of their contract)."

- ATCE, appeal No. 617/2019, *Ubowska v. SG*, judgment of 17 December 2019, paras 30 to 32

Domestic law

- "[Having specified that determining] the costs and/or tax implications of affiliation to a national medical insurance scheme is exclusively a matter for the states, (…) [t]he Tribunal considers that, as long as the French authorities were not asking the Council of Europe pensioners concerned to pay social security contributions [on their Council of Europe pensions], it was not for the Organisation to give an interpretation of French rules, and the potential implications thereof, different from the one followed by the French authorities themselves."

  - ATCE, appeals Nos. 746/2024 and 748 to 758/2024, *A. S. T. and Others v. SG*, judgment of 5 February 2025, paras 66 and 70

- "The Tribunal for its part notes that the Organisation has immunity from jurisdiction with regard to the host country. Hence the Tribunal is not part of the French judicial system but is rather an independent court that is specific to the legal and institutional order constituted by the Organisation. However, as was pointed out by the appellant, pursuant to Article 5 of the Agreement between the Council of Europe and the Government of France – and hence by virtue of an independent decision on the part of the Organisation itself – the Organisation is bound by French social security legislation except as regards "the rules contained therein on supervision and disputes".

  For the Tribunal, this means that in concluding that agreement with the French authorities the Organisation chose to be bound by the legislation issued by them. (…)

  Having arrived at that conclusion, the Tribunal must nonetheless specify that in its application of the French Social Security Code it is not bound by the interpretation thereof given by the French courts or by the rules of procedure laid down by that Code, because in the first instance it is a sovereign court within the Organisation, and in the second instance, those (…) fall under the [exception of the Agreement on the social protection, article 5 of which states that the Council of Europe shall be bound by French social-security legislation exception the rules on supervision and disputes]."

- ATCE, appeal No. 545/2014, *Jaffrey v. SG*, judgment of 23 October 2015, paras 47 to 49

Hierarchy of norms / Precedence of rules / Hierarchy of rules

- "[A]s long as the provisions of the DHR guidelines were not at variance with the new Staff Rules and Regulations, which came into force on 1 January 2023, they could continue to be applied and the Governor could be guided by them when exercising the discretionary power accorded to him in this respect (paragraph 48) to determine what constitutes the "strong performance" required by paragraph 450.2 of the new Staff Rules."
  - ATCE, appeal No. 743/2024, *B. S. v. Governor of the Development Bank,* judgment of 25 November 2024, para 64

Interpretation of the law

- ""[I]t is a basic rule of interpretation that words which are clear and unambiguous are to be given their ordinary and natural meaning and that words must be construed objectively in their context and in keeping with their purport and purpose" (see ATCE, Appeals Nos. 722/2022, 731/2022, 732/2022 and 733/2022, Orekhova and Others v. Secretary General of the Council of Europe, decision of 4 April 2023, § 58)."
  - ATCE, appeal No. 766/2024, *L. D. (III) v. SG*, judgment of 24 June 2025, para 60

    See also:
  - ATCE, appeal No. 737/2023, *G. T. v. SG*, , judgment of 25 January 2024, para 34
  - ATCE, appeals Nos. 722/2022, 731/2022, 732/2022 and 733/2022, *Orekhova and Others v. SG*, judgment of 4 April 2023, para 58

- "[T]he appellant's view [that the option she exercised entitling her to the benefit of the Swiss scale was irrevocable] would have the absurd consequence that the recipient of a pension calculated on the basis of the situation in a given country could change residence and settle in any territory of a State, whether or not it is a member of the Organisation, while continuing to benefit from the same advantages. Such an interpretation is not consistent with the object and aim of the applicable rules and would give rise to abuses, because it would mean that a pensioner need only reside briefly in a country whose scale is more advantageous for him/her to be able to benefit from it for life even after taking up stable and effective residence in another country".
  - ATCE, appeal No. No. 670/2020, *Weidmann (II) v. SG*, judgment of 21 October 2021, para 44

- "[A]ny international treaty has to be interpreted in accordance with the ordinary meaning of its terms in their context and with regard to the object and purpose of that treaty."
  - ATCE, appeal No. 589/2018, *Soloveytchik v. SG*, judgment of 29 November 2018, para 57

- "The terms used in the vacancy notice are sufficiently broad that the narrower interpretation proposed by the appellants can be rejected on the basis of the Latin maxim "*ubi lex voluit dixit*" [*ubi lex voluit dixit, ubi noluit tacuit*: when the law wanted something, it said it; when it didn't want it, it kept silent].".
  - ATCE, appeals Nos. 555/2014 and 556/2014, *Mayer and Kellens v. SG*, judgment of 28 April 2015, para 67

- "[T]he "quality of law" depends on a rule being precise and foreseeable in its application in order to avoid all danger of confusion, misunderstanding or incomprehension. For this purpose, the criterion of "legality" requires that all rules should be sufficiently precise to allow staff members – if necessary with the benefit of informed advice – to foresee, to a reasonable extent in the circumstances of the case, the consequences of a given act. This is particularly important in the case of the rules determining all the principles governing the salary and benefits paid by the Organisation to each member of its staff in return for their services. (…)

  The Tribunal also notes that the provisions relevant to a particular case are often interconnected and must therefore be interpreted as a logical whole."
  - ATCE, appeal No. 546/2014, *Devaux v. SG*, judgment of 30 January 2015, paras 34 and 35

2. RIGHTS, DUTIES AND OBLIGATIONS

Right to protection

- "As to the alleged risk of retaliation from the Russian authorities, the Tribunal notes that the appellant did not specify what other measures of protection he/she possibly expected to receive from the Secretary General apart from the annulment of the decision not to offer him/her a new contract. Irrespective of the fact that it was legally impossible for the Organisation to offer the appellant a new employment contract (…), the Tribunal does not consider that the Organisation's duty of care towards its staff entails the duty to offer a contract. Therefore, the appellant's claim that the refusal to offer him/her such a contract entailed the failure to protect him/her is without merits."
  - ATCE, appeal No. 742/2023, *I. S. v. SG*, judgment of 22 March 2024, para 46

- "By (…) exercising a remedy – protection in an official capacity – which is not subject to any requirement to adhere to time limits for grievances that could have been raised by way of an administrative complaint, the appellant disregarded the mandatory time limits that apply to the ordinary remedies".
  - ATCE, appeal No. 674/2021, *Mendez-Carvalho v. SG*, judgment of 27 January 2022, para 70

Protection from retaliation

- ATCE, appeal No. 605/2019*, X v. SG*, judgment of 31 October 2019, paras 64 to 66, also cited under "**Burden of proof**"

Right to an effective remedy and a fair trial

- ATCE, appeal No. 766/2024, *L. D. (III) v. SG*, judgment of 24 June 2025, paras 28, 32 and 69, also cited under "**Right to bring evidence**"

- "[A]rticle 6, paragraph 1, of the European Convention on Human Rights, as interpreted by the European Court of Human Rights, secures to everyone the right to have any claim relating to his or her civil rights and obligations brought before a court or tribunal (judgment of 21 February 1975, in the case of Golder v. the United Kingdom, paragraph 36). Pursuant to this principle, the Tribunal considers that it is its task to ascertain whether (…) the appellant [who in principle lacks locus standi owing to their status as a seconded official] could submit their complaints to some form of judicial review."

- ATCE, appeal No. 720/2022, *E v. SG*, judgment of 1 February 2023, para 50

- "[W]ith regard to disputes between international officials and the international organisations employing them, that the European Court of Human Rights has specified that the judicial immunity of international organisations before national courts is only admissible under Article 6, paragraph 1, of the European Convention on Human Rights if the restriction it entails is not disproportionate and if the parties to the case have reasonable alternative means to protect their rights effectively (…).

  [T]his case law can be applied *mutatis mutandis* to the examination of [an appeal lodged by a seconded official], the Tribunal is required to ascertain whether the appellant had a reasonable alternative means of asserting their rights."
  - ATCE, appeal No. 720/2022, *E v. SG*, judgment of 1 February 2023, paras 54 and 55

Right to be heard / Rights of the defence during investigation and disciplinary proceedings

- "The [paragraph 62 of the Rule on investigations] sets out the interview arrangements in detail. It establishes the principle that only one person at a time should be interviewed, and that if the person interviewed is a member of the Secretariat, they "may be accompanied by a member of the Secretariat of their choice, provided that the latter is not directly concerned by the investigation and/or there is no conflict of interest". Legal counsel, however, is not among the persons entitled to accompany the Secretariat member being interviewed under this paragraph.
  (…)
  [I]n the absence of a rule conferring on the appellant the right to be assisted by her lawyer during the interview, the Organisation did not disregard the applicable legal framework. The Tribunal considers, moreover, that there is no general principle which gives a person heard in the context of an investigation into acts allegedly committed by another person the right to be assisted by a lawyer (General Court of the European Union, judgment of 28 May 2020, Cerafogli v. European Central Bank, T-483/16 RENV, paragraph 173). The second ground of appeal is therefore unfounded."
  - ATCE, appeal No. 766/2024, *L. D. (III) v. SG*, judgment of 24 June 2025, paras 61 and 63

- ATCE, appeal No. 766/2024, *L. D. (III) v. SG*, judgment of 24 June 2025, paras 64, 66 and 67, also cited under "**Adversarial proceedings**"

- "[A]s regards the fact that the first and the second appellants were invited to express their views [regarding the envisaged decision to transfer them] while being on sick leave, the Tribunal is of the opinion that it cannot be inferred from the mere fact that an appellant was on sick leave, which at most permitted the inference that he or she was unable to work, "that this was indicative of an inability to defend himself or herself and to exercise his or her right to be heard" (T-648/21, YD v FRA, 20.09.2023, EU:T:2023:575, paragraph 42)."
  - ATCE, appeals Nos. 739, 740 and 741/2023, *E. T. and Others v. SG*, judgment of 22 March 2024, para 85

- "As to the right to be heard provided for in Article 9 of Rule No. 1234, the Tribunal clarified its scope in paragraphs 38 and 39 of its decision of 5 September 2006 on Appeal No. 353/2005, C.G. v. Secretary General. In that case, the Tribunal held that a temporary staff

member's right to be heard in the event of termination of his employment "must necessarily be construed as a right intended to enable the staff member concerned to defend himself or herself. Since it is a guarantee given to the staff member, this [right] cannot be interpreted as being confined to mere questioning and to listening to the staff member's on-the-spot replies." The Tribunal has also stated that "the exercise of the right of defence, and in particular the right to be heard, also implies that the Administration must give due consideration to the observations thus submitted by the person concerned by examining, with care and impartiality, all the relevant aspects of the case. The right to be heard must thus enable the Administration to investigate the case in such a way as to take a decision in full knowledge of the facts," while pointing out that "the existence of a violation of the right to be heard must be assessed in the light, in particular, of the legal rules governing the matter concerned" (ATCE, Appeal No. 651/2020, decision of 13 July 2021, B v. Secretary General, paragraphs 88 and 89)."

- ATCE, appeal No. 737/2023, *G. T. v. SG*, judgment of 25 January 2024, para 37

- "As to the right to be heard provided for in Article 9 of Rule 1234 [laying down the conditions of recruitment and employment of locally recruited temporary staff members working in Council of Europe Duty Stations located outside of France], the circumstances in which the appellant was heard (…) fail to meet the requirements of that provision, as, for that purpose, the appellant would have had to be informed before the impugned decision of [termination of his contract] not only about the accusations against him but also about what was at stake for him, namely the risk of losing his job. The exchanges held subsequently (…), between the appellant, his superiors and DHR representatives were not such as to make up for that shortcoming retrospectively."

  - ATCE, appeal No. 737/2023, *G. T. v. SG*, , judgment of 25 January 2024, para 40

- "[R]espect for the right of defence, of which the right to be heard is an integral part, is a fundamental principle that applies to all persons and must be guaranteed in all proceedings that may give rise to a complaint. Compliance with the right of defence requires that the staff member against whom the Administration has initiated administrative proceedings should be given the opportunity, in the course of those proceedings, to put forward his or her point of view on the existence and relevance of the facts, the alleged circumstances and the documents which the Administration intends to use against him or her.

  [T]he exercise of the right of defence, and in particular the right to be heard, also implies that the Administration must give due consideration to the observations thus submitted by the person concerned by examining, with care and impartiality, all the relevant aspects of the case. The right to be heard must thus enable the Administration to investigate the case in such a way as to take a decision in full knowledge of the facts so that, if necessary, the staff member concerned can validly exercise his or her right to bring an action before the Tribunal.

  Lastly, the existence of a violation of the right to be heard must be assessed in the light, in particular, of the legal rules governing the matter concerned, in this case the disciplinary procedure."

  - ATCE, appeal No. 651/2020*, B v. SG*, judgment of 13 July 2021, paras 87 to 89

See also:

- ATCE, appeal No. 737/2023, *G. T. v. SG*, judgment of 25 January 2024, para 37

- "The Tribunal has stated in the past (see paragraph 129, ATCE decision in appeals Nos. 582/2017 and 583/2017, Brillat and Priore (III) v. the Secretary General), that "it is for the Secretary General – exercising his disciplinary power if necessary – to take all necessary steps to ensure that the(…) interviews [of witnesses before the Commission against Harassment] are anonymous and that persons who give evidence are not subjected to reprisals or threats".
  The possibility thus granted to the Administration is not necessarily incompatible with respecting the right to be heard of a person who is accused of acts of harassment.

  The Tribunal considers, however, that whenever arrangements are in place to protect witnesses against undue pressure, it is necessary for the procedure followed to achieve a reasonable balance between, on the one hand, the need to safeguard the confidential nature of information and documentation pertaining to the investigation of a harassment complaint and, on the other hand, the due process rights of the parties in disciplinary proceedings.

  According to settled case-law (see for example, ILOAT, Judgment 2771, paragraph 18), this balance consists in considering that, where disciplinary proceedings are brought against an official who has been accused of harassment, testimonies and other materials which are deemed to be confidential pursuant to provisions aimed at protecting third parties need not be forwarded to the accused official, but she or he must nevertheless be informed of the content of these documents in order to have all the information which she or he needs to defend herself or himself fully in these proceedings. In order to respect the right of defence, it is sufficient for the official to have been informed precisely of the allegations made against her or him and of the content of testimony taken in the course of the investigation, in order that she or he may effectively challenge the probative value thereof. To achieve this aim, certain techniques may be used, such as disclosing the substance of the witness statements in the form of a summary, or the redaction of some of the content of those statements."

  - ATCE, appeal No. 651/2020*, B v. SG*, judgment of 13 July 2021, paras 118 to 121

- "[T]he Tribunal is bound to note that the President did not hear the appellant before ruling on the administrative complaint (…). Yet, this hearing is expressly required by Article 38 of the CCNR staff regulations. It is true that before the President took his decision to dismiss the complaint, an internal inquiry was conducted, outside the scope of the complaints procedure, and the appellant was heard at the same time as other persons. However, this is a different type of administrative act, which cannot be deemed to replace the hearing of the appellant required by Article 38 I, paragraph 6, of the CCNR staff regulations (see paragraph 28 above)."

  - ATCE, appeal No. 626/2020*, A v. Central Commission for the Navigation of the Rhine*, judgment of 30 November 2020, para 48

3. RECRUITMENT PROCEDURE – COMPETITION – CAREER – TERMINATION OF SERVICE

Vacancy notice

- "[T]he vacancy notice (…) called for a very good knowledge of one of the two official languages of the Council of Europe, without going into further details. In her application,

the appellant had indicated that she possessed the same level of linguistic knowledge for English and French. In those circumstances, the fact that no mention was made of a preference for a particular language in the aforementioned notice could not be construed as leaving it to the appellant to decide for herself which language to work in. (…)"

- ATCE, appeals Nos. 761/2024 and 762/2024, *L. D. (I and II) v. SG*, judgment of 25 March 2025, para 107

Candidature

- [W]hile candidates were informed that a mark of 10 out of 20 constituted the minimum requirement, they were also expressly advised that attaining that score might not be sufficient if the Organisation subsequently raised the threshold.
  (…)
  [T]he applicable threshold was not part of the eligibility conditions which would enable prospective candidates to assess whether it was appropriate to apply. Nor was it part of the description of the different stages of the procedure in the vacancy notice.
  (…)
  [T]he Administration has provided objective reasons to justify the adjustment of the threshold.
  (…)
  [R]aising the threshold after the test had been administered did not alter the substantive criteria for evaluating candidates. Given that the test consisted of multiple-choice questions scored automatically, the result for each candidate was unaffected by the threshold adjustment. (…) [M]oreover (…) this adjustment was applied equally and uniformly to all shortlisted candidates, based on the objective number of correct answers they had provided.
  (…)
  In the light of the above, (…) [there is no] evidence to suggest that the manner in which the Administration conducted the recruitment procedure was liable to result in arbitrary outcomes or entail a breach of the principles of fairness, transparency and equal treatment."

  - ATCE, appeal No. 763/2024 *M.-S. F. v. SG*, judgment of 3 June 2025, paras 39, 40, 41, 43 and 46

- "[In] an external competition, in which the Administration must rely to a large extent on the information submitted by the candidates, (…) [it is for the candidate] to provide information that [allows] the Administration to properly assess [the] candidature."

  - ATCE, appeal No. 736/2023, *A. A. v. SG*, judgment of 30 November 2023, para 28
    See also:
  - ATCE, appeal No. 729/2022, *Ramazanova v. SG*, judgment of 12 June 2023, para 51

- "[I]n order to be shortlisted the appellant had to meet all eligibility criteria that had been set in the vacancy notice. (…)

  The Tribunal is of the opinion that the conclusion of the Administration that the appellant did not meet the above criteria was based on the information submitted by the appellant in his job application form and it does not appear to be manifestly erroneous or vitiated by misuse of power."

  - ATCE, appeal No. 736/2023, *A. A. v. SG*, judgment of 30 November 2023, paras 29 and 31

- "[A]ny candidate who applies for a post to be filled by some process of selection is entitled to have his or her application considered in good faith and in keeping with the basic rules of fair and open competition. This is a right that every applicant must enjoy, whatever his or her hopes of success may be (ILOAT, Judgments 1077, paragraph 4, 1497, paragraph 5(b), and 1549, paragraph 9). Accordingly, it is settled case-law that a selection board in a competition is required to ensure that its assessments of all the candidates examined are made in conditions of equality and objectivity (Judgment in Pantoulis v Commission, T 290/03, EU:T:2005:316, paragraph 90)."
    - ATCE, appeal No. 665/2020, *Yuksek (II) v. SG*, judgment of 12 February 2021, para 69

- ATCE, appeal No. 580/2017, *Demir Saldirim v. SG*, judgment of 31 January 2018, paras 89, 91, 98 and 103, also cited under "**Locus standi**"

- "[T]he purpose of the procedure was to determine which of the candidates put forward were suitable for secondment to the Registry (…).

  In these circumstances, it seems somewhat anomalous that the Registry should have decided to select a candidate without requiring him to undergo the same procedure as the others because of how he had performed in another competition. The Tribunal, moreover, has had occasion in the past to sanction, albeit in a different context, this practice of having recourse to previously attained results in selection procedures (ATCE, formerly the Appeals Board, decision of 27 September 1990 in appeal No. 160/1990 – Staff Committee. V. Secretary General, in particular, mutatis mutandis, paragraph 58).

  In the opinion of the Tribunal, the process of comparing candidates in order to assess their suitability for work in the Registry should have taken place after requiring them to sit the same tests."
    - ATCE, appeal No. 580/2017, *Demir Saldirim v. SG*, judgment of 31 January 2018, paras 105 to 107
      See also:
    - ATCE, appeal No. 579/2017, *Uysal v. SG*, judgment of 31 January 2018, paras 102 to 104

Appointment / Recruitment / Entry into service

- "[R]ecruitment procedures within the Council of Europe must be conducted in accordance with the principles of transparency, fairness, and equal treatment, as enshrined in paragraph 4.3 of the Staff Regulations.
  (…)
  These principles play an essential role in ensuring that the recruitment decisions are based on merit and that only candidates meeting the highest standards of competence, professionalism and integrity are appointed, in line with paragraph 4.2 of the Staff Regulations. Transparency and fairness are interdependent. A process that is transparent and sufficiently open to scrutiny, provides the conditions under which fair treatment can be verified. Conversely, a lack of transparency may raise doubts as to the fairness of the process, even in situations where its outcome is objectively justified."
    - ATCE, appeal No. 763/2024 *M.-S. F. v. SG*, judgement of 3 June 2025, para 32 and 35

- "[T]he extension of the employment relationship between the appellant and the Organisation, whether it be renewal of the existing contract or its renewal to other type of contract, could only be possible with the parties entering into a new contract, subject to meeting the eligibility criteria by the appellant [including possession of the nationality of a Member State of the Organisation]."
  - ATCE, appeal No. 742/2023, *I. S. v. SG*, judgment of 22 March 2024, para 41

- "The Tribunal notes that the condition according to which only individuals holding the nationality of a member State may become staff members of an intergovernmental organisation is widespread in the field of international public service (see for instance Article 1, paragraph 1, and Article 3 (a) of the NATO Civilian Personnel Regulations, Regulation 6 (b) of the OECD Staff Regulations and Article 27 of the Staff Regulations of EU officials). At the Council of Europe, Article 14 (a) of the Staff Regulations is the statutory reflection of this principle. As an objective condition which applies to any recruitment, the nationality criterion leaves no room to the discretion of the Administration: in the absence of such a condition, a recruitment would not be legally possible."
  - ATCE, appeals Nos. 722/2022, 731/2022, 732/2022 and 733/2022, *Orekhova and Others v. SG*, judgment of 4 April 2023, para 57

- "[O]nly candidates who satisfy the eligibility criteria throughout the whole recruitment procedure may ultimately be recruited. It would thus not be justified to distinguish between the various stages of the procedure and to consider that the recruitment conditions apply only to the first stage, namely preselection, and not to the subsequent stages of the procedure. (…)

  [I]f a candidate who fulfilled the recruitment conditions in the first place and was thus admitted to take part in a selection procedure, subsequently ceases, for whatever motive, to possess one or more of these conditions, he or she is no longer eligible to continue to take part in the procedure, irrespective of his or her chances of successfully passing the remaining stages".
  - ATCE, appeal No. 719/2022, *Gurin v. SG*, judgment of 31 January 2023, paras 48 and 49

- ATCE, appeal No. 604/2019, *Mihalache v. SG*, judgment of 30 October 2019, para 45, also cited under "**Interest in the proceedings**"

- "In matters of staff management and, in particular, when a vacant post is to be filled, a procedure respecting the letter and spirit of the statutory provisions and regulations has the advantage of preventing any misuse of powers and is, moreover, of a nature to ensure the transparency which is necessary in such matters. The conditions and procedures laid down by the Staff Regulations are in fact designed to ensure the respect of the principle of certainty of the law which is inherent in the system of the Council of Europe and is therefore in the interests of the Organisation as well as in the interests of members of its staff.

  Cited in a dispute concerning an internal promotion, these principles also apply in matters of external recruitment which, from this point of view, is on a par with "internal" procedures such as transfers and promotions (ibid., paragraph 110).

It is clear, therefore, that the appellant was entitled to expect the position to be filled on the basis of the recruitment procedure launched for this purpose, for which there was a valid reserve list and which had never been closed.

It follows that, despite the discretionary power which he enjoys in such matters, the 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, or, at the very least, without explaining why he was excluding the persons on the list. In short, the Secretary General was required to comply with the rules that apply in matters relating to recruitment. Indicating that he was going to apply a rule requiring him to give priority to certain persons – a rule of whose existence in the Organisation's internal legal system he has provided no evidence, in the face of the appellant's assertions that there is no such rule – cannot be deemed to constitute compliance with the aforementioned rules.

The same applies even if no one on the reserve list has an individual right to be recruited. 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."

- ATCE, appeal No. 604/2019, *Mihalache v. SG*, judgment of 30 October 2019, paras 83 to 88

- ATCE, appeal No. 604/2019, *Mihalache v. SG*, judgment of 30 October 2019, paras 109 and 110, also cited under "**Damage – Harm**"

- "[A] recruitment procedure is, in general, aimed at identifying the best and most qualified candidates for a particular post or position in a timely and cost-effective manner within the Organisation. It is imperative that every recruitment procedure respect the principles of efficiency, transparency and equality. Moreover, written regulations on the recruitment and employment process must be clear, transparent and effectively enforced."

  - ATCE, appeal No. 592/2018, *Demir Saldirim (II) v. SG*, judgment of 30 January 2019, para 37

- "[T]he contractual policy and the procedure of conclusion of employment contracts have to be carried out in a clear, transparent and unambiguous manner from the outset and that the expression of will of the parties involved has to be comprehensive, clear and explicit. Moreover, an individual's consent for accepting the employment offer has to be a freely given specific indication of his or her wishes by which the individual signifies his or her agreement to accept the offer.

  In the present case, the Tribunal observes that having received the employment offer on 23 December 2016, the appellant signed it two days later mentioning "Read and agreed having taken note of the Staff Regulations". Nevertheless, he did not dispatch the offer back to the Directorate of Human Resources immediately afterwards, having some hesitations in respect of the career step assigned to him. He addressed this issue to the Directorate of Human Resources underlying that, in any event, this did "not constitute whatsoever a condition for [him] to accept the offer".

The Tribunal admits that, in its reply, the Directorate of Human Resources failed to provide the appellant with full information on circumstances in which additional steps could be awarded to an external candidate at his or her recruitment, as referred to in the second paragraph of Article 1 of Rule No. 1322. It notes, however, that this omission could be explained by the fact that there was no genuine doubt about the appellant's intention to join the Organisation, he himself having been clear in his statements as to the acceptance of the employment offer in its original terms, including the salary stipulations. The Directorate of Human Resources could, therefore, reasonably consider that there was no need to provide further information about the conditions of employment and that there was no room for using this recruitment tool in the appellant's case.

In other words, though the Directorate of Human Resources did not act in a wholly clear, transparent and unambiguous manner not disclosing the full text of Rule No. 1322 to the appellant, the latter could and had to express himself comprehensively, clearly and explicitly in respect of the conditions under which he was prepared or not to accept the employment offer. The Tribunal adds in this respect that the procedure of conclusion of employment contracts is guided by the principle of contractual liberty, based on mutual agreement and free choice."

- ATCE, appeal No. 581/2017, *de Almeida Pereira v. SG*, judgment of 7 March 2018, paras 44 to 47

- "It goes without saying that the aim of the procedure must be taken into account when the tests to be set in a competition are chosen. The Tribunal must ascertain whether the tests chosen were relevant in view of the aims of the procedure (…).

  After examining a sample of the tests in question, the Tribunal draws the conclusion that they were not suited to the aim pursued by the special procedure. [A]s noted by the Advisory Committee on Disputes in its opinion (…), these tests are followed by written papers whose aim is "to ascertain the actual ability of candidates to perform category A functions at the Council of Europe" (…).

  The Tribunal does not understand therefore what extra benefit tests devised in this way could bring to the process of selecting candidates in comparison with the written papers which were to follow. In this context, it is worth pointing out that the candidates for this special procedure are serving staff who have been well graded and who must in any case sit further examinations before being authorised to take part in internal competitions to be selected to fill a category A post. And, of course, following this, they must pass these competitions before they actually change category.

  Therefore, when choosing the type of tests which the appellant was required to sit, the Secretary General exceeded the limits of his discretionary power as to the choice of tests in a procedure whose aim is to validate the skills of staff already in post."

  - ATCE, appeal No. 543/2014, *Kurt Torun v. SG*, judgment of 6 February 2015, paras 54 to 57

Probationary period

- "[I]t is of the essence that during the probationary period, the Organisation be vested with the power both to define its own needs, requirements and interests, and to decide whether, judging by the staff member's performance during the probationary period, they have the abilities and qualities required to be confirmed in their employment at the Council of Europe. These determinations necessarily lie within the responsibility and

discretion of the respondent (see World Bank Administrative Tribunal (WBAT), Decision No. 10 of 8 October 1982, Salle v. International Bank for Reconstruction and Development (IBRD), § 27).

At the same time, staff on probation enjoy the rights and guarantees recognised by the applicable regulations. Some of these guarantees may also be based on general principles of law. As the Tribunal has had occasion to point out, these principles include, in particular, "transparency, effective and sufficient communication of information and mutual respect between the appraiser and the appraisee" (Administrative Tribunal of the Council of Europe (ATCE), Appeals Nos. 561-564/2015, Kacsandi (I, II, III and IV) v. Governor of the Council of Europe Development Bank, decision of 26 April 2016, § 115). Compliance with these principles and conditions is all the more important given that the probationary period marks a difficult time in the professional career of the staff members concerned, both in terms of adapting to the needs and policies of the Organisation and because of the inherently precarious nature of their situation."

- ATCE, appeals Nos. 761/2024 and 762/2024, *L. D. (I and II) v. SG*, judgment of 25 March 2025, paras 93 and 94

- "The Tribunal notes that the applicable regulation [to the probationary period] does not provide for any derogation from the provisions governing the frequency of appraisals during probationary periods or for the staff member concerned to be able to waive the procedure.
(…)
[The requirement for thorough compliance with the rules governing the organisation of appraisals and the conduct of the procedure provided for in this respect] is particularly marked if the appraisee is on a probationary period and confirmation of their employment by the Organisation is dependent on the successful completion of this period."
  - ATCE, appeal No. 747/2024, *M.-L. L. v. SG*, judgment of 30 January 2025, paras 48 and 49

- "(…) [T]he decision whether to confirm an appointment and to offer a new contract [after an initial fixed-term contract] remains within the realm of the Secretary General's discretion (…)."
  - ATCE, appeals Nos. 722/2022, 731/2022, 732/2022 and 733/2022, *Orekhova and Others v. SG*, judgment of 4 April 2023, para 52

- "[D]uring the probationary period, it is primarily for the staff member to demonstrate that he or she possesses the skills, qualities and abilities required to meet the demands of the post, and (…) the Organisation cannot be expected to make up for the staff member's poor performance as part of its duty of care".
  - ATCE, appeal No. 671/2020, *Nectoux v. SG*, judgment of 21 October 2021, para 58

- "[N]ormally, a probationary period is accompanied by an initial contract of employment and if, during that period, the contract is terminated, it is terminated in accordance with the relevant rules, on one or more of the permissible grounds for such termination. That means that the probationary period may not necessarily have concluded by the time the decision to end the person's employment is taken."
  - ATCE, appeal No. 606/2019, *Cosset v. SG*, judgment of 30 October 2019, para 67

- ATCE, appeal No. 606/2019, *Cosset v. SG*, judgment of 30 October 2019, para 68, also cited under "**Scope of judicial review**"

Contract

- "[T]he appellant's action [striking out from the job offer the clause relating to the probationary period] could have constituted a proposed modification of the terms of the contract that was to bind the two parties if the appellant, in accordance with the principle of good faith, had initiated discussions on the matter with the relevant staff members in the Directorate of Human Resources.

  However, such a proposed modification has the effect of the act concerned not becoming final until the other party has accepted it explicitly. Implicit acceptance, as suggested by the appellant in the present case, cannot be taken into consideration for two reasons.

  Firstly, because the document was a written offer of employment meant to become "the initial contract" and to make "the appointment effective" (paragraph 15 above). Any modification could therefore only be made by rewriting the offer or by means of a supplementary amendment. Secondly, because the offer of employment came from the Director of Human Resources; consequently, only she could agree to any changes.

  Even though the wording of the offer was individualised, it nevertheless formed a kind of catalogue of general conditions that had to be agreed to or refused in full and in no circumstances were to be changed by unilateral modification of the text. Although the appellant was entitled, in exercising his contractual powers, to notify the Organisation before signing the offer of his disagreement with the inclusion of the clause on the probationary period, it was not up to him to call it into question in the way he did. (…)

  As is clear from the case-law of the Tribunal (see appeals Nos. 462/2009 and 533/2012), the expression of a reservation concerning the modification of a contract offered by the Organisation must accordingly be formalised in an administrative complaint."
    - ATCE, appeal No. 616/2019, *Lourenco Agostinho v. SG*, judgment of 17 December 2019, paras 66 to 70

- "The Tribunal notes firstly that the existence of different types of contract within the Council of Europe and their implementation are an integral part of the Organisation's contractual policy. The aim of this policy is two-fold: firstly, to ensure the optimum functioning of all Council departments and so achieve optimum results and, secondly, to ensure that the staff assigned to these departments are treated in a way that is fair, transparent, honourable and non-discriminatory.

  The Tribunal takes the view that for a contractual policy to be effective and sound, it must be based on an appropriate assessment of the different kinds, content and nature of the work and/or duties performed within the Organisation, before establishing which type of contract should be assigned to a specific post. In other words, the type of employment contract must be line with the particular features of the job. (…)

  [I]n pursuing its contractual policy, the Organisation should simultaneously ensure that the interests of all staff members, whether they are established civil servants or not, are respected. That means not only implementing the regulations on staff management in a way that is strict, fair and consistent, but also treating staff with respect for their human

dimension. This rule applies in particular in the case of questions relating to their professional career and, more specifically, when their career at the Council of Europe ends (see, mutatis mutandis, judgment no. 546/2014, Devaux v. Secretary General, paragraph 22, 30 January 2015).

Certainly, the Secretary General, the Council of Europe bodies and the Organisation's senior management have a responsibility to ensure the optimum functioning of all departments and have some discretion as to the regulatory framework applicable to contracts. It is obvious, however, that it is impossible to do that properly without involving – directly or indirectly – middle-management staff, as they are the ones who have detailed knowledge of their day-to-day tasks and duties, including the scale of human resources needed to carry out the requisite work and the financial resources available for that purpose.

The Tribunal notes that, for some time now, the Organisation has had to contend with serious budgetary problems which demand the adoption of necessary, or even unavoidable, measures involving cutbacks to some of its activities, together with human resources. Not even the most severe budgetary difficulties, however, entitle the Organisation to act in a manner that would be incompatible with the values of an international organization, including respect for its staff, the duty of care and non-discrimination."

- ATCE, appeals Nos. 587/2018 and 588/2018, *Devaux (II) and (III) v. SG*, judgment of 9 October 2018, paras 61, 62 and 101 to 103

- ATCE, appeal No. 581/2017, *de Almeida Pereira v. SG*, judgment of 7 March 2018, paras 44 to 47, also cited under "**Appointment – Recruitment – Entry into service**"

Temporary contract / Fixed-term appointment

- "[I]t is the exact purpose of a fixed-term contract to render the eligibility criteria [for recruitment] applicable to its renewal".
  - ATCE, appeals Nos. 722/2022, 731/2022, 732/2022 and 733/2022, *Orekhova and Others v. SG*, judgment of 4 April 2023, para 59
    See also:
  - ATCE, appeal No. 721/2022, *Izyumenko v. SG*, judgment of 12 June 2023, para 42

- "[T]he Staff Regulations do not provide that silence on the part of Administration regarding the provisions governing the contracts offered by the Organisation means acceptance of a request made by a staff member following the signature of a contract offered by Administration. (…) On the other hand, the Tribunal points out that, for instance, in terms of the administrative requests covered by Article 59, paragraph 1, of the Staff Regulations, silence on the part of Administration during a given period Is deemed an implicit decision rejecting or not accepting the requests.

  The appellant's argument that Administration tacitly agreed to his request [not to be subject to a new probationary period following a fresh recruitment and a change in contractual status] must therefore be rejected. The Tribunal points out that the modification of an employment contract drawn up in accordance with the provisions of the Staff Regulations must comply with the rules provided for. Consequently, no complaint based on alleged tacit acceptance of the modification of an employment contract governed by the Staff Regulations may reasonably be made."

- ATCE, appeal No. 616/2019, *Lourenco Agostinho v. SG*, judgment of 17 December 2019, paras 62 and 63

Permanent contract / Indefinite-term appointment

- "[T]he appellant is wrong to assert that the effect of concluding a CDD [fixed-term contract] for a length exceeding the established limit is the "reclassification" of his contractual relationship as a CDI [indefinite-term contract]. Even if it is supposed that the Bank infringed the rule concerning the maximum length in force for employment on a CDD, this infringement would not necessarily create a new entitlement, namely the right to a CDI, and nor would it result in the automatic conversion of his CDD into a CDI."
  - ATCE, appeal No. 743/2024, *B. S. v. Governor of the Development Bank*, judgment of 25 November 2024, para 46

Appointments Review Committee / Appointments Board

- "[T]he Tribunal does not see how the fact that the Director of Human Resources fulfilled her responsibilities in the course of her duties – by receiving the appellant's harassment complaint and, consequently, offering her a temporary assignment – could call into question her impartiality as a member of the Appointments Review Committee."
  - ATCE, appeals Nos. 761/2024 and 762/2024, *L. D. (I and II) v. SG*, judgment of 25 March 2025, para 111

- "In terms of procedure, the Tribunal notes that the Appointments Board did indeed refer to satisfactory performance of the appellants and accordingly confirmed the successful completion of their probationary period, in accordance with Article 20, paragraph 2 of the Regulations on Appointments. The Board's recommendation, however, left the Secretary General's discretion in this matter intact and no irregularity in the procedure may be observed in this regard".
  - ATCE, appeals Nos. 722/2022, 731/2022, 732/2022 and 733/2022, *Orekhova and Others v. SG*, judgment of 4 April 2023, para 55

- "[T]he duty to act impartially is incumbent not only on the authority competent for issuing the final decision, but also on bodies responsible for making a recommendation to this authority. The case-law in question takes into consideration the influence such bodies may exert on the ultimate decision (ILOAT, Judgments 4234, consideration 3, 2667, consideration 5, and 3958, consideration 11), whilst specifying that the degree of impartiality required of the members of such bodies is proportionate to the function they perform (TACE, decision No. 346/2005 Carlos BENDITO (III) v. Governor of the Council of Europe Development Bank, 19 May 2006).

  [T]he Tribunal finds that it was for the Administration, pursuant to the principles of equal treatment and impartiality mentioned above, to ensure that the stage of the selection procedure taking place before the Appointments Board was properly organized so that all members of the selection panel had the necessary independence to preclude any doubt as to their objectivity (Judgment in CG v EIB, EU:F:2014:187, paragraph 61).

  The Tribunal notes in this respect that these principles applied to the Appointments Board and to the Directorate of Human Resources – in the discharge of its responsibilities relating to the organization of the selection process – regardless of the existence in the applicable rules of an explicit provision to that effect. (...)

In the presence of a doubt, the Tribunal must verify whether the procedure followed before the Appointments Board offered sufficient guarantees to rule out any legitimate doubt in respect of the impartial functioning of this body.

The Tribunal notes in this regard that under the applicable rules, the procedure followed before the Appointments Board in the competition in which the appellant took part did not make room for specific measures aimed at regulating situations in which the question of a lack of impartiality of a member of the Board could possibly have arisen (…).

[T]he rules in question did not stipulate a duty for a member of the Board to withdraw where there is a legitimate reason to fear a lack of impartiality on his or her part. The Tribunal notes that it is a general rule of law that an official who is called upon to take a decision affecting the rights or duties of other persons subject to her or his jurisdiction must withdraw in cases in which her or his impartiality may be open to question on reasonable grounds (ILOAT, Judgment 4240). (…)

[T]he Tribunal takes the view that when an issue of impartiality arises with regard to a person who was part of a collegial body such as the Appointments Board, considering the confidentiality of the deliberations of the Board, it may be impossible to ascertain a person's actual influence in the decision-making, thus leaving the impartiality of the Board open to genuine doubt (see mutatis mutandis, EctHR, Morice v. France [GC], paragraph 89; Otegi Mondragon v. Spain, paragraph 67; Škrlj v. Croatia, paragraph 46; Sigríður Elín Sigfúsdóttir v. Iceland, paragraph 57)."

- ATCE, appeal No. 665/2020, *Yuksek (II) v. SG*, judgment of 12 February 2021, paras 70 to 72, 77 to 79 and 82

Category, grade and job

- ATCE, appeal No. 744/2024, *I. S. V. v. SG*, judgment of 14 August 2024, paras 55 to 59, also cited under "**Practice**"

- "[The Tribunal] reiterates that any contentions about mismatch between the actual duties performed and the grade held had to be raised in due time before the Administration and then, if necessary, before this Tribunal."
  - ATCE, appeal No. 745/2024, *Z. G. v. SG*, judgment of 22 March 2024, para 30

- ATCE, appeals Nos. 739, 740 and 741/2023, *E. T. and Others v. SG*, judgment of 22 March 2024, para 65, also cited under "**Transfer – Job exchange**"

- "[I]f the appellant believed he was entitled to a grade higher than the one accorded to him, it was incumbent on him to lodge a complaint to that effect using the remedies available to him at the material time and to seek a decision which he could, if necessary, have challenged before the Tribunal."
  - ATCE, appeal No. 738/2023, *C. A. v. SG*, judgment of 25 January 2024, para 30

- "[T]he grade actually held by staff members is an objective criterion for assessing the nature of the work performed and the level of responsibility exercised by them."
  - ATCE, appeal No. 738/2023, *C. A. v. SG*, judgment of 25 January 2024, para 37

- "[For the purposes of their classification in a given grade], it is not discriminatory to value the professional experience of staff members moving from one category to another following an internal competition and that of candidates recruited following an external competition according to different systems insofar as the circumstances of the two groups are objectively different."
    - ATCE, appeal No. 738/2023, *C. A. v. SG*, judgment of 25 January 2024, para 38

- "[P]romotion to a higher grade is a stage in the career of Bank staff which is strictly regulated by the relevant texts on promotion, reclassification and upgrading of posts."
    - ATCE, appeal No. 673/2021, *C v. Governor of the Development Bank*, judgment of 27 January 2022, para 93

- ATCE, appeal No. 603/2019, *Ana v. SG*, judgment of 22 October 2019, paras 48, 49 and 52, also cited under "**Administrative decision adversely affecting an individual**"

- ATCE, appeals Nos. 587/2018 and 588/2018, *Devaux (II) and (III) v. SG*, judgment of 9 October 2018, paras 63 to 70, also cited under "**Equal treatment – Prohibition of discrimination**"

- ATCE, appeal No. 581/2017, *de Almeida Pereira v. SG*, judgment of 7 March 2018, paras 44 to 47, also cited under "**Appointment – Recruitment – Entry into service**"

Classification of jobs

- "[T]he Tribunal shares the Secretary General's view that the decision to assign a certain level of the UN Salary Scale to positions classified at grade B5 was concerned with the Organisation's job classification and the correspondence established for the jobs concerned on the UN Salary Scale in order to apply the relevant provisions of Rule No. 1234, rather than with the management of the appellant's individual career (see, mutatis mutandis, ATCE Appeal No. 397/2007, Patrick Buchmann v. the Secretary General, judgment of 3 July 2008, paragraph 34; ATCE Appeal No. 398/2007 Nadine Bolender v. the Secretary General, judgment of 3 July 2008, paragraph 30)."
    - ATCE, appeal No. 603/2019, *Ana v. SG*, judgment of 22 October 2019, para 55

Performance

- "[T]he Governor could legally rely on the appraisal system set up within the Bank to assess the appellant's "performance" within the meaning of paragraph 450.2 of the new Staff Rules. Bearing in mind that staff appraisal is a regulated process whose aim is to draw objective and transparent conclusions about staff members' performance levels, the appellant's annual appraisal reports could be considered a reliable and sufficient source of information through which to determine whether it was justified to convert his CDD [fixed-term contract] into a CDI [indefinite-term contract]. It cannot therefore be claimed that the Bank should have carried out more detailed enquiries into the appellant's performance before deciding that it was not in its interest to request the conversion of his CDD."
    - ATCE, appeal No. 743/2024, *B. S. v. Governor of the Development Bank,* judgment of 25 November 2024, para 66

- ATCE, appeal No. 743/2024, *B. S. v. Governor of the Development Bank,* judgment of 25 November 2024, para 68, also cited under "**Discretion / Discretionary power**"

- "[T]he principles which govern the exercise of the Organisation's discretionary power also apply to appraisals, with the proviso that "appraisal is not a field in which discretionary power can be exercised with the latitude which the Organisation enjoys in other areas. Indeed, the very nature of the appraisal exercise demands that the Organisation should be as objective as possible and, therefore, that it should remain as objective as possible in the appraisal process. Scrutiny of substantive legality should therefore be stricter than in other fields.""
    - ATCE, appeal No. 650/2020, *Levertova v. Governor of the Development Bank*, judgment of 12 February 2021, para 50
      See also:
    - ATCE, appeal No. 593/2018, *Schio v. Governor of the Development Bank*, judgment of 20 June 2019, para 83, also cited under "**Scope of judicial review**"
    - ATCE, appeals Nos. 561-564, *Kacsandi (I, II, III, and IV) v. Governor of the Development Bank*, judgment of 26 April 2016, para 120

- "Under the appraisal procedure, the designation of the person responsible for appraising a staff member is an important aspect, as it determines objectivity and impartiality. As a rule, appraisal is usually the responsibility of the staff member's immediate supervisor, who collaborates with them closely and continuously (ILOAT, Judgment No. 197 of 13 November 1972, Sternfield v. WHO, BO 1973, 178). Nevertheless, the exercise of this power is usually subject to safeguards for the benefit of the staff member, with provision being made for the involvement of a number of individuals in addition to the appraiser in the appraisal process. (…)

  The active involvement of the various players in the appraisal process is all the more important since there may be difficulties in the direct working relations between the appraiser and the appraisee in given cases. International case law on the matter considers, for example, that objective appraisal of performance and professional conduct is not possible in the case of "hostile" relations between employees and their superiors (Administrative Tribunal of the United Nations, Judgment No. 1184 of 23 July 2004, Vidal v. Secretary General of the United Nations, and Judgment No. 1167 of 23 July 2004, Olenja v. Secretary General of the United Nations; Judgment No. 363 of 16 May 1986, De Franchis v. Secretary General of the International Maritime Organisation). In such circumstances, it may be justified to delegate appraisal to other persons more capable of completing the process in compliance with the necessary safeguards of objectivity and/or to support the manager concerned and back them up during the interviews so that they are not left to deal with a tricky situation on their own."
    - ATCE, appeal No. 650/2020, *Levertova v. Governor of the Development Bank*, judgment of 12 February 2021, paras 52 and 54

- "[T]he purpose of the appraisal procedure being divided into a series of separate stages is to stagger the dialogue between the parties concerned and give them the necessary time for reflection."
    - ATCE, appeal No. 650/2020, *Levertova v. Governor of the Development Bank*, judgment of 12 February 2021, para 58

- ATCE, appeal No. 605/2019*, X v. SG*, judgment of 31 October 2019, para 72, also cited under "**Exhaustion of internal remedies – Management review – Administrative complaint**"

- "[I]n general terms, the periodical appraisal is a method of evaluating employees' work performance. Its purpose is to obtain and analyse information concerning employees' professional accomplishments and personal qualities. There are certain principles and requirements that must be complied with during the appraisal procedure, including, in particular, transparency, effective and sufficient communication of information and mutual respect between the appraiser and the appraisee. Compliance with these requirements is particularly important for an appraisee who is in the probationary period and uncertain as to his or her final appointment. The Tribunal emphasises that the appraisal process must take the form of a constructive dialogue between the appraiser and the appraisee.

  At the same time, the Tribunal does not lose sight of the fact that certain ethical principles have to be respected in the conduct of the appraisal process, such as transparency and constructive dialogue between the stakeholders involved in the process."
    - ATCE, appeals Nos. 561-564, *Kacsandi (I, II, III, and IV) v. Governor of the Development Bank*, judgment of 26 April 2016, paras 115 and 121

Transfer / Job exchange

- "[A] decision to transfer a staff member to another job will imply, as a general rule, his or her transfer to a job classified in the same category and grade. As an exception to this rule and subject to certain conditions, Article 590.1 of the Staff Rule on career development on supernumerary transfer allows however departing from the requirement of the equivalence of jobs/grades and transferring a staff member to a job in a lower grade.
  (…)
  As to the condition set in Article 590.1 of the Staff Rule on career development that the supernumerary transfer should occur only "for a limited time", it cannot be inferred from this condition that the Secretary General should have provided the appellants with an indication of the precise duration of their transfers. (…) [U]nder the terms of Article 590.2, the supernumerary transfer is to be terminated and the staff members concerned returned to a job corresponding to their grade "as soon as a vacancy [for which they are qualified] arises". Considering that the precise moment in which such a vacancy arises cannot be determined in advance, the Tribunal infers from this provision that the duration of the supernumerary transfer will depend on the occurrence of this circumstance."
    - ATCE, appeals Nos. 739, 740 and 741/2023, *E. T. and Others v. SG*, judgment of 22 March 2024, paras 65 et 67

- "Practical suggestions were considered with a view to facilitating [the appellant's] return [at work], including assigning her a different supervisor. The appellant, however, persisted in requesting a transfer and the suggestions made could not be implemented on account of her prolonged absence. The Tribunal notes in this regard that it is generally recognised that international civil servants do not have any right to a transfer, *a fortiori* when they are on probation".
    - ATCE, appeal No. 671/2020, *Nectoux v. SG*, judgment of 21 October 2021, para 57

Secondment to the Council of Europe

- ATCE, appeal No. 720/2022, *E v. SG*, judgment of 1 February 2023, para 49, also cited under "**Locus standi**"

- "[T]he object of the present appeal does not concern the standard recruitment of staff members of the Organisation but rather the procedure for selecting lawyers to be seconded by member states to the Registry of the Court. Unlike staff members of the Organisation, secondees, during their appointment at the Registry, continue to be employed by the national administration. In other words, a seconded lawyer does not enter into an employment relationship with the Council of Europe on the basis of his or her secondment.

  Nevertheless, despite those differences, the Tribunal considers that, as already indicated in its previous decision in appeals Nos. 579/2017 and 580/2017, the above-mentioned principles regarding the standard recruitment process must necessarily also be respected in the selection procedure for seconded lawyers. By the same token, once the selection procedure has been completed in full accordance with these principles and written rules, it is up to all the persons involved to respect the outcome of this selection procedure."
    - ATCE, appeal No. 592/2018, *Demir Saldirim (II) v. SG*, judgment of 30 January 2019, paras 38 and 39

- ATCE, appeal No. 586/2017, *Paolillo v. SG*, judgment of 17 May 2018, para 66, also cited under "**Locus standi**"

Restructuring / Reorganisation

- "[A] staff member who is affected by any such reorganisation has the right to expect it to be implemented without he or she being effectively downgraded by reason of the new tasks which he or she is required to perform.

  At the same time, however, a staff member who is affected by any such reorganisation has the right to expect it to be implemented without he or she being effectively downgraded by reason of the new tasks which he or she is required to perform.

  In the opinion of Tribunal, that is precisely what happened in this instance.

  While it is true that the appellant kept her grade, the fact remains that, quite apart from the redeployment and the creation of a new hierarchical relationship, there has been an "assignment" of tasks which amounts to a downgrade in relation to the tasks which the appellant performed prior to the reorganisation in question.

  The Tribunal has reached this conclusion both because of the change in the appellant's job title and because of the content of the new tasks assigned to her and which appear to the Tribunal to be significantly diminished in relation to her previous role and responsibilities."
    - ATCE, appeal No. 565/2015, *Oristanio (II) v. Governor of the Development Bank*, judgment of 29 January 2016, paras 44 to 48

Step advancement

- "[A]dvancement to a higher step signifies a progression in a Council of Europe staff member's career within a grade. It is reflected in a salary increase which, in principle, has no effect on the duties performed".
    - ATCE, appeal No. 560/2014, *Yakimova v. SG*, judgment of 23 October 2015, para 30

- "Paragraph 1 of Article 3 of the regulations governing staff salaries and allowances states that "[e]ach staff member, confirmed in employment, shall advance up the scale for his or her grade by the steps shown" (…). According to Article 17 of the Staff Regulations, before staff members can be confirmed in their appointment, they must have satisfactorily completed a probationary period, which, in the appellant's case, was set at twelve months, a fact which she does not dispute. It follows that advancement to the next step concerns only staff members confirmed in employment, i.e. once the probationary period has been successfully completed."
    - ATCE, appeal No. 560/2014, *Yakimova v. SG*, judgment of 23 October 2015, para 33

Non-renewal

- ATCE, appeal No. 723/2022, *Zaytseva v. SG*, judgment of 12 June 2023, paras 50 to 53, also cited under "**Legitimate expectation**"

- "[T]here is no rule requiring Administration to meet any specific deadlines for the renewal of contracts and the notification of the staff member concerned. (…)
  While it is true that the appellant was only notified that her contract would not be renewed on 12 May 2022, meaning that the two-month notice period was not respected, it remains that she was awarded compensation, taking the form of a lump sum equivalent to two months' pay from the date of notice."
    - ATCE, appeal No. 723/2022, *Zaytseva v. SG*, judgment of 12 June 2023, paras 59 and 60

- "[T]here is no obligation for the Secretary General deriving from the applicable rules to assess the possibilities of reassigning to other Departments a staff member whose fixed term contract is not renewed."
    - ATCE, appeal No. 721/2022, *Izyumenko v. SG*, judgment of 12 June 2023, para 48

- "[There is a] general principle that a staff member under a fixed-term appointment is not entitled to the renewal of his contract, as "[t]*he very nature of this type of contract precludes the existence of any such entitlement*"."
    - ATCE, appeals Nos 722/2022, 731/2022, 732/2022 and 733/2022, *Orekhova and Others v. SG*, judgment of 4 April 2023, para 53, also cited under "Scope of judicial review"
      See also:
    - ATCE, appeal No. 723/2022, *Zaytseva v. SG*, judgment of 12 June 2023, para 40
    - ATCE, appeal No. 721/2022, *Izyumenko v. SG*, judgment of 12 June 2023, para 43
    - ATCE, appeals Nos 587/2018 and 588/2018, *Devaux II and III v. SG*, judgment of 9 October 2018, para 109, also cited under "**Duty of care**"
    - ATCE, appeal No. 567/2015, *Skouras v. SG*, judgment of 29 January 2016, para 83

- "The Tribunal concedes that the Secretary General needed to make cutbacks in response to the very serious budgetary difficulties facing the Organisation and which, generally speaking, might have been considered valid grounds for the decision not to renew a

contract (see NATO Administrative Tribunal, case no. 2014/1011, paragraph 36, 12 November 2014)."

- ATCE, appeals Nos. 587/2018 and 588/2018, *Devaux (II) and (III) v. SG*, judgment of 9 October 2018, para 109

4. HEALTH AND SAFETY AT WORK – WORKING CONDITIONS

Special leave

- ATCE, appeal No. 617/2019, *Ubowska v. SG*, judgment of 17 December 2019, paras 30 to 32, also cited under "**Practice**"

Unpaid leave / Leave for personal reasons

- "[P]lacement of a staff member on unpaid leave is only possible if the staff member continues to have an employment relationship with the Organisation. Termination of this relationship will inevitably result in the end of the leave as the length of leave cannot exceed or have any impact whatsoever on the length of employment (see *mutatis mutandis* ILOAT, judgment No. 157 , consideration 1)."
  - ATCE, appeal No. 723/2022, *Zaytseva v. SG*, judgment of 12 June 2023, para 64

Harassment

- "[A]ccording to paragraph 4.6 of the Policy on Respect and Dignity in the Council of Europe, harassment is, *inter alia*, conduct or behaviour which is "repeated, sustained or systematic" and which "is prejudicial to the dignity, integrity, well-being or job security of the person to whom it is directed, and/or creates a humiliating, intimidating or hostile work environment". In accordance with paragraph 4.4 of the Policy on Respect and Dignity in the Council of Europe, however, legitimate application of the Organisation's policies, fair and reasonable management practices or justified and constructive criticism do not amount to disrespectful behaviour. It is clear from the relevant case law (in particular ATCE, Appeal No. 673/2021, C v. Governor of the Council of Europe Development Bank, decision of 27 January 2022, § 90; General Court of the European Union, judgment of 19 June 2024, P. V. v. European Commission, T-89/20, paragraphs 324-325; General Court of the European Union, judgment of 9 April 2025, HF v. European Parliament, T-565/22, paragraphs 186 and 195), that professional disagreements, conflictual relations or unfavourable assessments of performance are not in themselves sufficient hallmarks of harassment, in the absence of a pattern of abusive behaviour that is repeated, sustained or systematic.
  (…)
  [While ruling out any characterization as harassment] (…) the investigation report finds "evidence of a distinct lack of communication" on both sides (the appellant and her line manager). As far as the appellant is concerned, the report refers in particular to a "lack of flexibility", which "could have been construed by her manager as defiance". The appellant's conduct was a legitimate consideration for the investigators in seeking to understand the context of the acts of which her line manager stands accused and the nature of the relationship between the appellant and the latter (see General Court of the European Union, judgment of 9 April 2025, HF v. European Parliament, T-565/22, paragraph 198)."
  - ATCE, appeal No. 766/2024, *L. D. (III) v. SG*, judgment of 24 June 2025, paras 103 and 106

- ATCE, appeals Nos. 761/2024 and 762/2024, *L. D. (I and II) v. SG*, judgment of 25 March 2025, para 109, also cited under "**Partiality / Bias**" and paras 122 and 123, also cited under "**Stay / Stay of execution**"

- "[N]one of the circumstances mentioned by the appellant – whether work-related comments made by her superiors, disagreements over her professional performance, comments made in the context of her annual appraisals or refusals to promote her – amount to harassment. The applicable legal framework, moreover, explicitly precludes such actions from constituting a violation of the integrity and dignity of the staff member if they are carried out in good faith. And there is nothing in the file to suggest that, in the appellant's case, such conduct was an expression of bad faith on the part of her superiors and/or the Administration, thus leading the Tribunal to conclude that the appellant has not provided evidence of the alleged harassment."
  - ATCE, appeal No. 673/2021, *C v. Governor of the Development Bank*, judgment of 27 January 2022, para 90, also cited under "**Burden of proof**"

- "The Tribunal has stated in the past (see paragraph 129, ATCE decision in appeals Nos. 582/2017 and 583/2017, Brillat and Priore (III) v. the Secretary General), that "it is for the Secretary General – exercising his disciplinary power if necessary – to take all necessary steps to ensure that the(…) interviews [of witnesses before the Commission against Harassment] are anonymous and that persons who give evidence are not subjected to reprisals or threats".
  The possibility thus granted to the Administration is not necessarily incompatible with respecting the right to be heard of a person who is accused of acts of harassment."
  - ATCE, appeal No. 651/2020*, B v. SG*, judgment of 13 July 2021, paras 118 and 119
    See also:
  - ATCE, appeal No. 594/2018, *Bauer v. Governor*, judgment of 20 June 2019, para 70

- "It is (…) widely recognised in case law that where an organisation becomes aware of harassment, it must deal with it as quickly and efficiently as possible, in order to protect staff members from unnecessary suffering (see, for example, International Labour Organisation Administrative Tribunal (ILOAT), Judgments Nos. 4243 – C.W. v. OMPI, consideration 24; 3447 – K.B. v. ILO, consideration 7; and 2642 – C.E.S. (n° 2) v. WHO, consideration 8)."
  - ATCE, appeal Nos. 666/2020 and 667/2020, *Dalvy and Ochoa-Llido v. SG*, judgment of 28 June 2021, para 64

- "The Tribunal notes that, although under the applicable Council of Europe texts there is no time limit for lodging a complaint of harassment, the gap in time between the harassment and the reporting of that harassment hampers the Organisation's ability to deal with it properly. It is worth noting here that, according to the relevant case law, "[a]lthough the Organization is obliged to investigate any incidents that might constitute harassment, the employee must nevertheless report those incidents in good time so as to allow the Organization to fulfil its duty" (see judgment 4034 of the International Labour Organisation Administrative Tribunal (ILOAT), consideration 12). Early reporting also helps to establish the facts more accurately."
  - ATCE, appeal Nos. 666/2020 and 667/2020, *Dalvy and Ochoa-Llido v. SG*, judgment of 28 June 2021, para 69

- "As to the medical report in the case file, which states that the appellant had reactive depression disorder due to the harassment she described, the Tribunal notes that this dates from December 2017. As regards the evidential value of such a document, the Tribunal notes that, in any event, the opinions of medical experts are, in themselves, not such as to establish the existence, in law, of harassment or of fault on the part of the institution in the light of its duty to provide assistance (see case law of the Court of Justice of the European Union, judgments of 6 February 2015, BQ/Cour des comptes, T 7/14 P, EU:T:2015:79, paragraph 49; of 17 September 2014, CQ/Parliament, F 12/13, EU:F:2014:214, paragraph 127, and of 6 October 2015, CH/Parliament, F 132/14, EU:F:2015:115, paragraph 92). While a medical certificate may reveal that a person has psychological problems, it cannot establish that those problems result from psychological harassment, since, to make such a finding of harassment, the author of the certificate necessarily relies exclusively on the description that the person made of his or her working conditions (in this connection, see the case law of the Court of Justice of the European Union, judgments of 2 December 2008, K/Parlement, F 15/07, EU:F:2008:158, paragraph 41, and of 17 September 2014, CQ/Parliament, F 12/13, EU:F:2014:214, paragraph 127)."
    - ATCE, appeal Nos. 666/2020 and 667/2020, *Dalvy and Ochoa-Llido v. SG*, judgment of 28 June 2021, para 77

- "It follows from [Rule No. 1292 of 3 September 2010 on the protection of human dignity at the Council of Europe, the Policy Statement on Harassment adopted on 28 September 2010 and from Article 4 of the Charter of Professional Ethics of 15 July 2005] that there was an obligation on the Organisation to ensure a working environment that would protect the physical and psychological integrity of its staff."
    - ATCE, appeal Nos. 666/2020 and 667/2020, *Dalvy and Ochoa-Llido v. SG*, judgment of 28 June 2021, para 90

- "[I]n the event of an allegation of harassment, an international organisation must investigate the matter thoroughly and accord full due process and protection to the person accused. The organisation's duty to a person who makes a claim of harassment requires that the claim be investigated both promptly and thoroughly, that the facts be determined objectively and in their overall context, that the law be applied correctly, that due process be observed and that the person claiming, in good faith, to have been harassed not be stigmatised or victimised on that account (see ILOAT, Judgment No. 4013 of 26 June 2018, paragraph 8, and other references cited).

  Furthermore, the question as to whether harassment has occurred must be determined in the light of a thorough examination of all the objective circumstances surrounding the events complained of. An allegation of harassment must be borne out by specific acts, the burden of proof being on the person who pleads it, but there is no need to prove that the accused person acted with intent (see ILOAT, Judgment No. 3692 of 6 July 2016, consideration 18, and the other references cited).

  The Tribunal emphasises that the above-mentioned due process must not only respect the principles of adversarial proceedings and equality of arms, but that the administrative authority concerned must also ensure that its decisions are duly reasoned, in order on the one hand to provide the person concerned with sufficient information as to whether the decision is well-founded or whether it is vitiated by a defect that would enable him/her to challenge its legality and, on the other, to allow the EU Tribunal to exercise its

scrutiny of the legality of the impugned decision" (see European Union Civil Service Tribunal, judgment of 9 September 2015, Stéphane de Loecker v European External Action Service, F-28/14, paragraph 64, with other references)."

- ATCE, appeal No. 594/2018, *Bauer v. Governor*, judgment of 20 June 2019, paras 60 to 62

- "[P]sychological harassment is any abusive conduct in the workplace consisting in gestures, words or repetitive or systematic behaviour or action intended to cause a deterioration in the working conditions of the staff member concerned (TACE, Appeal No. 513/2011 (D. M. v. Governor of the Council of Europe Development Bank, of 11 June 2012, paragraph 64). "
  - ATCE, appeal No. 593/2018, *Schio v. Governor of the Development Bank*, judgment of 20 June 2019, para 99

- ATCE, appeal No. 586/2017, *Paolillo v. SG*, judgment of 17 May 2018, paras 74 to 81, also cited under "**Liability of the Administration**"

- "In the Tribunal's view, it is clear from reading the French and English versions of Article 1 of Rule No. 1292 [relating the composition of the Commission against Harassment] that the substitute members are assigned to individual titular members, rather than to whole components of the Commission, such as the Secretary General or the Staff Committee. The second sentence reads: "Two of the Commission members – and their substitutes – shall be appointed by the Secretary General and the remaining two – and their substitutes – by the Staff Committee" while the last sentence reads: "The substitute members shall act when their titular members are prevented from doing so". In the Tribunal's view, if the substitute members were meant to act as substitutes for the component as a whole, the first of the two sentences in question would read: "Two of the Commission members – and the substitutes – shall be appointed by the Secretary General, and the remaining two – and the substitutes – by the Staff Committee" while the second would read: "Substitute members shall act when the titular members are prevented from doing so".

  It has to be recognised, furthermore, that in his arguments, the Secretary General does not dispute this interpretation but merely seeks to justify the substitution in question by stating that one of the titular members and that member's substitute were both unavailable to sit with the Commission against Harassment and that there is no rule against the other substitute sitting at the same time as the titular member he or she was appointed to replace. In the present instance, however, the fact that there was no explicit prohibition was not sufficient and the text would have needed to make specific provision for this composition in cases where a titular member and that member's substitute are both unavailable to sit. Nor has the Tribunal received any information from the Secretary General regarding this fact that a titular member and that member's substitute cannot sit at the same time.

  [T]he Secretary General having argued that the appellants could have availed themselves of their right to object, the Tribunal notes that such challenges are more concerned with whether or not it is appropriate to sit, rather than with issues relating to the lawfulness of the composition.

  Having reached this conclusion, the Tribunal is compelled to observe that at the time when it adopted its opinion, the Commission against Harassment was not constituted in a manner consistent with Rule No. 1292. Ultimately, no significance can be attached to

the fact that the balance between representatives of the Secretary General and staff representatives was maintained."

- ATCE, appeals Nos. 582/2017 and 583/2017*, Brillat (III) and Priore v. SG*, judgment of 17 May 2018, paras 118 to 122

- "The Tribunal notes that "harassment and mobbing do not require malice or intent, but that behaviour cannot be considered as harassment or mobbing if there is a reasonable explanation for it" (see ILOA No. 3447 K.B. v. ILO, judgment of 8 February 2012, § 9).

  [A]n allegation of harassment must be borne out by specific facts, the burden of proof being on the party pleading harassment. It also notes that the Administration must respect staff members' dignity and reputation in its dealings with them, in other words, avoid putting them needlessly in a difficult personal position (see ATCE No. 285/2001, Parienti v. Secretary General, decision of 16 May 2003, paragraph 58 with further references)."

  - ATCE, appeals Nos. 561-564, *Kacsandi (I, II, III, and IV) v. Governor of the Development Bank*, judgment of 26 April 2016, paras 134 and 135

5. SALARIES AND ALLOWANCES

Salaries / Remuneration

- "The Tribunal has already recognised that the organisation has discretion in setting salaries (appeals Nos. 182-185/1994 (Auer and others v. Secretary General, paragraph 56). This power must be exercised in accordance with the rules, however. The Tribunal has a responsibility to verify, therefore, that the existing rules have been complied with. »

  - ATCE, appeals Nos. 595-601/2018, *Alberelli (III) and others v. SG*, judgment of 20 June 2019, para 89

- "[I]nternational organisations are bound to abide by the principle of equal treatment and in particular to comply with the requirement that there be equal pay for work of equal value; if their rules do not ensure adherence to that principle and the requirement of equal remuneration, it is their duty to initiate procedures that do (see ILOAT, judgment no. 2313, Z.P. v. the World Health Organization, of 4 February 2004, paragraphs 5-6)."

  - ATCE, appeals Nos. 587/2018 and 588/2018, *Devaux (II) and (III) v. SG*, judgment of 9 October 2018, para 68

Scales

- "The aim of the provisions [applicable to pensions] was to give a pensioner the benefit of a salary scale corresponding to the cost of living in the country where he/she is settled and guaranteeing purchasing power on a level corresponding to that which the pensioner enjoyed in the duty country. (…)

  Because the appellant could no longer show that she met the requirements that would entitle her to benefit from the Swiss scale, her administrative situation was contrary to the applicable rules and the Administration had a duty to take the steps necessary to bring her situation into line with them. The Tribunal points out in this regard that it is a general principle of law that every authority is required to comply with the rules which it has itself laid down, as long as they do not amend, suspend or revoke them (the principle of *tu patere legem quam ipse fecisti*).

In these circumstances, the Administration applied the applicable rules to the letter when it decided to base the calculation of the appellant's pension on the scale applicable to the country to which she had moved and hence to stop calculating it on the basis of the scale applicable to the country that she had left in the interim."

- ATCE, appeal No. 670/2020, *Weidmann (II) v. SG*, judgment of 21 October 2021, paras 39, 41 and 42

Salary adjustment

- "The Tribunal points out that under established case law, "an international organisation is free to choose a methodology, system or standard of reference for determining salary adjustments for its staff provided that it meets all other principles of international civil service law" (ILOAT, judgment No. 1821 of 28 January 1999, consideration 7 and case law cited). The case law also specifies that once the method is adopted, the organisation is bound by the salary adjustment method in force and may not act arbitrarily, outside the legal framework set up by it (ibid, consideration 8). The organisation may only deviate from the results of the method when this is provided for by the method but, in such cases the criteria used to justify such deviations must be "objective, adequate and known to the staff" (ILOAT, judgment No. 1912 of 3 February 2003, consideration 15)".
  - ATCE, appeals Nos. 677-711/2022, 713-718/2022 and 724-727/2022, *Frossard (II) and Others v. SG*, judgment of 6 June 2023, para 75

- ATCE, appeals Nos. 595-601/2018, *Alberelli (III) and others v. SG*, judgment of 20 June 2019, paras 83 to 86, also cited under "**Duty to provide reasons – No or insufficient reasons**"

- "[T]he Tribunal notes that the moderation clause is a secondary adjustment to the annual remuneration adjustment. However, even though, as the appellants have indicated, it may evolve in a different direction (positive or negative), the fact remains that it is now part of the method as applicable within the organisation and may be covered by the affordability clause in the same way as the "main" adjustment."
  - ATCE, appeals Nos. 595-601/2018, *Alberelli (III) and Others v. SG*, judgment of 20 June 2019, para 115

Household allowance

- ATCE, appeal No. 623/2019, *Smith v. SG*, judgment of 6 April 2020, paras 95, 96, 100 and 104, also cited under "**Practice**"

Allowance in respect of dependent children or other dependants

- ATCE, appeal No. 623/2019, *Smith v. SG*, judgment of 6 April 2020, paras 95, 96, 100 and 104, also cited under "**Practice**"

- ATCE, appeal No. 570/2016, *Cross v. SG*, judgment of 12 May 2017, paras 72, 73, 79 and 80, also cited under "**Factual error**"

Education allowance

- "[Concerning the reimbursement of educational costs at the exceptional rate,] the question arises as to whether there is in fact a requisite causal link between the appellant's children's special educational needs (resulting from their medically certified condition) and the educational costs incurred which could be subject to reimbursement at the exceptional rate.
  (…)

From the overall wording of [the applicable provisions], the Tribunal concludes that the exceptional rate applies if all three of the following conditions are met: (i) costs for school or university fees and/or general fees for the child's schooling charged by the educational establishment (paragraph 5 a. and b., of Appendix IV) which are exceptional, unavoidable and excessively high (paragraph 6 d) i), of Appendix IV), (ii) such costs are defined for the post–secondary cycle (paragraph 5 a. and b., of Appendix IV), and (iii) they are incurred for imperative educational reasons (paragraph 6 d) iii), of Appendix IV), i.e. for children with special educational needs resulting from their medically certified physical, developmental or behavioural condition (Article 5 a., of Rule No. 1277)."

- ATCE, appeals Nos. 619/2019, 620/2019 and 621/2019, *Gorey (IV), Gorey (V) and Bjerregaard v. SG*, judgment of 27 February 2020, paras 87 and 90

- ATCE, appeal No. 570/2016, *Cross v. SG*, judgment of 12 May 2017, paras 72, 73, 79 and 80, also cited under "**Factual error**"

6. PENSIONS AND SOCIAL SECURITY – RETIREMENT

Retirement pensions

- ATCE, appeals Nos. 640/2020-644/2020, 646/2020-648/2020, *Parsons (V) and Others v. SG*, and appeals Nos. 649/2020, 652/2020-660/2020 and 664/2020, *Verneau (II) and Others v. SG*, judgment of 20 April 2021, para 196, also cited under "**Acquired rights**"

- "The Tribunal notes in this respect that the Staff Regulations do not contain any particular provision which would expressly provide for a time-limit for transfer of pension rights concerning a staff member who is coming back from his or her unpaid leave. (…)

  The Tribunal observes that, although this was not expressly required by the Council of Europe, the request for transfer of pension rights was de facto conditioned by the resignation of the staff member concerned from the European Union. This is clearer after the position taken by the European Union in the letter of 4 May 2018 [sent to the appellant by the Head of Unit of the Office for the Administration and Payment of Individual Entitlments of the European Union]."

  - ATCE, appeal No. 589/2018, *Soloveytchik v. SG*, judgment of 29 November 2018, paras 49 and 50

- "In respect of the wording of [paragraph 1 of Article 12 of Appendix V of the Staff Regulations], the Tribunal notes that although the wording of the English version "*after leaving the service of ... international organisation*" could be interpreted more extensively because it does not specify whether such a leave is limited in time, the French version is more precise. It indicates "[l]*'agent qui entre au service de l'Organisation après avoir cessé ses fonctions auprès d'une (...) organisation internationale*", not permitting any doubt that the possibility to transfer pension rights provided for in Article 12, paragraph 1, of Appendix V does concern only newly recruited staff members. The Tribunal therefore considers that this provision cannot apply in the present case where the appellant was reintegrated into the Organisation after his five-year unpaid leave [during which he worked at the European Commission; the Administration of the Council of Europe having informed him that he had to begin a transfer of his pension rights]. (…)

  [I]t clearly appears from the terms of the Agreement [between the European Communities and the Council of Europe on the transfer of Pensions Rights] that its explicit object is the transfer of pension rights of former staff members (…). However, the

appellant is not a "former" staff member either of the European Union or of the Council of Europe but he is a staff member of both of them. The Tribunal therefore considers that by applying the Agreement per analogiam to the appellant's situation, the Organisation disregarded the purpose and object of the Agreement and contrary to the ordinary meaning of its terms."

- ATCE, appeal No. 589/2018, *Soloveytchik v. SG*, judgment of 29 November 2018, paras 54 and 58

- ATCE, appeal No. 546/2014, *Devaux v. SG*, judgment of 30 January 2015, para 22, also cited under "**Duty of care**"

Health care expenses

- "Determining the costs and/or tax implications of affiliation to a national medical insurance scheme is exclusively a matter for the states, the Council of Europe having no role to play in this area."
  - ATCE, appeals Nos. 746/2024 and 748 to 758/2024, *A. S. T. and Others v. SG*, judgment of 5 February 2025, para 66

Disability / Invalidity

- "[F]aced with the findings of the specialised body mandated to rule on invalidity, the head of the Administration has no margin of discretion, and it is for the Invalidity Board to settle the issue of whether or not an illness is occupational".
  - ATCE, appeal No. 673/2021, *C v. Governor of the Development Bank*, judgment of 27 January 2022, para 85

7. DISCIPLINARY RULES

Disciplinary Board / Joint Advisory Committee on Discipline

- "[O]nly a strict interpretation of these rules can guarantee the transparency of the disciplinary proceedings and protect the staff member from all arbitrariness.
  In this connection, Article 55 of the Staff Regulations (…) entitles the staff member in question to make objection once to any of its members other than the Chair, within five days of the formation of the Board.
  (…)
  [T]he Tribunal firstly takes the view that the wording of the rule leaves no room for doubt as to the fact that the staff member in question can only object to one member of the Board at a time (…)".
  - ATCE, appeal No. 651/2020*, B v. SG*, judgment of 13 July 2021, paras 136 to 140

- "[T]he Tribunal is critical of the Disciplinary Board's practice of immediately drawing by lots the names of the staff members to sit on the Board and the names of possible substitutes rather than drawing the names of the Board members and, only subsequently, the names of the substitutes when, and above all if, the need for substitutes arises. The practice adopted seems intended to avoid any undue formalism which would encumber the procedure, but this practice is contrary to the regulations governing the procedure. Above all, it reduces the right of objection available to the appellant at each drawing of lots."
  - ATCE, appeal No. 651/2020*, B v. SG*, judgment of 13 July 2021, para 141

- "[P]aragraph 8 of Article 55 of the Staff Regulations does not apply since it was a case of a temporary absence of a member of the Disciplinary Board (see ATCE, Ernould I and II v. Governor of the Council of Europe Social Development Fund, Appeals Nos. 189/1994 and 195/1994).
  In the light of these circumstances, the Tribunal agrees (…) that a member of the Disciplinary Board participated in the adoption of the Board's opinion, even though he was not present at the hearing before this disciplinary body, does not render the disciplinary proceedings irregular."
    - ATCE, appeal No. 624/2019, *Martz v. SG*, judgment of 6 April 2020, paras 51 and 52

Investigation

- "[T]he role of the external investigator is to enable the Organisation, starting with the Director of Human Resources [in the event of an investigation into a complaint of harassment], to take a decision in full knowledge of the facts. In order to provide the Director with as comprehensive a case file as possible, "those conducting the investigation will endeavour to obtain, review and record any evidence that may appear relevant to an investigation" (paragraph 54 of the Rule on investigations). They are to verify and corroborate the veracity of the information obtained "such that it can withstand further scrutiny" (ibid.). In their conclusions, they must indicate whether or not, in their opinion, there has been any wrongdoing (paragraph 76 of the same Rule), i.e. behaviour contrary to the Policy on Respect and Dignity."
    - ATCE, appeal No. 766/2024, *L. D. (III) v. SG*, judgment of 24 June 2025, para 77

- "[A]s regards substantiation of the charges, it is for the Tribunal to judge, in the light of the evidence submitted by the two parties, whether proof of the charges emerges from the documents in the file. However, it must also be observed that it is well settled in the case law that "it is not the Tribunal's role to reweigh the evidence before an investigative body which, as the primary trier of fact, has had the benefit of actually seeing and hearing many of the persons involved and of assessing the reliability of what they have said. For that reason, such a body is entitled to considerable deference. So that where [an investigative body] has heard evidence and made findings of fact based on its appreciation of that evidence and the correct application of the relevant rules and case law, the Tribunal will only interfere in the case of manifest error" (see ILOAT Judgment 4207, consideration 10, Judgment 3593, consideration 12)."
    - ATCE, appeal No. 651/2020*, B v. SG*, judgment of 13 July 2021, para 164

Disciplinary sanctions

- "[T]he legality of any disciplinary measure presupposes that the facts of which the person concerned is accused are established.
  (…)
  In assessing the proportionality of a disciplinary measures in relation to the seriousness of the facts, the Tribunal must take into account the fact that the determination of the sanction is based on an overall assessment by the Secretary General of all the concrete facts and circumstances of each case."
    - ATCE, appeal No. 651/2020*, B v. SG*, judgment of 13 July 2021, paras 169 and 171

- ATCE, appeal No. 624/2019, *Martz v. SG*, judgment of 6 April 2020, para 55, also cited under "**Duty to provide reasons**"

- ATCE, appeal No. 624/2019, *Martz v. SG*, judgment of 6 April 2020, para 61, also cited under "**Discretion – Discretionary power**

- ATCE, appeal No. 622/2019, *Brechenmacher (II) v. SG*, judgment of 5 February 2020, para 88, also cited under "**Duty to provide reasons**"

- "In line with its case-law, the Tribunal must first determine whether sufficient reasons were given for the disciplinary measure chosen and then whether the choice was appropriate and proportionate to the alleged misconduct.

  Regarding the former point, the Tribunal concludes that the Secretary General did give sufficient reasons for his choice insofar as he reviewed all the other disciplinary measures and explained why they could not be taken into consideration and why removal from post was the only possible measure.

  As the Secretary General did not exceed his discretionary power in the matter in explaining his reasons, it is not for the Tribunal to substitute its own assessment and determine whether another disciplinary measure would have sufficed."
  - ATCE, appeal No. 622/2019, *Brechenmacher (II) v. SG*, judgment of 5 February 2020, paras 100 to 102

- ATCE, appeal No. 591/2018, *Brechenmacher v. SG*, judgment of 2 April 2019, paras 83, 84, 87, 94 and 95, also cited under "**Duty to state reasons – No or insufficient reasons** "

Dismissal

- ATCE, appeal No. 624/2019, *Martz v. SG*, judgment of 6 April 2020, paras 62 and 65, also cited under "**Proportionality**"

- ATCE, appeal No. 591/2018, *Brechenmacher v. SG*, judgment of 2 April 2019, paras 83, 84, 87, 94 and 95, also cited under "**Duty to state reasons – No or insufficient reasons** "

8. PROCEDURE OF AND REVIEW BY THE TRIBUNAL

Impartiality of judges / Recusal / Withdrawal / Abstention

- "To the extent that the appellant's objection of bias can be regarded as the exercise of a right of challenge, the Tribunal acknowledges that such a right exists by virtue of general principles of law even in the absence of a stipulation to this effect in the applicable provisions."
  - ATCE, appeal No. 625/2019, *Brannan (IV) v. SG*, decision of the 8 January 2021, para 10

- "The Tribunal firstly notes that the appellant had information about the Tribunal's composition. In this regard, it makes reference to the rules that apply to its composition and the information in the public domain concerning the identities of the regular judges and the substitute judges. It considers that the appellant ought to have raised the objection in question before the decision taken on his appeal No. 625/2019 was served on him, as the information available to him made it reasonably possible for him to foresee the composition that the Tribunal would have when his case was heard.

The Tribunal secondly notes that the appellant also had information about the way in which the Tribunal operates. This information was sufficient to enable him to realise that one or even two former judges from the Court would very likely be called to hear his case. According to relevant case-law, an application for withdrawal of a judge must be made without delay, and any delay in making it can be taken into account when deciding whether the application was made in good faith (United Nations Disputes Tribunal (UNDT), Order No. 1, 22 June 2012, Gehr v. Secretary-General of the United Nations, paragraph 23). According to this case-law, an application for withdrawal of a judge cannot be made in a case that has already been decided, as it is "physically impossible to grant it" (United Nations Dispute Tribunal (UNDT), Order No. 28, 4 March 2013, Belhachmi v. Secretary-General of the United Nations, paragraph 10). The appellant did not act in due time."

- ATCE, appeal No. 625/2019, *Brannan (IV) v. SG*, decision of the 8 January 2021, paras 12 to 14

- « [T]he Tribunal considers that the appellant has not submitted any evidence, or even any prima facie evidence, which could call into question the subjective impartiality of the judges concerned or which would indicate a breach of the requirements of objective impartiality. The Tribunal points out in this regard that the personal impartiality of a judge must be presumed until there is proof to the contrary (United Nations Dispute Tribunal (UNDT), Judgment No. UNDT/2009/005, 12 August 2009, Campos v. Secretary-General of the United Nations, paragraph 7.2.2.) and that the burden of proving the basis for disqualification rests with the party who requests it (United Nations Dispute Tribunal (UNDT), Order No. 1, 22 June 2012, Gehr v. Secretary-General of the United Nations, paragraph 20).

  The only fact mentioned by the appellant in support of his objection is the fact that he worked with two members of the Tribunal over 10 years ago. This fact does not by itself prove that the judges challenged displayed any bias, or that it is objectively reasonable to fear any bias on their part. The Tribunal also points out that to determine whether bias exists, it is necessary to ascertain whether there is a conflict of interest in relation to the subject-matter of the dispute. Such a conflict may arise where, for example, the case concerns persons with whom the judge has personal or family ties, or where he/she has been called upon to participate in the case previously in any capacity. (…)

  Furthermore, the Tribunal notes that if the fact of having had a working relationship were sufficient by itself to justify an objection of bias, this would call the Tribunal's operating arrangements into serious question given that its composition always includes at least one former judge from the Court. The Tribunal points out that in the absence of any objections from the parties, it had to judge the appellant's case in accordance with the rules applicable to it in order to avoid a miscarriage of justice."

  - ATCE, appeal No. 625/2019, *Brannan (IV) v. SG*, decision of the 8 January 2021, paras 15 to 17

Jurisdiction of the Tribunal

- "[T]he Tribunal "in the exercise of its statutory jurisdiction, has to deal with the objections raised against the individual measures taken by the Secretary General, in application of the decision of the Committee of Ministers" (ATCE, formerly the Appeals Board, appeals Nos. 101-113/184 - Stevens and Others v. Secretary General, decision of 15 May 1985, paragraph 54, subparagraph 4). In examining these objections, however, the Tribunal may examine the regularity of the Committee of Ministers' decision in order to rule on the

legality of the implementing acts carried out by the Secretary General (ibid., paragraphs 69-70)."

- ATCE, appeals Nos. 595-601/2018, *Alberelli (III) and Others v. SG*, judgment of 20 June 2019, para 88

- ATCE, appeals Nos. 595-601/2018, *Alberelli (III) and Others v. SG*, judgment of 20 June 2019, paras 111 to 113, also cited under "**Grounds**"

- "[I]n line with its constant case-law, [the Tribunal] does not have the power to rule on decisions of the Committee of Ministers but only on administrative acts of the Secretary General implementing such decisions (ATCE (formerly the Appeals Board), appeal No. 101-113 –Stevens and others v. Secretary General, judgment of 15 May 1985, paragraph 54, final indent, appeal No. 118-128 – Jeannin and others, judgment of 30 April 1985, paragraphs 62-68).

  In this case, the request to annul changes made to Appendix XII to the Staff Regulations goes beyond the Tribunal's statutory competence and must be declared inadmissible. (…)

  [The lack of power of the Tribunal to rule on decisions of the Committee of Ministers] also applies to the preparatory acts falling within the remit of the Committee of Ministers."

  - ATCE, appeals Nos. 571-576 and 578/2017, *Brannan (II) and Others v. SG*, judgment of 14 November 2017, paras 66, 67 and 151

- "[A]ccording to the relevant provisions of the Staff Regulations and its Statute (Appendix XI to the Staff Regulations), it can only annul administrative decisions that are detrimental to applicants. Its authority does not extend to annulling regulations. It will, therefore, only consider the grounds of appeal concerning Article 27 of Rule no. 1364, which the appellant asks to be annulled, in so far as it was applied to her when it came into effect. »

  - ATCE, appeal No. 557/2014, *Hedman v. SG*, judgment of 10 December 2015, para 63

- "[A] conflict [between the appellant and the French Caisse primaire d'assurance maladie regarding pension] would not be a matter for the Tribunal but rather for the French courts (see, mutatis mutandis, regarding the exercise of their respective jurisdiction in parallel litigation proceedings, ATCE, Appeals Nos. 211/1995, 213-214/1995, 220/1996, 222-223/1996, 227-228/1997, 229-230/1997, 242-243/1998, Taner and Claire BEYGO v/ Secretary General, decision of 28 April 1999)."

  - ATCE, appeal No. 545/2014, *Jaffrey v. SG*, judgment of 23 October 2015, para 43

Locus standi

- "[S]econded officials do not, in principle, have standing to bring a case before the Tribunal. The Regulations on secondments to the Council of Europe clearly set out the principle that the rules which apply to Council of Europe staff members apply only to seconded officials under conditions which it specifies. None of the provisions of these regulations makes Articles 59 and 60 of the Staff Regulations on disputes at the Council of Europe applicable to seconded officials".

  - ATCE, appeal No. 720/2022, *E v. SG*, judgment of 1 February 2023, para 49

- "In the case of the appellant [a national civil servant on secondment with the Council of Europe], the Tribunal finds that he had standing ratione personae to lodge a complaint with the Commission against Harassment [and so to lodge an appeal in order to challenge the Organisation's response to a claim for compensation following psychological harassment proceedings instituted by him in connection with his work at the Council of Europe]."
  - ATCE, appeal No. 586/2017, *Paolillo v. SG*, judgment of 17 May 2018, para 66

- "The secondment procedure, as provided for in Resolution CM/Res(2012)2, does not include any mechanism for verifying candidates' qualifications. (…)

  It is clear to the Tribunal, however, that the system put in place [at the Registry of the European Court of Human Rights, by an instruction of the Registrar] replicates to a very large extent the evaluation procedure applicable when recruiting Council of Europe staff, as provided for in Article 15 of the Regulations on appointments (Appendix II to the Staff Regulations). (…)

  Admittedly the purpose of the selection procedure for secondments is not to recruit candidates in order that they should become staff or, as Article 1 of the Staff Regulations makes clear, staff members of the Council of Europe, but it does employ the staff recruitment process. (…)

  In these circumstances, the fact remains that [some] candidates (…) were chosen following a selection process based on tests (…).

  Given the choice to depart from the procedure prescribed in Resolution CM/Res (2012)2, it would unfair, therefore, not to treat the appellant in the same way as external candidates in a recruitment competition and to deny her the enjoyment of the safeguards contained in Article 59, paragraph 8, d., of the Staff Regulations."
  - ATCE, appeal No. 580/2017, *Demir Saldirim v. SG*, judgment of 31 January 2018, paras 89, 91, 98 and 103
    See also:
  - ATCE, appeal No. 579/2017, *Uysal v. SG*, judgment of 31 January 2018, paras 86, 88, 95 and 100

- ATCE, appeal No. 584/2017, *Agramunt Font de Mora v. SG*, order of the President of 10 November 2017, paras 67 to 76, also cited under "**Admissibility**"

- "[I]n the cases of Schmitt v. Secretary General (ATCE, Appeal No. 250/1999, decision of 9 June 1999) and Verneau v. Secretary General (ATCE, Appeal No. 413/2008, decision of 31 March 2009), there was a finding of discrimination between external applicants and those who were already members of the Organisation's staff; they had all taken part in an external competition, but only the latter group were able to exercise the right to lodge an administrative complaint against the decision to exclude them from the tests. In both judgments the Tribunal ruled that the Organisation had to take whatever positive steps were necessary. However, with Resolution CM/Res(2010)9 of 7 July 2009 the Organisation got rid of this discrimination by adding new wording to Article 59, paragraph 8 d) of the Staff Regulations and abolishing the right for all candidates, external and internal alike, to lodge an administrative complaint, and thus an appeal, against decisions to exclude them

(see also ATCE, Prinz and Zardi v. Secretary General, Appeals Nos. 474/2011 and 475/2012, paragraphs 71-72, decision of 8 December 2011).

The Tribunal finds that whilst the Organisation was asked to "take whatever positive steps are necessary" it opted to get rid of the discrimination in question by curtailing the rights of existing staff members rather than broadening the rights of external candidates. The Tribunal points out that all persons believing themselves to be the victim of an act adversely affecting them are entitled to challenge that act through the courts. That is a general principle which holds good in the member states of the Council of Europe and, in the matter of access to employment in the international civil service, in other international organisations too.
In the light of these circumstances the Tribunal cannot accept the amendment of 7 July 2010 to the Staff Regulations – which is inconsistent not only with its case-law but also with a general principle of law – and consequently, considering itself bound, uphold the objection of inadmissibility on grounds of the Secretary General's claim of incompatibility ratione materiae, based on the wording of Article 59, paragraphs 2 and 8 d), of the Staff Regulations as amended; on the contrary, the Tribunal has a duty to reject it."

- ATCE, appeals Nos. 548-553/2014, *Cucchetti Rondanini and Others v. SG*, judgment of 28 April 2015, paras 62 and 63

Admissibility

- "The Tribunal notes that the English version of Article 14.10.3 of the Staff Regulations provides that job candidates can bring proceedings before the Tribunal only "insofar as their complaint or appeal concerns irregularities *of* the selection process directly affecting them" (emphasis added). It notes that the French version of the same provision is apparently less restrictive since it allows for complaints relating to "des irrégularités *lors de la procédure* de selection qui les affectent directement" (emphasis added). The latter version corresponds to the text of Article 59, paragraph 8, d, of the former Staff Regulations (in force until 31 December 2022), which referred to "an irregularity in the examination procedure" (in French: "une irrégularité dans le déroulement des épreuves du concours"). The Tribunal has held that it went "without saying that a manifestly erroneous or deliberately false assessment would fall within the scope of this provision" (ATCE, appeal No. 580/2017, decision of 24 January 2018, *Demir Saldirim (I) v. Secretary General of the Council of Europe*, § 116; ATCE, appeal No. 592/2018, decision of 23 January 2019, *Demir Saldirim (II) v. Secretary General of the Council of Europe*, § 45).

  In the light of the foregoing, the Tribunal considers that the objection of the Secretary General as to the admissibility of the appeal insofar as the appellant challenges the assessment of his paper is inextricably linked to the merits of this complaint. Therefore, the Tribunal will examine this objection together with the merits of the complaint."

  - ATCE, appeal No. 759/2024, *D. S. v. SG*, judgment of 30 January 2025, paras 47 and 48

- ATCE, appeal No. 744/2024, *I. S. V. v. SG*, judgment of 14 August 2024, paras 45, 46 and 48, also cited under "**Administrative decision adversely affecting an individual"**

- "[W]hile Rule No. 2/2015 on the protection of dignity at work states that "all staff members have a responsibility to communicate clearly about behaviour that they find offensive or intimidating" (Article 3b), it does not establish a formal obligation to lodge a complaint of harassment with the Chief Compliance Officer (CCO). Therefore, the fact that the procedures set out in Rule No. 2/2015 were not used at an earlier stage does not

prevent an appellant from raising these Issues at a later stage, when he or she challenges an administrative decision."

- ATCE, appeal No. 673/2021, *C v. Governor of the Development Bank*, judgment of 27 January 2022, para 63

- "[T]he Tribunal reiterates that it has the prerogative of raising at its own initiative the issue of compliance with admissibility requirements which is a matter of public order (…). However, given the nature of the dispute before it, it is not in a position to examine ex officio grievances raised at a late stage by an appellant for which, above all, he has not exhausted all internal remedies prior to applying to the Tribunal" (ATCE, Appeal No. 593/2018 – Luca Schio v. Governor of the Council of Europe Development Bank, decision of 20 June 2019, paragraph 79)."
  - ATCE, appeal No. 622/2019, *Brechenmacher (II) v. SG*, judgment of 5 February 2020, para 87

- "The Tribunal notes that submitting erroneous evidence could be deemed to constitute a procedural defect which may be sanctioned by the Tribunal.
  With regard to the instant case, the Tribunal notes that the Secretary General does not claim that the appeal is inadmissible and nor has he made any submissions based on the said inaccuracy."
  - ATCE, appeal No. 606/2019, *Cosset v. SG*, judgment of 30 October 2019, paras 44 and 45

- "[T]he Governor must submit his objections of inadmissibility in his first submission following the deposit of the complaint, i.e. *in limine litis* (TACE, Appeal No. 309/2002 – Sergey Belyaev v. Secretary General, judgment of 4 July 2003, paragraphs 25-31). Obviously, grievances relating to matters of public order constitute an exception to this rule and as such may be raised at any stage of proceedings, in keeping with international case-law. (…)

  [T]he Tribunal reiterates that it has the prerogative of raising at its own initiative the issue of compliance with admissibility requirements which is a matter of public order (TACE, appeals Nos. 290-292/2001, 295/2002, 298-301/2002, 303/2002 and 304/2002 – Staff Committee (V) and others v. Secretary General, judgment of 20 December 2002, paragraph 60)".
  - ATCE, appeal No. 593/2018, *Schio v. Governor of the Development Bank*, judgment of 20 June 2019, paras 74 and 79

- "[N]o conclusion of inadmissibility may be drawn" from the fact that the appellant did not undertake a formal procedure for harassment "as, under the system established by the Bank, the appellant was not obliged to open a formal procedure before the Chief Compliance Officer before lodging an administrative complaint with the Governor. In fact, she could have opened a formal procedure at her own initiative had she felt it necessary."
  - ATCE, appeal No. 593/2018, *Schio v. Governor of the Development Bank*, judgment of 20 June 2019, para 95

- ATCE, appeal No. 580/2017, *Demir Saldirim v. SG*, judgment of 31 January 2018, paras 89, 91, 98 and 103, also cited under "**Locus standi**"

- "Accordingly, the Chair is not of the opinion that one can accept the reasoning of the Secretary General and conclude that the lack of competence *ratione personae* and

ratione materiae can be equated to the failure to comply with the formal conditions for lodging an appeal and can ipso facto be declared under the special procedure of manifest inadmissibility without going into the merits of the case.

[T]he Chair notes that in the past, lack of competence ratione personae has been related to the absence of an administrative complaint and has given rise to a declaration of manifest inadmissibility (Appeal No. 253/1999 Claire Beygo (VI) v. Secretary General, Order of the Chair of 20 March 2000, appended report, paragraph 17). (…)
The Chair believes that in this case he must follow the same approach.

Furthermore, he believes that the following four arguments are grounds for not departing from this case law.

First of all, contrary to what was the case in the aforementioned Appeal No. 253/1999, it is manifestly clear that the appellant [then President of the Parliamentary Assembly] does not belong to any of the categories of persons who may lodge an administrative complaint and, subsequently, an appeal. (…)

Secondly, it is clear that the act which the appellant is challenging is not an administrative or disciplinary act but an expression of the political power of the Parliamentary Assembly. The lack of any remedy within the Parliamentary Assembly against this type of decision cannot be regarded as an argument to justify a very broad extension of the jurisdiction of the Tribunal which, it should not be forgotten, in accordance with Article 4 of its Statute, remains the only body competent to decide on any dispute concerning the scope of its jurisdiction. If such were not the case, the Tribunal would depart significantly from its jurisdiction in employment disputes to become a tribunal dealing with political conflicts.

Doubts may also be raised regarding the nature of the letter sent by the appellant to the Secretary General (…), one may reasonably wonder whether the appellant really wished to lodge an administrative complaint within the meaning of Article 59, paragraph 2 or whether he simply wished to alert the Secretary General to his case.

Lastly, one may well wonder whether the appellant, who did not write in his own name but rather in his capacity as President of the Assembly, wished to lodge an administrative complaint or rather set in motion procedures of a “political” nature (…).

With regard to these last two arguments, it must be concluded that the appellant was not asking the Secretary General to annul the draft report to which he was opposed but to accept the “complaint” and to “intervene in order to withdraw” the disputed draft.

Accordingly, the fact that we are dealing here with a case similar to that of the appellant in Appeal No. 253/1999, together with the four arguments set out above, leads the Chair to conclude that one of the formally required conditions to lodge an appeal has not been satisfied and, consequently, it must be declared inadmissible.”

- ATCE, appeal No. 584/2017, *Agramunt Font de Mora v. SG*, order of the President of 10 November 2017, paras 67 to 76

- ATCE, appeal No. 554/2014, *Petrashenko v. SG*, judgment of 20 March 2015, paras 33 to 36, also cited under “**Time-limits**”

Interest in the proceedings

- "In order to establish her interest in acting, the appellant must show that the contested decision is prejudicial to them, in the sense that it has a negative impact on their legal position (ATCE, Appeal No. 603/2019, Ana v. Secretary General of the Council of Europe, decision of 22 October 2019, § 45; ILOAT, Judgment No. 4296 of 24 June 2020, M. v OPCW, consideration 6).
  (…)
  [In the present case], the appellant has not shown how [the decision to assign her to another department following her harassment complaint against her N+1] allegedly caused her harm, whether financial or other, or how it affected her status in the Organisation. Nor has she argued, let alone established, that annulling the decision, as requested in her appeal, would confer some benefit on her. It is worth noting here that the annulment sought [by the appellant, who also challenges the decision not to renew her contract at the end of her probationary period,] would not have the effect of extending her probationary period or renewing her CDD beyond its expiry date."
  - ATCE, appeals Nos. 761/2024 and 762/2024, *L. D. (I and II) v. SG*, judgment of 25 March 2025, paras 137 and 139

- "The Tribunal can rule only on the legality of a provision [in this case, of the Co-ordinated Pension Scheme Rules] when it has been applied in a particular way in a specific decision concerning a particular appellant. [This is the case of the pensioners' payslips]. On the other hand, the Tribunal cannot deal with potential and hypothetical cases relating to situations that may arise in the future. [This is exactly the situation in the case of the payslips of serving staff, which do not in any way implement the challenged provision."
  - ATCE, appeals Nos. 640/2020-644/2020, 646/2020-648/2020, *Parsons (V) and Others v. SG*, and appeals Nos. 649/2020, 652/2020-660/2020 and 664/2020, *Verneau (II) and Others v. SG*, judgment of 20 April 2021, para 58

- "[T]he Secretary General has the right to disregard the order of merit in which candidates are selected through a competitive examination for reasons which it shall be for him to assess and explain to the required legal standard. The decision to disregard the results of a valid competition and appoint another staff member without launching a new competition does nevertheless directly affect the legitimate interests of the persons on the reserve list for that competition. The fact that a candidate has taken part in a competition, following which they were placed on the reserve list, proves, in fact, that they have an interest in how the Administration follows up that competition. Such is the case here where another person was appointed to the post to be filled, regardless of the outcome of the competition."
  - ATCE, appeal No. 604/2019, *Mihalache v. SG*, judgment of 30 October 2019, para 45

- "The Tribunal must point out, however, that [the decision of rejecting the ground of the appellants which alleged a misapplication of the affordability clause in the salary adjustment method] does not cover the question of what should be done if the Russian Federation eventually honours its obligations for 2017 and 2018.

  Indeed, the Secretary General has argued that the decision to proceed retroactively with the adjustment for 2018 belongs to the Committee of Ministers, if the Russian Federation pays its contributions. However, in the view of the Tribunal, this aspect of the dispute is

not "existing" within the meaning of Article 59, paragraph 2, of the Staff Regulations and, consequently, there is no need for the Tribunal to rule on it.

Accordingly, if the Russian Federation pays its contributions for 2017 and 2018 and if the organisation does not reverse its decision to apply the budgetary feasibility clause, on the basis of the "rebus sic stantibus" principle (fundamental change of circumstances), which is also codified in the two Vienna Conventions [on the Law of Treaties of 1969 and on the Law of Treaties between States and International Organizations or between International Organizations of 1986] (in Article 62 of each text), it will be for any Council of Europe staff members who so wish to contest this new decision in the manner and within the time-limits prescribed in Article 59 of the Staff Regulations."

- ATCE, appeals Nos. 595-601/2018, *Alberelli (III) and Others v. SG*, judgment of 20 June 2019, paras 102 to 104

- "[T]he Tribunal notes that Article 59 paragraph 2 of the Staff Regulations requires the complainant to demonstrate a "direct and existing interest" in initiating a dispute.

  In the case at hand, it is clear that none of the appellants is in a situation of requesting payment of a capital sum in respect of death or invalidity, in which case they lack an existing interest in the dispute."
  - ATCE, appeals Nos. 571-576 and 578/2017, *Brannan (II) and Others v. SG*, judgment of 14 November 2017, paras 69 and 70

Administrative decision adversely affecting an individual

- ATCE, appeals Nos. 761/2024 and 762/2024, *L. D. (I and II) v. SG*, judgment 25 March 2025, paras 137 and 139, also cited under "**Interest in the proceedings**"

- "As the relevant case law has stated, administrative decisions are characterised by the fact that "they are taken by the Administration, they are unilateral and of individual application, and they carry direct legal consequences (United Nations Dispute Tribunal (UNDT), Judgment No. 2024/001 of 30 January 2024, in the case of Melbiksis v. Secretary General of the United Nations, paragraph 19; see also Administrative Tribunal of the Council of Europe (ATCE), Appeal No. 645/2020, Riccardo Priore (II) v. Secretary General of the Council of Europe, Judgment of 15 January 2021, paragraph 82).

  As a preliminary point, the Tribunal observes that for the purposes of determining which was the administrative decision to be challenged in the present case, it is not bound by the wording of the DHR's e-mail of 12 October 2022, according to which the earlier e-mail of 7 September 2022 constituted the official and final decision concerning the appellant. As clarified in the above-mentioned case law (UNDT, ibid, paragraph 20), "deciding what is and what is not a decision of an administrative nature (…) must be done on a case-by-case basis and will depend on the circumstances, taking into account the variety and different contexts of decision-making in the Organization. The nature of the decision, the legal framework under which the decision was made, and the consequences of the decision are key determinants of whether the decision in question is an administrative decision".
  (…)
  As regards the reply given to the appellant in the e-mail of 22 September 2022, it does not appear that this reply was the result of the concrete application of the relevant rules to the particular situation of the appellant. (…) As such, the e-mail in question did not carry direct legal consequences on the appellant's existing position and was not of such a

nature as to affect her adversely, since it addressed a future hypothetical situation in which, as of 1 January 2025, the appellant could possibly be promoted. In those circumstances, the appellant could not be expected to complain *in abstracto* about the practice followed by the Administration in the application of the relevant rules."

- ATCE, appeal No. 744/2024, *I. S. V. v. SG*, judgment of 14 August 2024, paras 45, 46 and 48

- "With regard to the plea of inadmissibility on the ground that the request in relation to the non-renewal of the appellant's contract was made out of time, the question that arises for the Tribunal is whether, in this case, the letter of 26 October 2020 giving notice of the end of this contract can be regarded as an act adversely affecting her which could start the limitation periods – as the Secretary General asserts – or whether, on the contrary, and as the appellant asserts, this act cannot be regarded as an act adversely affecting her as it does not contain any information that was not already given in the terms of the contract.

  (…) Although the information given [in the notice of end of contract] in relation to the end of the CDD did not contain any details that had not already been given in the terms of the appellant's contract (…), the Tribunal considers that the information relating to the fact that her contract was not being renewed was an act that affected her adversely, was distinct from the contract in question and could be complained about and appealed within the prescribed time limits."

  - ATCE, appeal No. 674/2021, *Mendez-Carvalho v. SG*, judgment of 27 January 2022, paras 52 and 53

- "The Tribunal observes that in the circular sent on 4 October 2019 to pensioners, including the appellants, the ISRP informed them that, from 1 January 2020, they would start to pay back the tax adjustment received in 2018, because of the introduction of deduction of income tax at source from 1 January 2019. (…).

  That being the case, the Tribunal notes, with reference to its case law on the subject (see decisions of 21 September 1989 of the Appeals Board in appeals Nos. 154/1988 and 155/1989, Canales and Andrei v Secretary General; and the Tribunal's decision of 25 November 1994, appeal No. 191/1994, Eissen v Secretary General), that the decision to claw back the 2018 adjustment announced by the ISRP on 4 October 2019 was not reflected in the appellants' pension slips until January 2020.

  Consequently, the Tribunal considers that the dates of notification of the pension slips are the appropriate dates for the start of the 30-day period for lodging administrative complaints. Consequently, the present appeals cannot be regarded as having been lodged out of time and the Secretary General's objections concerning admissibility must therefore be rejected."

  - ATCE, appeals Nos. 661/2020 and 662/2020, *Bohner (VII) and Cagnolati v. SG*, judgment of 27 April 2021, paras 73 to 75

- ATCE, appeal No. 665/2020, *Yuksek (II) v. SG*, judgment of 12 February 2021, para 51, also cited under "**Time-limits**"

- "[P]ursuant to [Article 59, paragraph 2 of the Staff Regulations], "[t]he 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". ILOAT

case law on the subject specifies that a decision means "any act by the defendant organisation that has an effect on an official's rights and obligations" (Judgment No. 1203 of the ILO Administrative Tribunal of 15 July 1992) and which is binding on the organisation when it is notified to the official "in the manner prescribed by the organisation [...] [or in] some other form as long as it can be inferred from it that the organisation intended to notify the decision" (Judgment No. 2122 of the ILO Administrative Tribunal of 30 January 2002)."

- ATCE, appeal No. 645/2020, *Priore (II) v. SG*, judgment of 15 January 2021, para 82

- ATCE, appeal No. 616/2019, *Lourenco Agostinho v. SG*, judgment of 17 December 2019, paras 62 and 63, also cited under "**Temporary contract / Fixed-term appointment**"

- "[A]n act adversely affecting a person is an act that has an impact on the legal position of a person and may therefore be challenged in the form of an administrative complaint and eventually before the Tribunal under Articles 59 and 60 of the Staff Regulations, respectively."

  - ATCE, appeal No. 603/2019, *Ana v. SG*, judgment of 22 October 2019, para 45

    See also:
  - ATCE, appeal No. 589/2018, *Soloveytchik v. SG*, judgment of 29 November 2018, para 48

- "The Tribunal observes that the applicant was offered a temporary employment contract containing all the relevant details, following the previous clarification of the employment conditions by DHR. The Tribunal notes in this respect that the clarification given to the appellant by DHR actually confirmed the information already contained in Vacancy Notice (…) which clearly indicated that the applicable conditions of recruitment and employment were contained in Rule No. 1234 to which a link had been provided.

  The appellant signed the contractual offer after having received the job description (…) without any objections on 30 April 2018 (…). The Tribunal therefore considers that it is from that moment, at the latest, that the appellant should have challenged the grade assigned to her as a Senior Project Officer, as well as the amount (and the calculation) of the salary offered, including the amount of the supplementary allowances. Alternatively, she could have decided not to sign the contract if, as she submitted in her administrative complaint and also in this appeal, she had doubts about her grade assignment and the calculation of her remuneration (…)

  In the light of these considerations, the Tribunal finds that the act adversely affecting the appellant in the present case, within the meaning of Article 59, paragraph 2, of the Staff Regulations, is the employment contract signed by her on 30 April 2018, and not the reply from the Head of Operations on 14 September 2018, denying the appellant's salary correction request, which was subsequently the subject of the appellant's administrative complaint (…)"

  - ATCE, appeal No. 603/2019, *Ana v. SG*, judgment of 22 October 2019, paras 48, 49 and 52

- "[A]n administrative decision adopted by the Organisation, which adversely affect its staff members has to be based on applicable regulations valid at the moment when the

decision is taken. The regulations have to be precise and foreseeable as to their application."

- ATCE, appeal No. 589/2018, *Soloveytchik v. SG*, judgment of 29 November 2018, para 53

- "Article 59, paragraph 2, of the Staff Regulations, however, does not require the administrative act adversely affecting the appellant to be addressed to the appellant, it being sufficient that it adversely affects him or her".
  - ATCE, appeals Nos. 587/2018 and 588/2018, *Devaux (II) and (III) v. SG*, judgment of 9 October 2018, para 45

- "[The Tribunal] notes that [the appellant's] complaints relate only to acts carried out by the Registry of the European Court of Human Rights. As a result, there can be no basis for the Secretary General's assertion that the Registry of the Court merely endorsed the choice made by the Turkish authorities and that consequently, they are the ones whom the appellant should hold responsible. (…)

  The Tribunal believes it is worth adding that, even supposing the Turkish authorities were responsible for a decision that was detrimental to the appellant, that would in no way alter the fact that the Registry of the Court took an autonomous decision which may be challenged through the Organisation's internal complaints procedure."
  - ATCE, appeal No. 580/2017, *Demir Saldirim v. SG*, judgment of 31 January 2018, paras 79 and 80
    See also:
  - ATCE, appeal No. 579/2017, *Uysal v. SG*, judgment of 31 January 2018, paras 76 and 77

- "[S]econdment is not an administrative act but rather an agreement between the Organisation and the Turkish authorities. As such, it cannot be considered an administrative act within the meaning of Article 59, paragraph 2, of the Staff Regulations."
  - ATCE, appeal No. 580/2017, *Demir Saldirim v. SG*, judgment of 31 January 2018, para 124
    See also:
  - ATCE, appeal No. 579/2017, *Uysal v. SG*, judgment of 31 January 2018, para 119

- "[The decision challenged by the appellant not to give effect to her expression of interest] is certainly an individual administrative act adversely affecting the appellant since her expression of interest was rejected."
  - ATCE, appeal No. 547/2014, *Becret (IV) v. SG*, judgment of 6 February 2015, para 38

Final decision / Confirmatory decision

- "The Tribunal notes that, in the present case, the decision to dismiss the administrative complaint in question is not purely confirmatory of the decision complained of by the appellant, as would be the case for an act that contains no new element in relation to an earlier act adversely affecting the appellant and which has therefore not replaced it. The decision [to dismiss the complaint] of 5 June 2024, while reiterating the reasons given in the memorandum of 30 April 2024 relating to the inadequacy of the appellant's professional skills, adds to these reasons, making points relating to shortcomings in the appellant's conduct.

In this respect, the relevant case law has clarified that "an express decision rejecting a complaint may, in the light of its content, not be confirmatory of the measure contested by the applicant. That is the case where the decision rejecting the complaint contains a re-examination of the applicant's situation in the light of new elements of law or of fact, or where it changes or adds to the original decision. In such cases, the rejection of the complaint constitutes a measure subject to review by the court, which will take it into consideration when assessing the lawfulness of the contested measure, and may even regard it as an act adversely affecting the complainant and replacing the contested measure" (see General Court of the European Union, case T-51/24, judgment of 9 October 2024, CF v. Commission, paragraph 17).

Consequently, it must be held that the effect of the present appeal is to ask the Tribunal to set aside the decision (...) by which the Organisation decided not to confirm her in her employment at the end of her probationary period, a decision supplemented by that (...) dismissing her administrative complaint. The decision thus supplemented is referred to below as "the contested decision".

- ATCE, appeals Nos. 761/2024 and 762/2024, *L. D. (I and II) v. SG*, judgment of 25 March 2025, paras 86 to 88

- "[T]he appellant submitted an education allowance request by means of a special internal software program, MSA (Multiservice Assistant). (…) On 25 June 2020, the appellant was informed by DHR that [the requisite conditions] were not met in her case and that as a result, her request could not be granted. (…)

  [T]he position expressed in the email of 25 June 2020 by DHR was clear and left no room for any confusion as to the officialness and finality of the position taken by the Administration on the appellant's request. This position remained unchanged throughout the subsequent contact between the appellant and the Administration, so the closure of the MSA form could not, in the absence of any new developments, reasonably be regarded as a new decision".

  - ATCE, appeal No. 672/2020, *Kowalczyk-Kędziora v. SG*, judgment of 21 October 2021 , paras 32 and 33

- "[The Tribunal can] hear a case only once a final internal decision has been adopted by the Organisation. (…) [T]he dates of final decisions for the purposes of lodging an administrative complaint and an appeal should be established with due regard being had to the subject matter of the case and the essential purpose which the applicant wished to achieve."

  - ATCE, appeal No. 668/2020, *Kalovska Roussou v. SG*, judgment of 24 June 2021, para 44

    See also:
  - ATCE, appeals Nos. 661/2020 and 662/2020, *Bohner (VII) and Cagnolati v. SG*, judgment of 27 April 2021, para 71
  - ATCE, appeals Nos. 640/2020-644/2020, 646/2020-648/2020, *Parsons (V) and Others v. SG*, and appeals Nos. 649/2020, 652/2020-660/2020 and 664/2020, *Verneau (II) and Others v. SG*, judgment of 20 April 2021, para 46

- "[T]his email of 8 April was preceded, on 27 March 2015, by a meeting between the appellant and his superiors devoted not only to a specific evaluation of the appellant's

post by the Directorate of Human Resources, but also to the question of his reporting line. In the above-mentioned email it was stated clearly that it had not been considered possible to defer the reorganisation introduced in 2014, which had been effective in respect of all the appellant's colleagues since January 2014. Accordingly, although this email contained a "reconfirmation" of the fact that the appellant would be reporting to a Principal Country Manager, the fact remains that, on that occasion, a new decision was taken in respect of the appellant and, consequently, the email of 8 April 2015 was not simply confirmation of an earlier decision".

- ATCE, appeal No. 566/2015, *Seifert v. Governor of the Development Bank*, judgment of 31 March 2016, para 51

Exhaustion of internal remedies / Management review / Administrative complaint

- « [P]rior to bringing an appeal before the Tribunal, 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).

  In the Tribunal's view, the appellant's third ground of appeal introduces a new and distinct grievance. As such, this grievance ought to have been raised in the administrative complaint submitted to the Secretary General prior to being brought before the Tribunal. It follows that the third ground of appeal is inadmissible, as the appellant failed to exhaust the internal remedies available."

  - ATCE, appeal No. 763/2024 *M.-S. F. v. SG*, judgment of 3 June 2025, paras 50 and 51

- "[T]he decision of the Director of Human Resources (…) refusing to extend her probationary period (…) [and] the Administration's decision (…) refusing payment for 21.5 days of unused leave (…) [being] separate from the contested decision [not to confirm the appellant's appointment at the end of her probationary period] and have a distinct purpose, the appellant's argument that they are related to her main application is unfounded. As the internal remedies have not been exhausted in the prescribed manner and within the applicable time limits, [these] claims (...) are inadmissible.

  - ATCE, appeals Nos. 761/2024 and 762/2024, *L. D. (I and II) v. SG*, judgment of 25 March 2025, para 90

- "[T]he observations [the appellant] made in his assessments concerning the alleged mismatch between his grade and his duties are not sufficient to satisfy the exhaustion of remedies requirement: at no time did the appellant identify a decision adversely affecting him and raise an administrative complaint which the Administration could have taken up."

  - ATCE, appeal No. 738/2023, *C. A. v. SG*, judgment of 25 January 2024, para 30

- "In its decision of 26 September 2012 in Appeal No. 521/2011 (R. V. (II) v. Governor of the Council of Europe Development Bank), the Tribunal stated that "before bringing an appeal

before the Tribunal an appellant must make an administrative complaint to the Governor so that he may redress it if the grievances prove founded. Under the terms of Article 59, paragraph 2 of the Staff Regulations, the complaint must be made against an administrative act – which term, as specified in the same provision, refers to any individual or general decision or measure. This presupposes that the act is clearly identified in the administrative complaint, otherwise it would be impossible for the Governor to redress. Nor may the administrative complaint be supplemented or amplified by raising grievances that concern other acts than the one originally complained of" (paragraph 58 of the decision).

In its decision of 20 June 2019 concerning Appeal No. 593/2018 (Luca SCHIO v. Governor of the Council of Europe Development Bank referring to pre-2002 case law in Appeal No. 258/2000 – Ballester v. Secretary General, the Tribunal ruled that the appellant was time-barred from raising a grievance that was "entirely different and stands apart from the claims made in the administrative complaint" (paragraphs 76 to 78 of the decision).

The fact that the appellant did not voice "any doubts or criticism" (paragraph 77 of the decision of 20 June 2019 concerning Appeal No. 593/2018) or had made comments that were "not clear enough – or even succinctly elaborated on" (paragraph 59 of the decision of 26 September 2012 on Appeal No. 521/2011), prevents the Tribunal from concluding that a grievance had been raised before, at the administrative complaint stage".

- ATCE, appeal No. 673/2021, *C v. Governor of the Development Bank*, judgment of 27 January 2022, paras 54 to 56

- "[T]hroughout her career at the Bank, the appellant, on several occasions, sought to obtain a higher grade via [the applicable] procedures. Some of those attempts were successful (…); others were unsuccessful, and the administrative complaints lodged in the wake of those failures were dismissed (…), without the appellant later challenging the decisions in question by lodging an appeal with the Administrative Tribunal.

  It follows that the appellant is debarred from claiming, in her appeal, that she was entitled to a higher grade and, *a fortiori*, that the invalidity decision taken without acknowledging that higher grade was erroneous".

  - ATCE, appeal No. 673/2021, *C v. Governor of the Development Bank*, judgment of 27 January 2022, paras 94 and 95

- "[Regarding the characterization of a writing of the appellant as an administrative complaint, t]he Tribunal, however, cannot take account only of the terms used by the appellant. As it has pointed out in the past (TACE, decision of 17 December 2019, Appeal No. 618/2019, Barbara Ubowska (II) v. Secretary General of the Council of Europe, paragraph 42), it must fully assess the nature of documents falling within the scope of litigation.

  In this connection, whereas the relevant case law requires strict compliance with the term for filing an administrative complaint, it calls for a certain degree of flexibility in determining whether the conditions of form and substance for filing such a complaint have been met by the complainant. Thus, for the purposes of assessing whether the term for lodging a request to review an administrative decision has been respected, it should be considered that "while such a request does not have to take any particular form, it should at the very least identify the administrative decision of which review is sought" (ILOAT, Judgment 1699, 29 January 1998, Halloway v. ONUDI, paragraph 23). Accordingly,

an international organisation may not reproach a staff member for a lack of precision in his or her complaint or for a lack of motivation to reach the conclusion that he/she failed to lodge an administrative complaint. According to this case law, 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. SG*, judgment of 12 February 2021, paras 55 and 56

- "[P]aragraph 1 [of Article 59 of the Staff Regulations] makes it clear that staff members who are not subject to an administrative act adversely affecting them within the meaning of paragraph 2 of Article 59 must be subject to such an administrative act before they can challenge it by filing a complaint. As has already been stated by the Tribunal, a request under paragraph 1 of Article 59 cannot replace or alter an administrative complaint under paragraph 2 of Article 59, whose purpose is to enable staff members who are already subject to an administrative act adversely affecting them to challenge this administrative act by way of an administrative complaint.

  With regard to the case at hand, the Tribunal notes that the appellant called her letter a "*complaint*", and this seems to match the term "*complaint*" used in paragraph 2 rather than the term "*request*" in paragraph 1, despite the appellant's failure to state on what provision her submission was based. Moreover, the term "*complaint*" matches the wording used in paragraph 3 of Article 59, which refers to paragraph 2 of the same provision. However, the Tribunal cannot take account only of the term used by the appellant. The Tribunal points out that in the past it has stressed the need for a full description of the nature of documents falling within the scope of litigation. (…)

  [I]f the Organisation had doubts as to the nature of the act because it was not clearly described, it should have invited the appellant to clarify her intentions. The fact that the Director of Human Resources sent an acknowledgement referring to an "*administrative request*" cannot be considered sufficient, since no reference was made to the relevant legal provisions on which the definition of the nature of the act had been based."

  - ATCE, appeal No. 618/2019, *Ubowska (II) v. SG*, judgment of 17 December 2019, paras 41, 42 and 47

- "[I]t is precisely for the purpose of avoiding acts of negligence that could be prejudicial to the staff members concerned that the Staff Regulations confer upon staff members who believe they have been adversely affected by acts of the Organisation the right to lodge administrative complaints against the acts in question. Such complaints are examined by the relevant departments during a prelitigation phase and if they are rejected by Administration, the staff members are entitled to be able to challenge them before the Tribunal to preserve their rights."

  - ATCE, appeal No. 616/2019, *Lourenco Agostinho v. SG*, judgment of 17 December 2019, para 70

- "[T]he lodging of administrative complaints in accordance with the provisions of the Staff Regulations maintains legal certainty and safeguards the principle of equal treatment between staff in their contractual relationships which, contrary to what the appellant's

position implies, are not left to the sole discretion of the parties but are governed by the specific rules provided for in the Staff Regulations."

- ATCE, appeal No. 616/2019, *Lourenco Agostinho v. SG*, judgment of 17 December 2019, para 76

- "[T]he appraisal report constitutes an administrative act which can be challenged by way of Administrative complaint under Article 59 of the Staff Regulations (see ATCE Appeal No. 539/2013, Merita Andrea v. Secretary General, judgment of 30 January 2014). However, the appellant in the present case did not file an administrative complaint to contest the appraisal report. It is true that the appellant mentioned concerns regarding the annual appraisal in the report to the DGA under Article 6, paragraph 3, of Rule No. 1327 but the appellant did not challenge the appraisal report under Article 59 of the Staff Regulations. Accordingly, the Tribunal is not competent to examine the circumstances concerning the annual appraisal process and the appellant's relating arguments."
  - ATCE, appeal No. 605/2019*, X v. SG*, judgment of 31 October 2019, para 72

- "According to the Tribunal's case-law, before lodging an appeal, an appellant must lodge an administrative complaint with the Governor so that the latter may remedy the situation if the claims are founded. Under Article 59 paragraph 2 of the Staff Regulations, the complaint must be against an administrative act. Furthermore, appellants may not supplement or amplify administrative complaints by raising grievances that concern other acts than the one originally complained of. The Tribunal has also held that comments made at the stage of the administrative complaint that were not clear enough – or even succinctly elaborated on – did not enable the Tribunal to conclude that the appellant was already complaining, at the stage of the administrative complaint, to be the victim of an act other than the one specified in the administrative complaint (TACE, Appeal No. 521/2011 (R. V. (II) v. Governor of the Council of Europe Development Bank, judgment of 26 September 2012, paragraphs 58-60).

  On the other hand, the appellant may broaden the scope of grievances related to the impugned act (since, at the stage of the administrative complaint, appellants are not obliged to specify all their grievances in detail). They must do so in the first document they submit to the Tribunal, i.e. in the submissions deposited *in extenso* or in the supplementary pleadings if they choose to deposit summary pleadings".
  - ATCE, appeal No. 593/2018, *Schio v. Governor of the Development Bank*, judgment of 20 June 2019, paras 73 and 74

- "The document [sent to the Secretary General by the appellant] therefore constituted an administrative request under Article 59, paragraph 1, of the Staff Regulations. Such requests are a preliminary to lodging the administrative complaint provided for in paragraph 2 of the same article and are aimed at securing an administrative decision. If he wished to challenge the dismissal of this administrative request, pursuant to the Staff Regulations, the appellant should have submitted an administrative complaint to the Secretary General rather than lodging an appeal with the Tribunal. The fact that both the administrative request and the administrative complaint were addressed to the Secretary General did not exempt the appellant from the obligation to complete both procedural steps.

  The Secretary General, however, treated the administrative request as an administrative complaint, even though he has no authority to do so under the Staff Regulations, and he

himself informed the appellant, in line with decades-old best practice, that he could appeal to the Tribunal within 60 days.

As to the conclusions to be drawn, the Tribunal has decided not to declare the appeal inadmissible for failure to exhaust domestic reasons, for two reasons. First because the Secretary General has not invoked the failure to comply with this procedural requirement and chose to treat as an administrative complaint what was actually an administrative request for the award of a sum that had never previously been claimed by the appellant and refused by the Organisation. And second because the appeal cannot in any case be considered well founded."

- ATCE, appeal No. 586/2017, *Paolillo v. SG*, judgment of 17 May 2018, paras 70, 71 and 73

- "[A]s in human rights cases, the rationale for the exhaustion rule in administrative law disputes involving the Organisation is to afford the Secretary General of the Council of Europe or the Governor of the Council of Europe Development Bank the opportunity to prevent or put right the violations for which the Organisation is allegedly responsible."
  - ATCE, appeals Nos. 561-564, *Kacsandi (I, II, III, and IV) v. Governor of the Development Bank*, judgment of 26 April 2016, para 112

- "As to [the appellant's] complaint, concerning the failure to complete the appraisal (…), the Tribunal notes that the appraisal report is a different administrative act from the one which the appellant is complaining of in the present appeal. If he believed that irregularities had occurred in the appraisal procedure for 2014, he should have challenged it through the complaints procedure."
  - ATCE, appeal No. 567/2015, *Skouras v. SG*, judgment of 29 January 2016, para 87

- "The Tribunal notes that the provisions of paragraph 1 of Article 59 of the Staff Regulations are designed to allow a staff member to have an administrative act performed that may subsequently be contested by means of an administrative complaint under paragraph 2 of the same article. There can therefore be no chronological overlap between these two procedures, which by definition are distinct: one must follow after the other. Indeed the Tribunal has already addressed the differences between these procedures (ATCE, Appeal No. 340/2004 - Robert DIEBOLD (II) v. Secretary General, judgment of the Administrative Tribunal of 17 June 2005, although this refers to Article 59 in its previous version).

  Although the appellant's letter to the Governor (…) makes reference to both paragraphs at the same time, despite the verbal sparring it is clear that this letter indeed constitutes an administrative complaint within the meaning of Article 59, paragraph 2, of the Staff Regulations. The Tribunal arrives at this conclusion, because even if at the end of the letter the appellant refers – incorrectly, as it happens – to paragraph 1 of the same article, she is asking to be reinstated in her previous situation. The Tribunal sees that request for "reinstatement" as analogous with the fact of contesting an "individual measure" affecting the appellant, of the kind referred to in paragraph 2. Therefore that letter, which, moreover, was clearly described as an "administrative complaint", had the aim of requesting the annulment of an existing administrative act and not the adoption of an administrative act that did not yet exist."
  - ATCE, appeal No. 559/2014, *Oristanio v. Governor of the Development Bank*, judgment of 29 January 2016, paras 34 and 35

- ATCE, appeal No. 559/2014, Oristanio v. Governor of the Development Bank, judgment of 29 January 2016, para 44, also cited under "**Grounds**"

- "On the subject of the [objection of inadmissibility raised by the Secretary General, according to which the appellant did not raise the ground of appeal that the tests were in breach of the regulations in her administrative complaint], the Tribunal notes, as the appellant also correctly points out, that under its case-law, at the administrative complaint stage, appellants need not set out all their arguments but may confine themselves to stating the grounds of appeal that they are raising (ATCE, Appeal No. 294/2002, MARCHENKOV v. Secretary General, decision of 28 March 2003, paragraph 20). In the present case it is clear that the appellant was challenging the way in which the tests were conducted and hence their compliance with the regulations."
    - ATCE, appeal No. 543/2014, *Kurt Torun v. SG*, judgment of 6 February 2015, para 48

Res judicata

- "[T]he principle of res judicata precludes a further ruling on claims identical in substance to claims on which the Tribunal has already passed judgment (Judgment No. 574 of the ILO Administrative Tribunal of 20 December 1983). This principle is also intended to prevent the parties, once judgment has been handed down, from endlessly bringing proceedings before the same court or another court in order to finally obtain a decision in their favour (Judgment No. 467 of the ILO Administrative Tribunal of 28 January 1982). (…)
  [T]he principle of res judicata applies only where the parties, the purpose of the suit and the cause of action are the same as in the earlier case (Judgment No. 4501 of the ILO Administrative Tribunal of 6 July 2022, consideration 3)."
    - ATCE, appeal No. 728/2022*, C (II) v. Governor*, order of 10 March 2023, paras 18 and 23
      See also:
    - ATCE, appeal No. 645/2020, *Priore (II) v. SG*, judgment of 15 January 2021, paras 73 and 74

- "[A] party to a dispute cannot call into question the authority of *res judicata* and to bring the same issue before the Tribunal again by relying on rights the exercise of which is not subject to any particular requirement to adhere to time limits (see, mutatis mutandis, decision of the ATCE of 27 January 2022, Appeal No. 674/2021 – Mendez-Carvalho v. Secretary General, paragraphs 68 to 73)".
    - ATCE, appeal No. 728/2022*, C (II) v. Governor*, order of 10 March 2023, para 28

- "Not only does [the principle of res judicata] "[operate] 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", but it also "extends to bar proceedings on an issue that must necessarily have been determined in the earlier proceeding even if that precise issue was not then in dispute" (Judgment No. 2316 of the ILO Administrative Tribunal of 4 February 2004)".
    - ATCE, appeal No. 645/2020, *Priore (II) v. SG*, judgment of 15 January 2021, para 73

Time-limits

- "The objective setting for the appellant's second reference period took place on 31 October 2023, two months after the start of this period on 1 September 2023. In the absence of a rule requiring the Organisation to comply with a specific time limit, the question that the Tribunal must therefore consider is whether the 2-month time frame for setting objectives for the second reference period was reasonable and whether it could have adversely affected the appellant. In examining this question, the Tribunal takes into account any special circumstances that might justify the delays found (European Union Court of First Instance, Case T-281/01, judgment of 6 July 2004, Huygens v. Commission of the European Communities, paragraph 59)."
    - ATCE, appeals Nos. 761/2024 and 762/2024, *L. D. (I and II) v. SG*, judgement of 25 March 2025, para 115

- ATCE, stay of execution request No. 2/2024, order of 14 May 2024, *B. S. v. Governor of the Development Bank*, para 23, also mentioned under "**Emergency**"

- "[T]he procedural time limits applied in the case of requests for stays of execution are not based on any binding rules, apart from the 15-day limit provided for in the Tribunal's Statute for ruling on requests. The intermediate procedural time limits are set by the Chair according to the needs of the proceedings, on the basis of the powers assigned to the Chair pursuant to the relevant regulations, in particular the Tribunal's Rules of Procedure."
    - ATCE, stay of execution request No. 1/2023, order of 13 July 2023, *L. C. v. SG*, para 28

- ATCE, appeal No. 674/2021, *Mendez-Carvalho v. SG*, judgment of 27 January 2022, para 70, also cited under "**Right to protection**"

- "The Tribunal reiterates the importance of compliance with the prescribed time limits when lodging an administrative complaint in order to ensure observance of the principle of legal security in the interests of both the Organisation and its staff (see ATCE, Appeal No. 416/2008 – Švarca v. Secretary General, decision of 24 June 2009, paragraph 33 with further references)".
    - ATCE, appeal No. 672/2020, *Kowalczyk-Kędziora v. SG*, judgment of 21 October 2021 , para 29

      See also:
    - ATCE, appeal No. 668/2020, *Kalovska Roussou v. SG*, judgment of 24 June 2021, para 42
    - ATCE, appeals Nos. 640/2020-644/2020, 646/2020-648/2020, *Parsons (V) and Others v. SG*, and appeals Nos. 649/2020, 652/2020-660/2020 and 664/2020, *Verneau (II) and Others v. SG*, judgment of 20 April 2021, para 44

- "[T]he length of the delay in filing should be reasonable in the circumstances of the case (International Labour Organization (ILO) Administrative Tribunal, Judgment 3651 of 6 July 2016)."
    - ATCE, appeal No. 668/2020, *Kalovska Roussou v. SG*, judgment of 24 June 2021, para 50

- "[T]he Tribunal considers, as it has already argued in other cases (ATCE, Appeal No. 522/2012, Hoppe v. Secretary General, decision of 12 April 2013, paragraph 19), that the

point from which the time-limit within which an administrative complaint must be filed begins to run is when the person concerned learns that he or she has failed an examination. In the Tribunal's opinion, this time-limit could not start running from the point at which the appellant learnt how the competitive examination was to be conducted because, under Article 59, paragraph 2, of the Staff Regulations, an administrative complaint must be directed against an act that adversely affects the appellant. Appellants must also show that they have a direct and "existing" interest. Such an interest can only be considered to exist when an appellant learns of the adverse outcome of an examination."

- ATCE, appeal No. 665/2020, *Yuksek (II) v. SG*, judgment of 12 February 2021, para 51

  See also:

- ATCE, appeal No. 543/2014, *Kurt Torun v. SG*, judgment of 6 February 2015, para 47

- "The Tribunal notes that the running of the 30-day time-limit under Article 59, paragraph 3, of the Staff Regulations should be established with due regard being had to the subject matter of the case and the essential purpose which the applicant wished to achieve.

  It notes at the same time that the time-limits for internal appeal procedures are an objective matter of fact and strict adherence to them is necessary, otherwise the efficacy of the whole system of administrative and judicial review of decisions potentially adversely affecting the staff of international organisations would be put at risk. Flexibility about time-limits should not intrude into the Tribunal's decision-making even if it might be thought to be equitable or fair in a particular case to allow some flexibility. To do otherwise would "impair the necessary stability of the parties' legal relations" (see A. v. the Food and Agriculture Organisation of the United Nations, ILOAT, judgment of 6 July 2016, point 5; as to compliance with time-limits see also ATCE, Appeal No. 392/2007 - Adriana Dăgălită v. the Secretary General, judgment of 29 February 2008, paragraphs 39-43; and Appeals Nos. 542/2013 and 544/2014, Carlo Tancredi v. the Secretary General (I. and II), judgment of 13 October 2014, paragraphs 54-58). (…)

  [T]the Tribunal finds that the act adversely affecting the appellant in the present case, within the meaning of Article 59, paragraph 2, of the Staff Regulations, is the employment contract signed by her on 30 April 2018, and not the reply from the Head of Operations on 14 September 2018 (…). To attach to the Head of Operations' email a value which would restore to the appellant the time-limits for challenging her employment conditions would be tantamount to infringing the principle of legal certainty and depriving of all meaning the procedure set out in Article 59 paragraph 1 in fine of the Staff Regulations (see ATCE, Appeal No. 462/2009, Tobia Fiorilli v. the Secretary General, judgment of 18 June 2010; and also mutatis mutandis, ATCE, Appeal No. 416/2008, Švarca v. the Secretary General, judgment of 24 June 2009, Appeal No. 26/2000, Panos Kakaviatos v. the Secretary General, judgment of 28 February 2001 and Appeal No. 340/2004, Robert Diebold v. the Secretary General (II), judgment of 17 June 2006)."

  - ATCE, appeal No. 603/2019, *Ana v. SG*, judgment of 22 October 2019, paras 47 and 52

    See also:

  - ATCE, appeals Nos. 587/2018 and 588/2018, *Devaux (II) and (III) v. SG*, judgment of 9 October 2018, para 42

- "[I]t is clear from the terms of Article 60, paragraph 3, of the Staff Regulations that the Tribunal can declare admissible an appeal lodged out of time.

  In the light of the particular circumstances of the case [in which the appellant did not receive the first letter of 30 July 2014 rejecting his administrative complaint and filed his appeal on 5 August 2014, before receiving the electronic copy of the rejection of his complaint on 13 October 2014], the Tribunal considers that this rule can apply not only to cases where the time-limit is exceeded, but also to the instant case. These circumstances include the fact that the appellant was in Ukraine and (…) [the fact that] a declaration of inadmissibility of his existing appeal would penalise him unnecessarily (…)."
    - ATCE, appeal No. 554/2014, *Petrashenko v. SG*, judgment of 20 March 2015, paras 33 to 36

Adversarial proceedings

- "As someone who had lodged a complaint of harassment, the appellant had the right to be heard. In general, that right guarantees every person the opportunity to make known effectively their point of view on the existence and relevance of the facts, the alleged circumstances and the documents which the Administration intends to use against them (see ATCE, Appeal No. 651/2020, B v. Secretary General of the Council of Europe, decision of 13 July 2021, § 87). The right to be heard provides a guarantee for the person concerned, but the exercise of that right at the same time enables the administration to adopt a decision in full knowledge of the facts and to correct errors (CJEU, judgment of 4 June 2020, European External Action Service v. De Loecker, C-187/19P, paragraph 69; CJEU, judgment of 25 April 2024, NS v. European Parliament, C-218/23P, paragraph 49).
  (…)
  [T]he right to be heard guarantees every person the opportunity to make known their views during an administrative procedure and before the adoption of any decision liable to affect their interests adversely (CJEU, judgment of 4 April 2019, OZ v. European Investment Bank, C-558/17P, paragraph 53; CJEU, judgment of 4 June 2020, European External Action Service v. De Loecker, C-187/19P, paragraph 68; CJUE, judgment of 25 June 2020, HF v. European Parliament, C-570/18P, paragraph 58; CJEU, judgment of 30 November 2023, MG v. European Investment Bank, C-173/22P, paragraph 24). In the case in point, that means the right to be heard had to be guaranteed in proceedings before the Director of Human Resources, and, at the latest, before she took a decision in the context of the management review. (…)

  There is, however, no need to guarantee the complainant the right to be heard, in the sense referred to above, in proceedings before the body responsible for investigating allegations of harassment. At that stage, the complainant's role consists essentially in helping to establish the facts, through their statements and any other evidence that they may furnish (see General Court of the European Union, judgment of 13 December 2018, CN v. European Parliament, T-76/18, paragraph 54, and judgment of 13 December 2018, CH v. European Parliament, T-83/18, paragraph 71; General Court of the European Union, judgment of 14 July 2021, AI v. European Centre for Disease Prevention and Control, T-65/19, paragraph 124). The Tribunal considers that, in this case, by questioning the appellant and affording her the opportunity to present her version of events, the investigators respected her right to be heard."
    - ATCE, appeal No. 766/2024, *L. D. (III) v. SG*, judgment of 24 June 2025, paras 64, 66 and 67

- "[C]ompliance with [the adversarial proceedings] principle requires the party applying to the Tribunal for a stay of execution, upon filing the request, to provide the necessary grounds in fact and law on which it is based so as to enable the respondent to prepare their submissions."
    - ATCE, stay of execution request No. 1/2023, order of 13 July 2023, *L. C. v. SG*, para 30

- "The Tribunal notes that this case (…) raised the issue of access by the appellants to documents classified confidential by the Secretary General (although the legal source of this classification is not specified), where the appellants consider that a full knowledge of the content of these documents may be useful for the defence of their interests.

  Without going into the question of whether the Secretary General's representative tasked with defending the interests of the Organisation had full access to these documents before the Tribunal ordered their disclosure, the Tribunal considers that it would be in the interests of the Organisation to regulate the matter of access to documents concerning decisions taken in recruitment and promotion competitions. In the absence of such rules (whose application would in any event be subject to the Tribunal's supervision), the Tribunal will be obliged to decide each case on its own merits, bearing in mind Article 6 of the European Convention on Human Rights, under which equality of arms is a key requirement of a fair hearing."
    - ATCE, appeals Nos. 555/2014 and 556/2014, *Mayer and Kellens v. SG*, judgment of 28 April 2015, paras 87 and 88

Intervention

- "[Concerning a request for intervention to correct "*possible misrepresentations of the facts*" t]he Deputy Chair noted, however, that under the terms of paragraph 2 of [Article 10 of the Statute of the Tribunal], "submissions made in an intervention shall be limited to supporting the submissions of one of the parties" and that, consequently, no other purpose was permitted (see, mutatis mutandis, the Chair's order of 21 October 2005, dismissing the request by Mr Apolonio Ruiz-Ligero, Vice-Governor of the Bank, for leave to intervene in Appeal No. 348/2005 – Carlos Bendito (IV) v. Governor of the Council of Europe Development Bank). He further stated that it was always open to the parties to bring directly to the attention of the Tribunal any information which the applicant might wish to submit to the Tribunal and that, in any event, the applicant could make use of her statutory rights to correct the "possible misrepresentations".
    - ATCE, appeals Nos. 587/2018 and 588/2018, *Devaux (II) and (III) v. SG*, judgment of 9 October 2018, para 3

- "The Tribunal confirms its decision [rejecting the parties' request for the French Caisse primaire d'assurance maladie to be invited to intervene].

  Indeed, not only do the regulations governing the workings of the Tribunal not authorise this type of intervention, given that the CPAM does not have standing to take a matter before the Tribunal (…) but also any arguments that the CPAM might have (…) could be presented through the respondent party (see, mutatis mutandis, ATCE, Appeal No. 345/2005, Bendito (IV) v. Governor, decision of 19 May 2006, paragraph 4, in which, however, the Tribunal seems to implicitly acknowledge that the third party asking to intervene had standing to take the matter before it and hence to intervene in the proceedings)."

- ATCE, appeal No. 545/2014, *Jaffrey v. SG*, judgment of 23 October 2015, paras 41 and 42

Stay / Stay of execution

- "[T]he applicable regulatory framework makes no provision for the automatic suspension of the time limit [within which the Secretary General must take his decision on the complaint challenging the] decision [to terminate] a staff member's appointment when the basis for that decision is called into question by the filing of a harassment complaint. Furthermore, the Chair of the Tribunal has already noted that, under the regulations in force, he does not have the power to order any such suspension (ATCE, Chair's Order of 30 December 2024, C. V. v. Secretary General of the Council of Europe, § 35). As the regulations stand, therefore, the Secretary General was obliged to take a decision without waiting for the outcome of the harassment procedure.
  (…)
  In the present case, notwithstanding the fact that the Secretary General at the time had already taken the decision (…) to dismiss the appellant's administrative complaint against the decision to terminate her appointment, she could have corrected that decision if the appellant's harassment complaint had been upheld. Similarly, if the Tribunal concludes that the appellant's Appeal (…), directed against the Secretary General's decision (…) dismissing the administrative complaint against the decision (…) to take no further action on the harassment complaint, is well-founded, it will be for the Secretary General to draw the appropriate conclusions. In that case, revising the decision (…) may be one possible means of redressing the damage suffered by the appellant".
  - ATCE, appeals Nos. 761/2024 and 762/2024, *L. D. (I and II) v. SG*, judgment of 25 March 2025, paras 122 and 123

- "Since the decision in question has not yet been implemented, (…) it may be the subject of a request for a stay of execution. This conclusion is in line with the relevant case law (see ATCE, Order of the Chair of 22 March 2021, in the case of *A (II) v. CCNR*, paragraph 38, and cited case law)."
  - ATCE, stay of execution request No. 2/2023, order of 21 December 2023, *P. M. C. v. SG*, para 25

- "[A]n application for a stay of execution may only be granted if the impugned decision has not yet been executed. As the relevant international case law states, a Tribunal "may only order suspension of action if the implementation of the contested decision is still possible and at stake" (see, in particular, United Nations Dispute Tribunal, Case No. UNDT/GVA/2010/005, Abdalla v. Secretary General of the United Nations, Order No. 4 (GVA/2010), 26 January 2010). In the instant case, the decision has already been executed and its suspension can no longer be ordered.
  (…)
  [I]n view of the wording of Article 59 of the Staff Regulations, as cited above, and in accordance with the relevant international case law (see, in particular, United Nations Dispute Tribunal, Case No. UNDT/GVA/2010/063, Aswad v. Secretary General of the United Nations, Order No.5 (GVA/2010, 29 January 2010), a stay of execution "may only be sought with respect to a decision which deploys legal effects vis-à-vis the concerned staff member". Furthermore, it can be inferred from this wording that a stay of execution is only possible in respect of a decision against which an administrative complaint has been filed."

- ATCE, stay of execution request No. 2/2021, order of 22 March 2021, *A (II) v. Central Commission for the Navigation of the Rhine*, paras 38 and 41

Interim measures – Provisional measures

- "[T]he applicant's allegations of harassment, if proven, are such as to call into question the objective and impartial nature of the assessments of his performance during his probationary period, as well as the decision to terminate his contract based on those assessments. The Chair notes, however, that while he has the power to order a stay of execution of the contested decision to terminate the applicant's employment, he does not have the power, under the regulations in force, to impose other protective measures, such as, for example, suspending the administrative complaint procedure pending the outcome of the investigation into the applicant's harassment complaint.

  That said, it is undeniable that, even after his employment with the Organisation has ended, the applicant will retain his full right to have his complaint effectively examined within the framework of the formal procedure initiated. This right requires the Secretary General to take all necessary measures arising from the conclusions of the investigation, including, where appropriate, redress, should it be established that the applicant has been the victim of harassment (ATCE, Chair's Order of 30 December 2024, in the case of C. V. v. Secretary General of the Council of Europe, §§ 35 and 36). If the Secretary General were to make his decision on the administrative complaint before receiving the investigation report on the harassment complaint, it would open to him to correct that decision if the applicant's harassment complaint were to be upheld (ATCE, judgment of 25 March 2025, Appeals Nos. 761/2024 and 762/2024, L.D. (I and II) v. Secretary General of the Council of Europe, § 123)."
  - ATCE, stay of execution request No. 1/2025, order of 31 March 2025, *B. H. v. SG*, paras 31 and 32
    See also:
  - ATCE, stay of execution request No. 5/2024, order of 30 December 2024, *C. V. v. SG*, para 35

- "[T]he unexecuted decision [an order by the Chair of the Tribunal granting a stay of execution] was an enforceable judicial decision and (…), as such, it was binding on the parties (…). This is a basic principle that has its foundation in a law-governed state, a foundation which constitutes one of the core values of the Organisation".
  - ATCE, appeal No. 567/2015, *Skouras v. SG*, judgment of 29 January 2016, para 97

Emergency

- "[T]here is reason to doubt the urgency of the present request for a stay of execution, since it was made several months after the decision to terminate the applicant's employment took effect (…)."
  - ATCE, stay of execution request No. 4/2024, order of 10 September 2024, *L. D. (II) v. SG,* para 28

- "With regard to the particular urgency requirement, (…) the decision to terminate the complainant's employment was communicated to her on 30 April 2024 and took effect the same day. As the disputed decision took immediate effect, the complainant suffered the harmful consequences thereof straight away. Given these circumstances, it can be

accepted that the ruling on the request for a stay of execution should be made as soon as possible.

(…) [T]he complainant lodged her complaint on 6 May 2024 and her request for a stay of execution on 7 May 2024, hardly a week after having been told that it had been decided not to confirm her in her post. The complainant therefore showed due diligence in submitting her request."

- ATCE, stay of execution request No. 3/2024, order of 22 May 2024, *L. D. v. SG*, para 34 and 35

- "As regards the requirement of particular urgency, the Chair notes that the applicable texts do not make the submission of an application for a stay of execution subject to specific time limits, merely stating that such an application is possible following the lodging of a complaint and an appeal. Nevertheless, the relevant case law has clarified the principle whereby if an appellant seeks the Tribunal's assistance on an urgent basis, they must come to the Tribunal at the first available opportunity, taking the particular circumstances of their case into account (United Nations Dispute Tribunal (UNDT), Judgment No. UNDT/2011/212 of 15 December 2011, Evangelista v. Secretary-General of the United Nations). Accordingly, the onus is on the appellant to demonstrate the particular urgency of the case and the timeliness of their actions. The requirement of particular urgency will not be satisfied if the urgency was caused by the appellant (UNDT, Judgment No. UNDT/2011/126 of 12 July 2011, Villamoran v. Secretary-General of the United Nations; Judgment No. UNDT/2011/133 of 22 July 2011, Dougherty v. Secretary-General of the United Nations; judgment UNDT/2011/206 of 1 December 2011, Jitsamruay v. Secretary-General of the United Nations).
  (…)
  As the requirement of urgency is not satisfied, it is not necessary to consider whether the present application satisfies the requirement of serious and irreparable damage, as these two conditions are cumulative."
  - ATCE, stay of execution request No. 2/2024, order of 14 May 2024, *B. S. v. Governor of the Development Bank*, paras 23 and 27

- "[T]he measures sought must be urgent in so far as, in order to avoid serious and irreparable damage, they must be adopted and produce their effects before a decision is reached in the main action (ATCE, Order of 23 December 2021 in the case of *D v. Secretary General*, paragraph 33, and case law cited)."
  - ATCE, stay of execution request No. 1/2024, order of 27 March 2024, *M. M. N. v. SG*, para 22

Serious harm / Prejudice difficult to redress / Irreparable harm

- "[F]or the purpose of assessing whether the prejudice incurred would be irreparable, it must be determined whether financial compensation would represent an adequate remedy for the damage caused. It must be borne in mind here that purely financial damage cannot in principle be regarded as being difficult to redress, still less as irreparable, since, as a general rule, it can be the subject of financial compensation in a subsequent appeal (Administrative Tribunal of the Council of Europe (ATCE), Chair's Order of 23 December 2021, in the case of D v. Secretary General of the Council of Europe, paragraph 34, and case law cited).
  (…)
  [E]ven in the event of purely financial harm, the suspension of the contested decision might be justified in certain exceptional circumstances. However, to be able to assess

whether such circumstances justify suspending the execution of the contested decision, the judge must always be provided with concrete and precise indications, supported by detailed evidence making it possible to assess the consequences likely to result from the absence of the measure requested. In any case, it is for the party requesting the suspension of the contested decision to show that they cannot wait until the outcome of the proceedings without suffering harm of a kind that would justify the requested suspension (ATCE, Chair's Order of 13 July 2023, in the case of L. C. v. Secretary General of the Council of Europe, § 37 and case law cited)."

- ATCE, stay of execution request No. 1/2025, order of 31 March 2025, *B. H. v. SG*, paras 27 and 28

- "[E]ven after her employment with the Organisation has ended, the complainant will retain her full right to have her complaint [for harassment] effectively examined within the framework of the formal procedure initiated. This right requires the Secretary General to take all necessary measures arising from the conclusions of the investigation, including, where appropriate, redress, should it be established that the complainant has been the victim of harassment (see, in particular, paragraph 7.4.7 of the Policy on Respect and Dignity at the Council of Europe and paragraph 82 of the Rule on investigations).

  Similarly, the complainant will retain her full right to usefully contribute to the investigation of her harassment complaint, and the cessation of her employment with the Organisation would not restrict that right.
  (…)
  In the light of the foregoing, the Chair concludes that the complainant's arguments concerning the conduct of the investigation into her harassment complaint do not point to any damage that staying the contested decision would avert."

  - ATCE, stay of execution request No. 5/2024, order of 30 December 2024, *C. V. v. SG*, paras 36 to 38

- "[I]n view of the nature of the harm which the complainant would suffer if the Secretary General accepted her administrative complaint or the Tribunal found in her favour on the merits and she could not be reinstated in her job, the Chair considers that this would not be an irreparable form of damage given that if this were to occur, financial compensation could form adequate reparation for the damage caused."

  - ATCE, stay of execution request No. 3/2024, order of 22 May 2024, *L. D. v. SG*, para 39

- "As to the rejection of the complainant's application for a competition to fill a similar post at the Council of Europe, this shows the complainant's difficulty in maintaining an employment relationship with the Organisation, but it demonstrates neither the existence of the damage required nor, by extension, that preserving this employment relationship is essential to prevent such damage."

  - ATCE, stay of execution request No. 1/2024, order of 27 March 2024, *M. M. N. v. SG*, para 27

- "As to the complainant's assertion that the implementation of the impugned decision [to end her employment] would also deprive her of any prospect of employment on the national labour markets, (…) any difficulty the complainant might have in changing direction professionally cannot be attributed to the Organisation. Nor has the complainant provided any proof that the professional experience she gained at the Council of Europe could not be put to good use in another context."

- ATCE, stay of execution request No. 3/2023, order of 15 January 2024, *M.-L. L. v. SG*, para 32

- "[Following an external recruitment procedure, the claimant was placed on a shortlist. By her application for a stay of proceedings, she sought to suspend, firstly, the decision not to invite her to an interview and, secondly, the appointment of the candidate selected to fill the post concerned by the recruitment procedure]. [T]he complainant, who is still on the pre-selection list drawn up in connection with recruitment procedure no. e19/2023, may yet be called for an interview if the conditions set out in Article 490.5 of the Staff Regulations are met. The fact that she was not invited to an interview to fill a specific vacancy in no way prejudices her chances of being invited to such an interview if vacancies arise in the future.
(…)
[I]n the instant case, the complainant has provided no proof of damage, nor of the serious and irreparable nature of the damage she is likely to suffer if the stay of execution is not granted."
  - ATCE, stay of execution request No. 2/2023, order of 21 December 2023, *P. M. C. v. SG*, paras 29 and 33

- "[In the context of a stay of execution of the decision not to renew the claimant's contract] the Secretary General's commitment to refrain from filling the complainant's post until such time as the Tribunal will have ruled on the merits of the case offers a sufficient guarantee that the complainant's rights and interests will be preserved. Since the post at stake will not be filled before the Tribunal's final decision is rendered, the Chair sees no persisting risk for the complainant of losing the post, and hence no risk of grave prejudice difficult to redress, which would stand in contradiction to the Tribunal's final assessment of the legality of the contested non-renewal. On the contrary, the complainant could return to the post should the Tribunal annul the contested decision.
(…)
In the absence of a risk of a prejudice, there is no need for the Chair to assess whether such prejudice would reach the required threshold of grave prejudice difficult to redress, nor whether financial compensation would offer a suitable means of redress in the case the Tribunal finds in the complainant's favour on the merits."
  - ATCE, stay of execution request No. 5/2021, order of 23 December 2021, *D. v. SG*, paras 37 and 38

The Tribunal's powers

- "[A]ccording to paragraph 1 of Rule 7 of its Rules of Procedure, [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. In order to assess whether a document is necessary, the Tribunal must determine whether it would be able to rule on all the arguments, in fact or in law, raised by the parties, if it did not have access to the document in question.
(…)
[T]o enable it to [verify that the investigation into the appellant's harassment complaint was conducted with the necessary rigour], the Tribunal is of the view that a reading of the investigation report alone is sufficient for the purposes of such a check, without any need to consult the notice of referral to the firm (…), the terms of its mandate, or the documents and communications exchanged between the Administration and [the investigators]. As to the contract concluded with [the latter], the Tribunal fails to see how

the administrative and financial undertakings given under that contract would have any bearing on this examination."

- ATCE, appeal No. 766/2024, *L. D. (III) v. SG*, judgment of 24 June 2025, paras 25 and 26

- "[T]he Chair would point out that under Article 14.8 of the Staff Regulations, his power to grant a stay of execution relates to any type of administrative decision that might be contested pursuant to the relevant provisions (see Administrative Tribunal of the Council of Europe (ATCE), Chair's Order of 15 January 2024 in the case of *M.-L. L. v. Secretary General*, paragraph 26). In this connection, the Tribunal has had occasion in the past to grant a stay of execution of a decision to terminate the employment of a staff member (see, for example, a case concerning a decision to terminate a contract following disciplinary dismissal, ATCE, Chair's Order of 27 August 1998, in the case of *Bouillon IV v. Secretary General*, and more recently, in a case concerning the non-renewal of a fixed-term contract, ATCE, Chair's Order of 11 August 2015, in the case of *Skouras v. Secretary General*). The Chair's power to suspend an administrative decision does not confer upon him the right to impose other types of provisional measures or to amend the disputed decision in any way (ATCE, Chair's Order of 21 December 2023, in the case of *P. M. C. v. Secretary General*). Insofar as any stay of execution that may be granted would require the Secretary General to reconsider her decision not to confirm the complainant in her employment, drawing the relevant conclusions from the stay ordered and pending her decision on the administrative complaint and the Tribunal's decision in the event of an appeal without nonetheless imposing any particular decision on her, the stay of execution procedure would not result in any direct change in the status quo, and its purpose, which is to preserve the current state of affairs, would be respected."

  - ATCE, stay of execution request No. 3/2024, order of 22 May 2024, *L. D. v. SG*, para 32

- "The Chair points out that the exercise of her exceptional power [to decide on a stay of execution of an administrative decision] under Article 14.8 of the Staff Regulations calls for some self-restraint."

  - ATCE, stay of execution request No. 1/2024, order of 27 March 2024, *M. M. N. v. SG*, para 29

- "[U]nder Article 60, paragraph 2, of the Staff Regulations, in disputes of a pecuniary nature, it has unlimited jurisdiction and in other disputes, [the Tribunal] may set aside the act complained of. It follows, firstly, that the Tribunal cannot take decisions concerning non-contested acts and, secondly, as regards contested acts, except in disputes of a pecuniary nature, it cannot take decisions other than decisions to set aside (ATCE, formerly the Appeals Board, Appeal No. 179/1994 – Fuchs v. Secretary General, decision of 12 December 1994, paragraph 22, ATCE, Appeals Nos. 530/2012 and 531/2012 - Françoise PRINZ (II) and Alfonso ZARDI (II) v. Secretary General, decision of 6 December 2012, paragraph 87)."

  - ATCE, appeal No. 604/2019, *Mihalache v. SG*, judgment of 30 October 2019, para 101

- "[A]ny measure taken after the annulled act from which that measure stems ceases to be lawful by the mere fact of the Tribunal's decision. It is clear, therefore, that the four measures (…) cease to be lawful and must be set aside following the annulment of the [impugned] decision.

While, however, it is within the Tribunal's power to declare these four documents invalid in the case of the first appellant, it cannot strictly do so in the case of the second appellant, as unlike the first appellant, the second appellant did not ask for them to be annulled at the time of submitting his administrative complaint. And the legal framework for the proceedings is determined by the challenge raised in the administrative complaint. There being no public-policy grounds for the Tribunal to rule of its own motion, it is not necessary for it to adjudicate ultra petita. It will, however, be for the second appellant and the Organisation to draw the appropriate conclusions in this regard from the present decision.

As regards the conclusions to be drawn with regard to the opinion of the Commission against Harassment, which was delivered before the decision of 13 April 2017, the Tribunal notes that at no time was this opinion challenged via the disputes procedure. The requests submitted to the Secretary General and to the Tribunal in the two administrative complaints and in the two appeals are clear on this point, for although the appellants allege irregularities in the proceedings prior to the [impugned] decision, they have made no request for the Commission's opinion to be set aside.

Here again, there being no public-policy grounds for the Tribunal to rule of its own motion, it is not necessary for it to adjudicate ultra petita. It will, however, be for the appellants and the Organisation to draw the appropriate conclusions in this regard from the present decision."

- ATCE, appeals Nos. 582/2017 and 583/2017*, Brillat (III) and Priore v. SG*, judgment of 17 May 2018, paras 125 to 128

- "The Tribunal notes, to begin with, that pursuant to Article 60, paragraph 2, of the Staff Regulations, it has unlimited jurisdiction regarding disputes of a pecuniary nature. In the case of other disputes it can annul the act complained of. It can also order the Organisation to pay the appellant compensation for the damages resulting from the act complained of.

  Since this dispute is of a pecuniary nature, the Tribunal does not have to confine itself to annulling the act complained of, while leaving it to the Secretary General to take the necessary measures to execute its decision in order to compensate the appellant, but can rule on the claims as submitted by the appellant."

  - ATCE, appeal No. 529/2012, *Rougie-Eichler v. SG*, judgment of 20 March 2015, paras 92 and 93
    See also:
  - ATCE, appeal No. 557/2014, *Hedman v. SG*, judgment of 10 December 2015, para 80

No power of injunction

- "[U]nder Article 60 of the Staff Regulations, [the Tribunal] is empowered only to set aside the act complained of. The case law of this Tribunal is clear as to the impossibility of obtaining a judgment directed at an object other than that one (ATCE, Appeal No. 179/1994 – Fuchs v. Secretary General, decision of 12 December 1994) and/or of imposing behaviour on the Governor of the Development Bank (Appeal No. 474/2011 and No. 475/2011 Françoise PRINZ (I) and Alfonso ZARDI (I) v. Secretary General, decision of 8 December 2011).

Accordingly, the appellant's request that the Tribunal order an external investigation into the alleged harassment is to be rejected as inadmissible, as the Tribunal is not competent to deal with requests of that kind".

- ATCE, appeal No. 673/2021, *C v. Governor of the Development Bank*, judgment of 27 January 2022, paras 47 and 48

  See also:
- ATCE, appeal No. 645/2020, *Priore (II) v. SG*, judgment of 15 January 2021, para 93

- "[A]s to the applicant's last request that, irrespective of the outcome of the appeal, the Tribunal formally instruct DHR to refrain from any subjectivity, bias or 'reprisal' in respect of the appellant and his future employment opportunities at the Council of Europe, the Tribunal recalls that under Article 62, paragraph 2, of the Staff Regulations, the Tribunal has unlimited jurisdiction in respect of disputes of pecuniary nature. Outside the disputes of pecuniary nature, the Tribunal cannot decide otherwise than to annul the act complained of (see ATCE, appeal No. 604/2019, Mihalache v. Secretary General, judgment of 30 October 2019, paragraph 101, with further references). Accordingly, it dismisses the appellant's last request."
  - ATCE, appeal No. 638/2020, *Zrvandyan v. SG*, judgment of 30 November 2020, paras 62 and 65

- "[With regard to the appellant's claim to be allowed to return to the department to which she was assigned before so that she can complete her probationary period], the Tribunal notes that, under Article 60, paragraph 2, of the Staff Regulations, except for disputes of a pecuniary nature, where it has unlimited jurisdiction, it may only annul the act complained of. It follows that the Tribunal, except in cases of a pecuniary nature, may not take decisions other than decisions to set aside. It is for the Secretary General, in executing the present decision, to choose the manner of executing the decision and for the appellant to challenge it if she disagrees using the remedies available to her (ATCE, Appeals Nos. 530/2012 and 531/2012 – Françoise PRINZ (II) and Alfonso ZARDI (II) v. Secretary General, decision of 6 December 2012, paragraph 87). This claim must be dismissed, therefore."
  - ATCE, appeal No. 606/2019, *Cosset v. SG*, judgment of 30 October 2019, para 90

- "[T]the Tribunal cannot order the Secretary General to give a contract to the appellant because the Court does not have the power to impose a positive (facere) obligation on the Secretary General. (…)

  Consequently, it is for the Secretary General, in executing the decision which is governed by paragraphs 6 and 7 of Article 60 of the Staff Regulations, to draw the appropriate conclusions from the annulment decision adopted and to take the necessary measures to enforce it."
  - ATCE, appeal No. 604/2019, *Mihalache v. SG*, judgment of 30 October 2019, paras 104 and 106

- "[As for the appellant's request to be selected for secondment by way of an amicable solution] the Tribunal notes that, except in disputes of a pecuniary nature, it may only annul the act complained of (Article 60, paragraph 2, of the Staff Regulations). The Tribunal cannot rule on this point therefore, not even by way of an "amicable solution."

- ATCE, appeal No. 580/2017, *Demir Saldirim v. SG*, judgment of 31 January 2018, para 123
  See also:
- ATCE, appeal No. 579/2017, *Uysal v. SG*, judgment of 31 January 2018, para 118

Grounds

- ATCE, appeal No. 673/2021, *C v. Governor of the Development Bank*, judgment of 27 January 2022, paras 54 to 56, also cited under "**Exhaustion of internal remedies – Management review – Administrative complaint**"

- "The Tribunal notes (…) that, at the hearing, the Secretary General raised for the first time the issue of the admissibility of this complaint.

  In accordance with the Tribunal's case-law, the Secretary General should have entered this plea at the latest in his first act before the Tribunal, namely his written observations. Consequently, having failed to do so in the present case, the Secretary General is estopped from entering any such pleas at the hearing.

  Since the plea concerns the jurisdiction of the Tribunal, it may be raised by the Tribunal ex officio, as such questions are a matter of public policy. The Tribunal does not consider it necessary to do so, however, because the plea would in any event be unfounded."
  - ATCE, appeals Nos. 595-601/2018, *Alberelli (III) and Others v. SG*, judgment of 20 June 2019, paras 111 to 113

- ATCE, appeal No. 593/2018, *Schio v. Governor of the Development Bank*, judgment of 20 June 2019, paras 73 and 74, also cited under "**Exhaustion of internal remedies – Management review – Administrative complaint**"

- "[T]he ground of appeal that the Governor deems inadmissible is related to facts that the appellant complains of in her administrative complaint. Indeed, an applicant does not need to develop all his/her arguments at the stage of the administrative complaint: at this point it is sufficient to identify the act or behaviour that is being complained of."
  - ATCE, appeal No. 559/2014, *Oristanio v. Governor of the Development Bank*, judgment of 29 January 2016, para 44

- ATCE, appeal No. 543/2014, *Kurt Torun v. SG*, judgment of 6 February 2015, para 48, also cited under "**Exhaustion of internal remedies – Management review – Administrative complaint**"

Lack of authority of decision maker / Incompetence of author of decision

- "[By interpreting the relevant provisions of the Policy on Respect and Dignity in the Council of Europe and of the Rule on investigations in a consistent manner, it follows that the Director of Human Resources not only has] the responsibility and the power to order an investigation into a complaint of harassment (…) [but also] the power to instruct and supervise the work of the investigators (…). Accordingly, the entire investigation comes under the purview of the Director of Human Resources from start to finish.
  (…)
  It follows that in giving instructions to [the investigation firm] and supervising its work in connection with the investigation into the appellant's complaint, the Director of Human Resources [did not exceed] her powers."

- ATCE, appeal No. 766/2024, *L. D. (III) v. SG*, judgment of 24 June 2025, paras 56 and 58

- "[I]t is possible, insofar as Rule No. 1292 is an internal regulation that was adopted by the Secretary General himself. Certainly, it would have been preferable if the power to delegate had been expressly mentioned in the Rule itself but this omission is not a problem in the instant case as the Deputy Secretary General did not act on her own initiative but made it clear from the outset that she was acting on behalf of the Secretary General. Given her grade and role in the Organisation, such a statement could reasonably be deemed to constitute a remedy for the omission observed.

  It remains to be ascertained whether the Deputy Secretary General was assigned the powers in question in the proper manner. (…)

  In the Tribunal's view, the answer has to be no.

  In order to be valid vis-à-vis third parties, a delegation must be clear and properly worded. The particular nature of harassment proceedings, which cannot be deemed to constitute an ordinary administrative act, requires that any delegation of authority in such matters be effected in due form and in accordance with all the rules, so if one of these conditions is not met, the act performed by the party to whom authority has been delegated is liable to be invalidated. (…)

  [The Tribunal's] case law in matters relating to the delegation of authority, as cited by the Secretary General, refers to the exercise of the Organisation's normal administrative activities and not to the exercise of special authority for the purpose of giving effect to the internal investigation powers conferred on a body which, although certainly made up of staff members, operates independently and whose activities are clearly distinct from those of staff who conduct an internal investigation on behalf, and at the request, of the Secretary General. The said case law does not extend to the activity in question, therefore."
  - ATCE, appeals Nos. 582/2017 and 583/2017*, Brillat (III) and Priore v. SG*, judgment of 17 May 2018, paras 96 to 112

Procedural flaw / Procedural irregularity

- "[T]he question that needs to be considered is whether the procedural irregularities found were significant in nature and could have harmed the appellant, which is contested by the Secretary General. According to the relevant case law, failure to meet deadlines laid down for an evaluation procedure does not amount to an irregularity capable of making the contested decision unlawful if the delay has not caused the staff member injury (ILOAT, Judgment No. 4505 of 6 July 2022, *R v. WIPO*, consideration 5)."
  - ATCE, appeal No. 747/2024, *M.-L. L. v. SG*, judgment of 30 January 2025, para 51

- "[A]ccording to the relevant case law, it is incumbent on the Administration to ensure that, for all candidates in a competition, the tests proceed in as calm and orderly a manner as possible. An irregularity occurring in the course of the competition tests will affect the lawfulness of those tests only if it is of a substantial nature and liable to distort the results of those tests, however. Where such an irregularity occurs, it is for the respondent institution to show that it did not affect the results of the tests (judgment of

the Court of First Instance (Fourth Chamber), 13 July 2005, Case T-5/04 Carlo Scano v. Commission of the European Communities, paragraph 43 and the case law cited)."

- ATCE, appeal No. 730/2022, *Conrad (III) v. SG*, judgment of 10 November 2023, para 47

- "[I]t is settled case law that a procedure before an Invalidity Board is only null and void if it is established that irregularities influenced the findings of the Invalidity Board (see judgment of the Administrative Tribunal of the Organisation for Economic Co-operation and Development (OECD) of 10 February 1997, case No. 18, Mrs S. v. Secretary General, last paragraph on page 5).

  In the instant case, even assuming that the appellant's post was in fact abolished with the aim of terminating her employment in a way that was irregular, these arguments can only be rejected as they cannot have had any bearing on the findings of the Invalidity Board.

  [The same conclusion applies] with regard to the appellant's argument that her job description was not communicated to the Invalidity Board at the time of the referral (…). As such a circumstance cannot be classified as an irregularity under the applicable rules, it cannot have had any bearing on the findings of the Invalidity Board. The Tribunal notes in this connection that the Invalidity Board received the requisite information in good time for its meeting (…) and the appellant submitted her comments (…)".

  - ATCE, appeal No. 673/2021, *C v. Governor of the Development Bank*, judgment of 27 January 2022, paras 97 to 99

- "Having concluded that there was no formal delegation of authority, the Tribunal must decide what conclusions are to be drawn from this: is the contested decision to be considered null and void or, given that decisions of this kind may be lawfully delegated, is the flaw merely a technical one, with no implications for the legality of the act in question?

  In the view of the Tribunal, consideration should be given to the nature of the impugned proceedings and of the decision to be taken – which is obviously a consequence of the decision-maker's opinion – which may result in disciplinary and administrative action. Based on these criteria, the Tribunal concludes that the flaw is not a purely technical one but rather sufficient to taint the legality of the Deputy Secretary General's decision and render it invalid."

  - ATCE, appeals Nos. 582/2017 and 583/2017, *Brillat (III) and Priore v. SG*, judgment of 17 May 2018, paras 115 and 116

- "With respect to the irregularities in the written examination, the Tribunal notes, on the subject of the extension of the duration of the written examination, that the appellant denies that she gave her consent to such extension. The Secretary General, furthermore, has provided no evidence to support his claim that all of the candidates agreed. Faced with the undisputed fact, therefore, that an extension was granted, the Tribunal can only conclude that there was an unwarranted departure from the rules laid down previously, which must be considered as constituting a procedural irregularity. This irregularity is all the more notable given that it occurred only 5 minutes before the end of the test and, what is more, at the request of one of the candidates."

  - ATCE, appeal No. 580/2017, *Demir Saldirim v. SG*, judgment of 31 January 2018, para 111
    See also:

- ATCE, appeal No. 579/2017, *Uysal v. SG*, judgment of 31 January 2018, para 108

Duty to provide reasons / No or insufficient reasons

- "The fact that the issues with the appellant's conduct were not mentioned in the initial decision to terminate her employment (…) is not sufficient to demonstrate that the real reason for not confirming the appellant in her employment is unrelated to the reasons given in the contested decision.

  The Tribunal also notes that, under certain conditions, additional reasons for a decision adversely affecting the appellant may be provided when the administrative complaint is dismissed, provided that the reasons given to the appellant in the context of the dispute enabled them to exercise their rights, in particular their right to challenge the reasons on appeal and to defend their interests in full knowledge of the facts (ATCE, Appeal No. 743/2024, B. S. v. Governor of the Council of Europe Development Bank, judgment of 25 November 2024, § 56, and cited case law)."
  - ATCE, appeals Nos. 761/2024 and 762/2024, *L. D. (I and II) v. SG*, judgment of 25 March 2025, paras 101 and 102

- "[T]he Tribunal points out that the relevant case law establishes the principle that "the reasons for an act must, in principle, be communicated to the staff member at the same time as the decision adversely affecting them" (ATCE, Appeal No. 606/2019, *Céline Cosset v. Secretary General of the Council of Europe*, decision of 30 October 2019, paragraph 73). It also accepts, depending on the specific circumstances surrounding the decision, that it may be sufficient to supply the beginnings of a statement of reasons in the initial decision provided that adequate reasons are given when the complaint against the decision is dismissed (judgment of the European Union Civil Service Tribunal of 11 July 2013, Tzirani v. Commission, F-46/11, paragraph 159, and case law cited). The relevant case law states that the existence of the beginnings of a statement of reasons is subject to a detailed assessment by the courts (judgment of the Court of Justice of the European Union of 11 June 2020, Commission v. Di Bernardo, C-114/19 P, paragraph 55). In cases in which an administrative complaint has been lodged, courts or tribunals must check whether the reasons given to a staff member in the context of the dispute enabled them, among other things, to challenge them on appeal (ILOAT, judgment No. 2112 of 30 January 2002, Nasrawin, paragraph 5) and to defend their interests in full knowledge of the facts (ILOAT, judgment 1317 of 31 January 1994, Amira, paragraphs 24 and 28, and case law cited)."
  - ATCE, appeal No. 743/2024, *B. S. v. Governor of the Development Bank,* judgment of 25 November 2024, para 56

- "[I]t is not always necessary for a decision of transfer to contain an exhaustive statement of reasons (see Court of Justice of the European Union (CJEC), Kley v. Commission, 1973, 35/72, paragraphs 7 to 21), nor is it always necessary for the reasons to be stated explicitly in the notice of transfer if it is possible for the staff member to clearly gather them from documentation communicated to him or her or from other relevant surrounding circumstances."
  - ATCE, appeals Nos. 739, 740 and 741/2023, *E. T. and Others v. SG*, judgment of 22 March 2024, para 85 and case law cited

- "[If sufficient reasons were given at the time of communication of a decision,] it is irrelevant whether the Administration further supplied additional arguments to justify such a decision. Such arguments need not be examined by the Tribunal".

- ATCE, appeals Nos 722/2022, 731/2022, 732/2022 and 733/2022, *Orekhova and Others v. SG*, judgment of 4 April 2023, para 62

- "[I]t is possible to compensate for an insufficient statement of reasons even in the course of proceedings where, before the appeal was lodged, the staff member concerned already had at his or her disposal information constituting a basis for a statement of reasons. It may also be considered that a decision is sufficiently reasoned if it was taken in a context known to the staff member concerned, enabling him or her to appreciate its scope".
  - ATCE, appeal No. 671/2020, *Nectoux v. SG*, judgment of 21 October 2021, para 50
    See also:
  - ATCE, appeals Nos. 640/2020-644/2020, 646/2020-648/2020, *Parsons (V) and Others v. SG*, and appeals Nos. 649/2020, 652/2020-660/2020 and 664/2020, *Verneau (II) and Others v. SG*, judgment of 20 April 2021, para 125

- "[Concerning the statement of reasons for a decision,] although the Administration is required to state the elements of fact and law which constitute the legal basis of its decisions and the considerations which led to its adoption, it is nevertheless not required to discuss all the issues of fact and law which have been raised during the proceedings (see decision of the Tribunal in Appeal No. 501/2011 Michel SEMERTZIDIS v. Governor of the Council of Europe Development Bank , paragraphs 43 and 44). In any event, the reasons given for a decision are sufficient if it was adopted in circumstances known to the staff member concerned which enable him or her to understand the scope of the measure concerning him or her."
  - ATCE, appeal No. 651/2020*, B v. SG*, judgment of 13 July 2021, para 80

- "[T]he statement of reasons for a decision of a technical nature, [such as the adjustment of the calculation method in line with the consumer price indices], does not require all the details to be explicitly set out in the contested decision. Indeed, an analytical description of the specific technical considerations relating to the adoption of an act, however useful and desirable it may be, is not in itself indispensable in order to consider that the obligation to state reasons has been met. It is sufficient that the persons concerned are able to understand the reasons for the adoption of the act which concerns them, the objective which it pursues and the method applied to establish the amounts to which they are entitled."
  - ATCE, appeals Nos. 640/2020-644/2020, 646/2020-648/2020, *Parsons (V) and Others v. SG*, and appeals Nos. 649/2020, 652/2020-660/2020 and 664/2020, *Verneau (II) and Others v. SG*, judgment of 20 April 2021, para 127

- "It is settled international case law (…) that when the executive head of an organisation accepts and adopts the recommendations of an internal appeal body, she or he is under no obligation to give any further reasons in his or her decision than those given by the appeal body itself (see ILOAT, M. C. P. J v. World Health Organisation, 3 July 2019, Judgment 4147, under 10)."
  - ATCE, appeal No. 624/2019, *Martz v. SG*, judgment of 6 April 2020, para 55

- "[A]ccording to well-established case-law of European and international courts, the Tribunal points out that in cases where administrative measures are set aside because no reasons were given or the reasons given were insufficient, the proceedings resume from the point at which the unlawfulness occurred (see, according to well-established case-law of the EU Court of Justice, the judgments in cases T-225/18, points 80-81, T-385/04, point 114, and T-503/04, points 69 et seq.)."
  - ATCE, appeal No. 622/2019, *Brechenmacher (II) v. SG*, judgment of 5 February 2020, para 83

- « With regard to the appellant's arguments regarding the inadequacy of the reasoning concerning the reprimand, the Tribunal is compelled to conclude that the Secretary General did not overstep the discretion allowed him by referring to a previous disciplinary measure in assessing the seriousness of the misconduct to be punished. His aim was to highlight the repetitive nature of the misconduct so as to demonstrate the need for disciplinary action. »
  - ATCE, appeal No. 622/2019, *Brechenmacher (II) v. SG*, judgment of 5 February 2020, para 88

- ATCE, appeal No. 622/2019, *Brechenmacher (II) v. SG*, judgment of 5 February 2020, paras 100 to 102, also cited under "**Disciplinary sanctions**"

- "[U]nlike in the case of an employee who can terminate their contract without having to give an explanation, an employer who terminates a contract is required to provide a reason for their decision. This principle applies even when, as in the Organisation's regulations (Article 17 of the Staff Regulations – paragraph 34 above), the obligation to give reasons is not explicitly provided for. (…)

  [T]he obligation to give reasons for any decision which (…) adversely affects a person is intended to provide the staff member concerned with sufficient information to enable them to ascertain whether that decision is well founded or whether it suffers from a defect that would enable them to challenge, and the Tribunal to review, the lawfulness of the impugned decision. (…)

  [T]he reasons for an act must, in principle, be communicated to the staff member at the same time as the decision adversely affecting them. Under certain conditions, however, an insufficient statement of reasons for an act may be supplemented, either at the administrative complaint stage or after the appeal has been lodged.

  Factual information and explanations provided by the Administration after the adoption of the impugned act which contain inconsistencies and contradictions do not meet the above requirements. In effect, such information is unlikely to provide the interested party with a sufficient indication of the basis of the contested decision to enable them to challenge its lawfulness before the Tribunal and the latter to exercise its powers of review."
  - ATCE, appeal No. 606/2019, *Cosset v. SG*, judgment of 30 October 2019, paras 69, 72 , 73 and 74

    See also:
  - ATCE, appeal No. 721/2022, *Izyumenko v. SG*, judgment of 12 June 2023, para 45
  - ATCE, appeal No. 651/2020*, B v. SG*, judgment of 13 July 2021, paras 78 and 79

- « [I]n the proceedings before the Tribunal, the Secretary General justified the organisation's use of the affordability clause not only on the ground of the Russian Federation's failure to pay, within the prescribed time, [its] contribution (…) but also on the ground of the organisation's budgetary difficulties, which have not been elaborated on before the Tribunal. (…).

  The fact is, however, that in the Committee of Ministers' decision which gave rise to the administrative acts complained of by the appellants, the only factor considered is the above-mentioned failure to pay within the prescribed time.

  It is inappropriate therefore for the Secretary General to introduce reasons which were not cited in the said Committee of Ministers' decision in an attempt to demonstrate a posteriori the legality of implementing that decision. As the appellants have correctly pointed out, the Secretary General cannot justify a decision using arguments which the Committee of Ministers has not raised. Still less use those arguments to assert, by extension, that the recourse to the affordability clause was lawful.

  Accordingly, the Tribunal will consider the Secretary General's arguments only to the extent indicated above. »
    - ATCE, appeals Nos. 595-601/2018, *Alberelli (III) and Others v. SG*, judgment of 20 June 2019, paras 83 to 86

- "[T]he obligation to give reasons for any decision adversely affecting a person is intended to provide the staff member concerned with sufficient information to enable him or her to ascertain whether that decision is well founded or whether it suffers from a defect that would enable him or her to challenge its lawfulness.

  In disciplinary matters, the question as to whether the reasoning for the decision to punish a staff member meets the above-mentioned requirements must be assessed not only in the light of its wording but also in the light of its context. (…) [I]f the sanction imposed on the staff member is ultimately more severe than the one suggested by the Disciplinary Board, the authority's decision must specify in detail the reasons which led it to depart from the opinion issued by the Disciplinary Board. (…)

  The obligation to give reasons is all the more imperative in the case of the respondent as (…) he (…) opted for the most severe measure, namely removal of the staff member concerned from his post. Such a decision, which had serious and irreversible consequences for the staff member concerned, ought to have been supported by a detailed and enhanced statement of reasons (…).

  The obligation to provide an enhanced statement of reasons in the contested decision was more imperative here given the length of time for which the staff member had served in the Organisation.

  [The application of] the most severe disciplinary measure placed an obligation on the respondent to give sufficient and detailed reasons why the only fitting punishment for the alleged acts was removal from post and not one of the other sanctions provided for in Article 54, paragraph 2, of Part VI of the Staff Regulations. A suspended criminal sentence was certainly something that needed to be considered by the respondent when adopting a disciplinary measure; in those circumstances, however, the decision imposing

the sanction should have set out the reasons why the most severe measure was the only appropriate one, yet it did not do so.

In the absence of an adequate statement of reasons, therefore, the Tribunal is unable to exercise the scrutiny necessary to determine whether the disciplinary measure of removal from post was proportionate to the offences allegedly committed by the appellant."

- ATCE, appeal No. 591/2018, *Brechenmacher v. SG*, judgment of 2 April 2019, paras 83, 84, 87, 92, 94 and 95

Factual error

- "Regarding the errors of fact, the Tribunal recalls that, according to the appellant, the Secretary General failed to take account of all the relevant facts, even though he was duty bound to do so. She also maintains that he should have asked her about the impact of her new situation on her living conditions, particularly from a financial standpoint.

  Yet the Tribunal is bound to observe that in her request (…), the appellant provided no information whatsoever on which the Secretary General might base a decision to apply the exception provided for in Article 6, paragraph 1 permitting the continued payment of the supplement and allowance in question. (…)

  The appellant therefore has no grounds for complaining that the proceedings were defective because of failure to consider the facts.

  In the light of these circumstances, the appellant cannot hold the Secretary General responsible for failing to take account of information she had not supplied."

  - ATCE, appeal No. 570/2016, *Cross v. SG*, judgment of 12 May 2017, paras 72, 73, 79 and 80

Error of law

- "The fact that the shortcomings in [the appellant's] conduct were only mentioned for the first time in the response to the administrative complaint does not in itself constitute an error of law, since it is within the power of the Secretary General, when reviewing the complainant's situation, to take into account new legal or factual elements, or to amend or supplement the initial decision. It is, nevertheless, for the Tribunal to verify that, in so doing, the Organisation has not made inappropriate use of its discretionary power and that the rights of the staff member concerned have been respected."

  - ATCE, appeals Nos. 761/2024 and 762/2024, *L. D. (I and II) v. SG*, judgment of 25 March 2025, para 97

- "In the light of all these circumstances, the Tribunal finds that the contested decision is adopted on the basis of an error of law by reason of the absence of a consistent practice on the part of the defendant, grounded on an accessible and foreseeable legal basis for applying the one-year break rule in respect of candidates in recruitment procedures under Rule No. 1234, such as the appellant in the present case. Moreover, DRH was aware that the External Auditors had advised the Organisation on the need to support and disseminate the respective practice, as well as to introduce corresponding provisions in the recruitment rules, as indicated in Recommendation 15 (…)".

  - ATCE, appeal No. 638/2020, *Zrvandyan v. SG*, judgment of 30 November 2020, para 56

- ATCE, appeal No. 624/2019, *Martz v. SG*, judgment of 6 April 2020, paras 62 and 65, also cited under "**Proportionality**"

Manifest error of assessment

- "The Tribunal recalls that with regard to competitions, international case law is consistent in saying that 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. This discretion is not exempt from judicial review, the purpose of which is to ascertain whether the challenged decision was taken by an incompetent authority, in breach of a procedural or substantive rule, or based on an arbitrary or manifestly unreasonable assessment of the examination (ATCE, appeal No. 736/2023, *A. A. v. Secretary General of the Council of Europe*, judgment of 30 November 2023, § 26; Court of First Instance of the European Union, judgment of 15 February 2005, Norman Pyres v Commission of the European Communities, T-256/01, points 36-37). However, it is not for the Tribunal to substitute its assessment for that of the examination authority.

  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 Registry of the Court. Their conclusions are corroborative (within the margin of two points) and not contradictory. The mere fact that the appellant disagrees with their assessment of his written test is not sufficient to claim that this assessment is arbitrary or manifestly unreasonable. As mentioned in the preceding paragraph, it is not for the Tribunal to make its own assessment of the appellant's test paper. In the absence of any evidence that the assessment could be characterised as manifestly erroneous or deliberately false, the Tribunal does not consider that it is its task to dwell on what appears to be mere disagreement of the job candidate with the marking of his paper by the correctors. It follows that [the] complaint [submitted by the appellant as a job candidate in pursuance of Article 14.10.3 of the Staff Regulations] is inadmissible."
    - ATCE, appeal No. 759/2024, *D. S. v. SG*, judgment of 30 January 2025, paras 60 and 61

- ATCE, appeal No. 651/2020*, B v. SG*, judgment of 13 July 2021, para 164, also cited under "**Investigation**"

Partiality / Bias

- "[T]he principle of impartiality does not go so far as to prevent a manager who has differences of opinion with a subordinate from assessing that person (International Labour Organization Administrative Tribunal (ILOAT), Judgment No.1444 of 6 July 1995, Moosai, consideration 11; ILOAT, Judgment No. 2077 of 12 July 2001, D'Arcangelo, consideration 15). While it cannot be ruled out that such differences may cause the manager some irritation, that does not, in itself, imply that the latter is no longer in a position to objectively assess the merits of the person concerned (European Union Civil Service Tribunal, case F-64/13, judgment of 30 June 2015, Z v. Court of Justice of the European Union, paragraph 71 and case law cited).
  (…)
  [T]he fact that the direct manager was the subject of the appellant's harassment complaint cannot of itself, without more, call into question the impartiality of that manager (see, in this connection, European Union Civil Service Tribunal, Case F-81/11, judgment of 19 June 2013, BY v. European Aviation Safety Agency (EASA), paragraph 59).
  (…)

As to the appellant's allegation that neither her N+1, nor her N+2, nor the head of the Court's Administration should have participated in her assessment process, the Tribunal considers that to accept such an argument, in the absence of any indication of bias on the part of the persons concerned, would be to compromise the guarantee of a proper assessment of the appellant's performance and conduct. Indeed, as pointed out by the relevant case law (Court of First Instance of the European Communities, Case T-285/04, judgment of 13 July 2006, Andrieu v. Commission, paragraph 68), it is only the involvement of the immediate superiors in the work of the officials placed under their authority which enables them to make the best possible assessment of the activities of the persons working under them."

- ATCE, appeals Nos. 761/2024 and 762/2024, *L. D. (I and II) v. SG*, judgment of 25 March 2025, paras 105, 109 and 110

- ATCE, appeal No. 665/2020, *Yuksek (II) v. SG*, judgment of 12 February 2021, paras 70 to 72, 77 to 79 and 82, also cited under "**Appointments Review Committee / Appointments Board**"

Misuse or abuse of authority

- "While it is not for the Tribunal to substitute its assessment for that of the Organisation as to whether the appellant should be required to prioritise, in the interests of the service, one of the official languages of the Council of Europe over the other, it is nevertheless for the Tribunal to consider whether the Organisation has not exceeded the limits of its discretionary power in this matter. The preference among the appellant's managers for English cannot be considered arbitrary or unreasonable, given the fact – which is not denied by the appellant – that English was the working language used by the other members of the Armenian unit of the Court's Registry."

  - ATCE, appeals Nos. 761/2024 and 762/2024, *L. D. (I and II) v. SG*, judgment of 25 March 2025, para 108

- "More specifically concerning the claims of bias and misuse of authority, the Tribunal notes that, while it cannot rule out that the appraiser's intention was, in the words of the appellant, "to drive him out of his directorate", it has to be said that the appellant has not proven his claim and, in any case, the mention of a transfer in the appraisal cannot constitute proof of the alleged misuse of authority".

  - ATCE, appeal No. 593/2018, *Schio v. Governor of the Development Bank*, judgment of 20 June 2019, para 91

- "The Tribunal notes that misuse of authority consists in using a power for purposes other than those for which that power was conferred. (…)

  However, the appellant has provided no evidence of a misuse of authority and although she alleges that the Secretary General based his decision exclusively on budgetary considerations the observations she makes are not calculated to establish these claims."

  - ATCE, appeal No. 570/2016, *Cross v. SG*, judgment of 12 May 2017, paras 83 and 85

Scope of judicial review

- "It is not for the Tribunal to substitute its assessment of the choice of [investigation firm] for that of the Organisation, which has put in place a legal framework designed to ensure that the service providers selected offer all the requisite guarantees in terms of knowledge, competence and integrity. The Tribunal does, however, have the power to

ascertain whether [the investigation firm] carried out its mandate in accordance with the rules (see ILOAT, Judgment No. 4996 of 6 February 2025, P. (No. 3) v. OEB, consideration 10).
(…)
[D]ecisions to dismiss a complaint of harassment taken at the end of an investigation may be censured by [the Tribunal] only where there has been a manifest error of assessment (ATCE, Appeal No. 651/2020, B v. Secretary General of the Council of Europe, decision of 13 July 2021, § 164). In effect, "it is not its role to reweigh the evidence before an investigative body which, as the primary trier of fact, has had the benefit of actually seeing and hearing many of the persons involved, and of assessing the reliability of what they have said" (ILOAT, Judgment No. 4884 of 8 July 2024, M. (No. 2) v. UNESCO, consideration 5; in a similar context: ILOAT Judgment No. 4996 of 6 February 2025, P. (No. 3) v. EPO, consideration 10)."

- ATCE, appeal No. 766/2024, *L. D. (III) v. SG*, judgment of 24 June 2025, paras 78 and 102

- "[I]t is not for the Tribunal to substitute its own assessment of the Council of Europe's recruitment needs for that of the Organisation. Nor does it fall within the Tribunal's remit to determine what constitutes the most appropriate or efficient means of managing a recruitment procedure."
  - ATCE, appeal No. 763/2024 *M.-S. F. v. SG*, judgment of 3 June 2025, para 42

- "[T]he set-up of the risk assessment exercise which gave rise to the present case was a matter entirely for the discretion of the Secretary General. It was for her to identify the risks to be avoided, to define the criteria for assessing their seriousness and to choose the most appropriate measures to respond to them, without being bound or otherwise restricted in that exercise by the statements of principle expressed by the Ministers' Deputies. That having been said, the Tribunal retains the power to review the manner in which this exercise was carried out, in order to verify that the consequences drawn for the appellants were not the result of an arbitrary assessment and respected the guarantees imposed by international civil service law for the staff members concerned."
  - ATCE, appeals Nos. 739, 740 and 741/2023, *E. T. and Others v. SG*, judgment of 22 March 2024, para 79

- "[T]here can be no question, at this stage, of assessing the submissions relating to the merits of the complainant's administrative complaint. These matters are not for discussion in the current proceedings, which are only concerned with urgent measures (see Chair's Order of 3 July 2003, paragraph 10, in *Timmermans v. Secretary General*). Accordingly, it is not necessary for the Chair to examine the considerations concerning the complainant's performance which the Secretary General cites as justification for the contested decision and which the complainant refutes."
  - ATCE, stay of execution request No. 3/2023, order of 15 January 2024, *M.-L. L. v. SG*, para 27
    See also:
  - ATCE, stay of execution request No. 1/2023, order of 13 July 2023, *L. C. v. SG*, para 33

- "The Tribunal notes from the outset that the matter which is raised in the present appeal and which it is competent to examine is the decision of the Administration not to shortlist the appellant in an external competition and the rejection of his administrative complaint

by the Secretary General. The Tribunal is not called to examine the personal circumstances of the appellant that were not referred to or had no bearing on the selection procedure in question."

- ATCE, appeal No. 736/2023, *A. A. v. SG*, judgment of 30 November 2023, para 25

- "The effectiveness of the judicial review requires the Tribunal to conduct a full assessment of the accuracy of the facts. In that regard, it must both verify the material accuracy of the evidence relied on, along with its reliability and its consistency, and check if this evidence constitutes all the relevant data that needs to be taken into consideration to assess a complex situation and is capable of substantiating the findings drawn from it (General Court of the European Union, Case T-470/20, DD v. European Union Agency for Fundamental Rights (FRA), paragraph 211 and case law cited)."
  - ATCE, appeals Nos. 677-711/2022, 713-718/2022 and 724-727/2022, *Frossard (II) and Others v. SG*, judgment of 6 June 2023, para 93

- "The decision whether to renew a fixed-term contract is discretionary in nature and is subject to limited judicial review. It may be quashed only if it was taken by an incompetent authority, is vitiated by a formal or procedural defect, is based on an error of fact or law, fails to take account of all the relevant facts, is vitiated by a misuse of power or draws manifestly erroneous conclusions from the file (…)".
  - ATCE, appeals Nos 722/2022, 731/2022, 732/2022 and 733/2022, *Orekhova and Others v. SG*, judgment of 4 April 2023, para 53
    See also:
  - ATCE, appeal No. 723/2022, *Zaytseva v. SG*, judgment of 12 June 2023, para 41
  - ATCE, appeal No. 721/2022, *Izyumenko v. SG*, judgment of 12 June 2023, para 43
  - ATCE, appeals Nos. 587/2018 and 588/2018, *Devaux (II) and (III) v. SG*, judgment of 9 October 2018, para 109, also cited under "**Duty of care**"

- "The Tribunal points out that under established case law an Organisation's discretionary decisions are subjected to limited review by the Tribunal, which must respect the Organisation's freedom to decide and should not substitute its own judgment for that of the Organisation (see for example, on recruitment, ATCE, Zimmermann v Secretary General, appeal No. 226/1996, decision of 24 April 1997, paragraph 37).

  The impugned decision must be assessed in the light of all the facts which had occurred and were known to the Administration at the relevant moment (…) (see United Nations Appeals Tribunal, Gisage v. Secretary-General of the United Nations, Judgment No. 2019-UNAT-973, paragraphs 30 and 32)."
  - ATCE, appeal No. 720/2022, *E v. SG*, judgment of 1 February 2023, paras 61 and 62
    See also:
  - ATCE, appeal No. 736/2023, *A. A. v. SG*, judgment of 30 November 2023, para 28

- "[With regard to competitions,] the Tribunal will (…) exercise its power of review with special caution, its function being not to judge the candidates on merit but to allow the authority responsible for selection full responsibility for their choice".

- ATCE, appeal No. 675/2021, *Rouabaa (II) v. SG*, judgment of 31 March 2022, para 29 and cited case law

  See also:
- ATCE, appeal No. 669/2020, *Rouabaa v. SG*, judgment of 24 June 2022, para 53 and cited case law
- ATCE, appeal No. 665/2020, *Yuksek (II) v. SG*, judgment of 12 February 2021, para 68

- "In view of the [the principles governing the exercise of the Organisation's discretionary power], it is for the Tribunal to consider not only whether the impugned decision was made by a competent body and was in due form but also whether the correct procedure was followed and, with regard to substantive legality, whether the administrative authority's assessment took account of all relevant facts, whether the wrong conclusions were drawn from the documents in the file or, finally, whether there was misuse of power."
  - ATCE, appeal No. 650/2020, *Levertova v. Governor of the Development Bank*, judgment of 12 February 2021, para 51 and cited case law

- "[T]he Court accepts that, in view of the circumstances relating to the appellant's private life and health which surrounded the decision not to extend the probationary period, it might be wondered whether it was advisable for the Organisation to take such a decision at that time; that is not a question which the Tribunal could answer, however, because it must decide as to the law (Article 60, paragraph 2, of the Staff Regulations)."
  - ATCE, appeal No. 606/2019, *Cosset v. SG*, judgment of 30 October 2019, para 68

- "The Tribunal recalls its case-law which states that, in the area of appraisals, the authority vested with the power of appointment has discretionary power which, however, is subject to stricter scrutiny by the Tribunal than other areas:

  "… appraisal is not a field in which discretionary power can be exercised with the latitude which the Organisation enjoys in other areas. Indeed, the very nature of the appraisal exercise demands that the Organisation should be as objective as possible and, therefore, that it should remain as objective as possible in the appraisal process. Scrutiny of substantive legality should therefore be stricter than in other fields." (TACE, Appeal No. 539/2013, Andrea v. Secretary General, judgment of 31 January 2014, paragraphs 50-51)

  (…)

  The appraiser settled for an appraisal of facts for which it is not for the Tribunal to substitute its own appraisal. Notwithstanding the fact that scrutiny of internal legality must be stricter in the field of appraisal than elsewhere, it does not appear that there were discrepancies between the conclusions drawn by the appraiser and the facts cited, some of which, indeed, were not disputed by the appellant (…)."
  - ATCE, appeal No. 593/2018, *Schio v. Governor of the Development Bank*, judgment of 20 June 2019, paras 83 and 89

- "[T]he Tribunal recalls that under Article 59, paragraph 8 d., of the Staff Regulations, it can rule only on questions concerning irregularities in the procedure. It goes without saying that a manifestly erroneous or deliberately false assessment would fall within the scope of this provision (…). The Tribunal underlines that it is for the appellant to support her allegations by adducing relevant evidence. "

- ATCE, appeal No. 592/2018, *Demir Saldirim (II) v. SG*, judgment of 30 January 2019, para 45

  See also:
- ATCE, appeal No. 580/2017, *Demir Saldirim v. SG*, judgment of 31 January 2018, para 116
- ATCE, appeal No. 579/2017, *Uysal v. SG*, judgment of 31 January 2018, para 113

- "The Tribunal notes that, like other international administrative courts, when ruling on applications submitted to it, it has regard not only to the texts in force within the defendant organisation but also the "general principles of law and basic human rights" (see ILOAT judgment No. 1333, Franks and Vollering, of 1994 (paragraph 5)).

  The said general principles of law include, inter alia, the principle of equal treatment and due diligence together with the duty of care."
  - ATCE, appeals Nos. 587/2018 and 588/2018, *Devaux (II) and (III) v. SG*, judgment of 9 October 2018, paras 98 and 99

- "The Tribunal notes, finally, the opinion expressed by the expert in his findings that the Organisation's liability is not incurred. However, the Tribunal does not consider itself bound by that conclusion, not only because in accordance with the Latin dictum *judex peritus peritorum*, the Tribunal reserves the right to assess the facts reviewed during the expert assessment at its own discretion, but also because it is the Tribunal's duty to check whether, above and beyond the obligations of a nurse, the Organisation did everything in its power to provide the appellant with assistance."
  - ATCE, appeal No. 529/2012, *Rougie-Eichler v. SG*, judgment of 20 March 2015, para 69

Discretion / Discretionary power

- "[T]he Director of Human Resources has a degree of discretion to deduce from the [investigation report issued following a complaint for harassment] either that there was no disrespectful behaviour or that the report discloses behaviour that is contrary to the Policy on Respect and Dignity. To hold otherwise would mean that the Organisation would be delegating some of its responsibilities to an external body not subject to its authority, which would run counter to the very idea underlying the creation of an international organisation."
  - ATCE, appeal No. 766/2024, *L. D. (III) v. SG*, judgment of 24 June 2025, para 76

- "While it is undisputed that international organisations enjoy a broad margin of discretion in managing competitive examinations and assessing the merits of candidates, this discretion must nonetheless be counterbalanced by observance of the applicable rules and principles, including the principles of transparency and fairness. Thus, this discretion is not exempt from judicial review, the purpose of which is to ascertain whether the challenged decision was taken by an incompetent authority, in breach of a procedural or substantive rule, or based on an arbitrary or manifestly unreasonable assessment of the examination (ATCE, Appeal No. 736/2023, A. A. v. Secretary General of the Council of Europe, judgment of 30 November 2023, § 26; EU General Court, 15 February 2005, Pyres v. Commission of the European Communities, T-256/01, §§ 36-38). "
  - ATCE, appeal No. 763/2024 *M.-S. F. v. SG*, judgment of 3 June 2025, para 36

See also:

- ATCE, appeal No. 736/2023, *A. A. v. SG*, judgment of 30 November 2023, para 26 and cited case law
- ATCE, appeal No. 730/2022, *Conrad (III) v. SG*, judgment of 10 November 2023, para 41 and cited case law
- ATCE, appeal No. 712/2022, *Kirbas v. SG*, judgment of 31 January 2023, para 31
- ATCE, appeal No. 675/2021, *Rouabaa (II) v. SG*, judgment of 31 March 2022, para 29 and cited case law
- ATCE, appeal No. 669/2020, *Rouabaa v. SG*, judgment of 24 June 2021, para 53 and cited case law
- ATCE, appeal No. 665/2020, *Yuksek (II) v. SG*, judgment of 12 February 2021, para 68 and cited case law

- ATCE, appeals Nos. 761/2024 and 762/2024, *L. D. (I and II) v. SG*, judgment of 25 March 2025, paras 93 and 94, also cited under "**Probationary period**"

- "The Tribunal points out that when exercising the supervisory powers assigned to it in this area, it has a duty to consider whether the correct procedure was followed (ATCE, Appeal No. 650/2020, *Levertova v. Governor of the Council of Europe Development Bank*, decision of 12 February 2021, § 51 and case law cited). It is also established case law that thorough compliance with the rules governing the organisation of appraisals and the conduct of the procedure provided for in this respect is a means of offsetting the especially large degree of discretion enjoyed by evaluators when appraising a staff member (see, in particular, General Court of the European Union, judgment of 15 June 2022, QI v. European Commission, T-122/21, paragraph 144 and case law cited). This requirement is particularly marked if the appraisee is on a probationary period and confirmation of their employment by the Organisation is dependent on the successful completion of this period."
  - ATCE, appeal No. 747/2024, *M.-L. L. v. SG*, judgment of 30 January 2025, para 49

- "[W]ith regard to the staff appraisal procedure, (…) "a reporting officer has wide discretion (…). The presumption is that such assessment is made in good faith in the interests of both organisation and staff member, and it will stand unless there is an obvious mistake of fact or failure to show the sort of objectivity that ought to govern reporting" (ILOAT, judgment No. 1136 of 29 January 1992, Popineau (Nos. 3 and 4), paragraph 6). »
  - ATCE, appeal No. 743/2024, *B. S. v. Governor of the Development Bank*, judgment of 25 November 2024, para 68

- "[T]he determination of a staff member's grade - whether as a result of recruitment, promotion or a change of category - is an area in which the Secretary General has discretionary power. Accordingly, in the event of a dispute, the Tribunal cannot substitute its own judgment for that of the Administration. Nevertheless, it has a duty to ascertain whether the disputed decision was taken in accordance with the Organisation's regulations and the general principles of law to which the legal systems of international organisations are subject."
  - ATCE, appeal No. 745/2024, *Z. G. v. SG*, judgment of 22 March 2024, para 31

    See also:

- ATCE, appeal No. 738/2023, *C. A. v. SG*, judgment of 25 January 2024, para 33

- "[A]s an expression of the general power to transfer staff members founded in Article 570.1 of the Staff Rule on career development, the supernumerary transfer foreseen in Article 590.1 remains discretionary in nature. Thus, the words "where a staff member is to be transferred" should not be construed as limiting the Secretary General's discretion. In the Tribunal's opinion, there is nothing in the legal wording of the relevant provisions which would support the appellants' restrictive interpretation as applying only to cases where the staff members' posts are abolished or when a staff member returns from unpaid leave."
  - ATCE, appeals Nos. 739, 740 and 741/2023, *E. T. and Others v. SG*, judgment of 22 March 2024, para 66

- "[I]n assessing objective qualifications the competent authority naturally makes less use of discretionary power than in assessing subjective qualifications."
  - ATCE, appeal No. 736/2023, *A. A. v. SG*, judgment of 30 November 2023, para 26

- "Insofar as the appellant considers that the tutorial was incomplete, since it did not explain how to reposition documents displayed on the screen, the Tribunal emphasises that it was for the Administration, in the exercise of its discretion, to decide what information was indispensable and what information constituted general knowledge which the ordinary person was expected to have when participating in online examinations."
  - ATCE, appeal No. 730/2022, *Conrad (III) v. SG*, judgment of 10 November 2023, para 44
    See also:
  - ATCE, appeal No. 712/2022, *Kirbas v. SG*, judgment of 31 January 2023, para 32

- "Although an international organisation is not generally required to extend a fixed-term contract, it is required to examine whether or not it is in its interest to renew the contract and to take its decision accordingly. While such decisions are part of an organisation's discretionary powers, they should not be arbitrary or irrational; they must be based on a valid reason and be announced within good time (see ILOAT: judgment No. 1128, consideration 2; judgment No. 1154, consideration 4; judgment No. 1983, consideration 6; judgment No. 2406, consideration 14; judgment No. 3353, consideration 15; judgment No. 3582, consideration 9; judgment No. 3586, consideration 10; judgment No. 3626, consideration 12, and judgment No. 3769, consideration 7)."
  - ATCE, appeal No. 723/2022, *Zaytseva v. SG*, judgment of 12 June 2023, para 42

- "[W]here the exercise of a discretionary power is subject, as in this case, to objective conditions, it is the Organisation's duty to check that these conditions exist, deploying the appropriate means which such diligent verification calls for. This preliminary process is a prerequisite to guaranteeing that the power is applied legitimately, in compliance with the conditions by which it is defined and circumscribed. Consequently, the Organisation must be in a position to show that its conclusion on whether the conditions

in question exist is the result of a thorough and scrupulous assessment of the relevant circumstances. (…)

It is not for the Tribunal to substitute its assessment for that of the Committee of Ministers and the Secretary General for the purposes of the application of the affordability clause. However, it does have the authority to review the legal interpretation of the data and facts underlying the contested decision".

- ATCE, appeals Nos. 677-711/2022, 713-718/2022 and 724-727/2022, *Frossard (II) and Others v. SG*, judgment of 6 June 2023, paras 92 and 93

- "The criteria which are to be taken into consideration by the Secretary General when exercising her discretion [regarding the renewal of a fixed-term contract] are spelled out in the same rule. They include the need of the Organisation in terms of competencies, secured funding and satisfactory performance of the staff members. The Tribunal notes that the wording of the provision in question suggests that these considerations are not exclusive. (…)

  [T]he (…) wording of Article 20, paragraph 5 of the Regulations on Appointments allows the Secretary General to take into account, when deciding whether to confirm in appointment, other criteria, in addition to those expressly mentioned in this provision. In the cases at hand, the main criterion which was invoked by the Secretary General for grounding the challenged decision and which is not mentioned in Article 20, paragraph 5 of the Regulations on Appointments is the nationality criterion set out in Article 14 (a) of the Staff Regulations. The question that arises in this connection is whether the nationality criterion should apply in the specific context of the present case.

  The Tribunal notes that the condition according to which only individuals holding the nationality of a member State may become staff members of an intergovernmental organisation is widespread in the field of international public service (…). At the Council of Europe, Article 14 (a) of the Staff Regulations is the statutory reflection of this principle. As an objective condition which applies to any recruitment, the nationality criterion leaves no room to the discretion of the Administration: in the absence of such a condition, a recruitment would not be legally possible".

  - ATCE, appeals Nos 722/2022, 731/2022, 732/2022 and 733/2022, *Orekhova and Others v. SG*, judgment of 4 April 2023, paras 54, 56 and 57
  - ATCE, appeals Nos. 587/2018 and 588/2018, *Devaux (II) and (III) v. SG*, judgment of 9 October 2018, para 109, also cited under "**Duty of care**"

- ATCE, appeal No. 651/2020*, B v. SG*, judgment of 13 July 2021, paras 169 and 171, also cited under "**Disciplinary sanctions**"

- ATCE, appeal No. 650/2020, *Levertova v. Governor of the Development Bank*, judgment of 12 February 2021, para 50, also cited under "**Performance**"

- "Regarding the severity of the punishment, the Tribunal notes that, according to a long line of international precedent, the decision-making authority has discretion in determining the severity of a sanction to be applied to a staff member whose misconduct has been established. However, that discretion must be exercised in observance of the

rule of law, particularly the principle of proportionality (see ILOAT, A.F.A. v. World Intellectual Property Organisation, 10 February 2020, Judgment 3953, under 14, with other references; ATCE, sentence Brechenmacher v. Secretary General, cited above, paragraph 91)."

- ATCE, appeal No. 624/2019, *Martz v. SG*, judgment of 6 April 2020, para 61

  See also:
- ATCE, appeal No. 594/2018, *Bauer v. Governor*, judgment of 20 June 2019, para 63 and cited case law

- ATCE, appeal No. 604/2019, *Mihalache v. SG*, judgment of 30 October 2019, paras 83 to 88, also cited under "**Appointment – Recruitment – Entry into service**"

- ATCE, appeals Nos. 587/2018 and 588/2018, *Devaux (II) and (III) v. SG*, judgment of 9 October 2018, paras 61, 62 and 101 to 103, also cited under "**Contract**"

- "[I]n staff management matters the Secretary General, who holds the authority to make appointments (…), has wide ranging discretionary powers under which he is qualified to ascertain and assess the Organization's operational needs and the staff's professional abilities. However, those discretionary powers must always be lawfully exercised. Where a decision is challenged, an international court naturally cannot substitute its judgment for that of the Administration. However, it must ascertain whether the decision challenged was taken in compliance with the Organisation's regulations and the general principles of law, to which the legal systems of international organisations are subject. It must consider not only whether the decision was taken by a competent authority and whether it is legal in form, but also whether the correct procedure was followed and whether, from the standpoint of the Organisation's own rules, the administrative authority's decision took account of all the relevant facts, any conclusions were wrongly drawn from the evidence in the file, and there was any misuse of power (see ATCE, No. 147-148/1986, Bartsch and Peukert v. Secretary General, Decision of 30 March 1987, paragraphs 51-53; No. 173/1994, Ferriozzi-Kleijssen v. Secretary General, Decision of 25 March 1994, paragraph 29; ATCE, Nos. 216, 218 and 221/96, Palmieri III, IV and V. v. Secretary General, Decision of 27 January 1997, paragraph 41).".

  - ATCE, appeals Nos. 561-564, *Kacsandi (I, II, III, and IV) v. Governor of the Development Bank*, judgment of 26 April 2016, para 119

- "[W]hen it comes to recruiting senior officials, [the] discretionary power [of the Administration] is more extensive because of the particular relationship that obtains between staff in this category and the head of the Organisation. This special relationship, however, can never warrant turning discretionary power into arbitrary power, as the basic rules governing the recruitment of international civil servants still have to be observed. That is why the Tribunal has in the past drawn the Organisation's attention to the desirability of drafting more detailed written rules regarding the recruitment of A6/A7 staff members (ATCE, Appeals Nos. 555/2014 and 556/2014 – Mayer and Kellens v. Secretary General, decision of 28 April 2015, paragraph 86).

  [T]he same principles apply when it comes to renewing contracts".

  - ATCE, appeal No. 567/2015, *Skouras v. SG*, judgment of 29 January 2016, paras 81 and 82

See also:

- ATCE, appeals Nos. 555/2014 and 556/2014, *Mayer and Kellens v. SG*, judgment of 28 April 2015, para 86, also cited under "**Internal rules of the Organisation**"

- "[T]he Tribunal must observe that it is not stated anywhere that the Secretary General cannot deviate from the recommendations made to him by the ad hoc panel regarding either the merits of an application or the considerations which lead the panel to conclude that one candidate is better qualified than another to fill the post opened to competition. Consequently, if the Secretary General does deviate from them, it cannot be concluded that he failed to observe the rules laid down in Article 12 of the Staff Regulations.

  The Tribunal also considers that there is no general principle of law requiring the Secretary General to abide by the opinion of a panel appointed by him to give him an opinion. (…)

  [N]othing in the facts brought to the Tribunal's knowledge indicates that, in assessing the candidates, the Secretary General departed from the principles laid down in Article 12, paragraph 1, of the Staff Regulations. The Secretary General reached the conclusion that the candidate appointed was the best even though the ad hoc panel had been of a completely different opinion. Even assuming that the conclusions reached by the Secretary General were erroneous, nothing proves that they were not, nevertheless, covered by the scope of his margin of appreciation."

  - ATCE, appeals Nos. 555/2014 and 556/2014, *Mayer and Kellens v. SG*, judgment of 28 April 2015, paras 74, 75 and 77

- ATCE, appeal No. 543/2014, *Kurt Torun v. SG*, judgment of 6 February 2015, paras 54 to 57, also cited under "**Appointment – Recruitment – Entry into service"**

Burden of proof

- ATCE, appeal No. 738/2023, *C. A. v. SG*, judgment of 25 January 2024, para 35, also cited under "**Practice**"

- "[T]o be able to assess whether such circumstances justify suspending, on an exceptional basis, the execution of the contested decision, the judge must always be provided with concrete and precise indications, supported by detailed evidence making it possible to assess the consequences likely to result from the absence of the measure requested. In any case, it is for the party requesting the suspension of the contested decision to show that they cannot wait until the outcome of the proceedings without suffering harm of a kind that would justify the requested suspension.
  (…)
  As to the seriousness of the alleged harm, (..) the request in question is based on general claims focusing essentially on the fact that the salary paid by the Council of Europe is the requesting party's only source of income. The Chair nevertheless notes that the requesting party does not make any submissions enabling his overall financial position to be assessed, in particular regarding benefits or allowances to which he might be entitled from the relevant national authorities. In any case, the requesting party's arguments concerning his assets and financial situation remain unsubstantiated and do not suffice to demonstrate, for instance, that execution of the contested decision would jeopardise his financial viability and his ability to meet his vital needs."

- ATCE, stay of execution request No. 1/2023, order of 13 July 2023, *L. C. v. SG*, paras 37 and 39

- "The Tribunal recalls (…) that "allegations of discrimination and unequal treatment can lead to redress on condition that they are based on precise and proven facts, that establish that discrimination has occurred in the subject case" (see International Labour Organisation Administrative Tribunal, Judgment 4238, G. v. WHO, consideration 5)".
  - ATCE, appeal No. 719/2022, *Gurin v. SG*, judgment of 31 January 2023, para 59

- "Regarding the evidence on which the Tribunal can draw for the purposes of assessing [the] impartiality [of the Appointments Board], the burden of proving alleged irregularities in the selection procedure lies with the appellant (ATCE, appeal No. 554/2014, decision of 17 March 2015, Petrashenko v. Secretary General, paragraph 41). More particularly, the appellant bears the burden of proving bias. In accordance with the settled case-law, the evidence adduced to prove such an allegation must be of sufficient quality and weight to persuade the Tribunal (ILOAT, Judgment 2472, under 9). Considering that bias is often concealed and that direct evidence to support the allegation may not be available, proof may rest on inferences drawn from the circumstances. Reasonable inferences cannot, however, be based on suspicion or unsupported allegations and must be drawn from known facts (ILOAT, Judgment 3380)."
  - ATCE, appeal Nos. 666/2020 and 667/2020, *Dalvy and Ochoa-Llido v. SG*, judgment of 28 June 2021, para 77

- "Regarding the evidence on which the Tribunal can draw for the purposes of assessing impartiality, the burden of proving alleged irregularities in the selection procedure lies with the appellant (ATCE, appeal No. 554/2014, decision of 17 March 2015, Petrashenko v. Secretary General, paragraph 41). More particularly, the appellant bears the burden of proving bias. In accordance with the settled case-law, the evidence adduced to prove such an allegation must be of sufficient quality and weight to persuade the Tribunal (ILOAT, Judgment 2472, under 9). Considering that bias is often concealed and that direct evidence to support the allegation may not be available, proof may rest on inferences drawn from the circumstances. Reasonable inferences cannot, however, be based on suspicion or unsupported allegations and must be drawn from known facts (ILOAT, Judgment 3380)."
  - ATCE, appeal No. 665/2020, *Yuksek (II) v. SG*, judgment of 12 February 2021, para 73

- ATCE, appeal No. 625/2019, *Brannan (IV) v. SG*, decision of the 8 January 2021, paras 15 to 17, also cited under "**Impartiality of judges – Recusal – Withdrawal – Abstention**"

- "Discrimination cannot be established unless it is proved that staff members in identical situations were treated differently (see, K. (Nos. 1 and 2) v. ILO, judgment No. 4101 of 6 February 2019, consideration 9 with further references). In the present case, the Tribunal notes that the appellant based her allegations only on her own experience and did not back this up with other evidence. It thus finds reliable the statement provided by the Secretary General that the administrative practice of not granting special leave to move house was applied to all staff members leaving the Organisation".
  - ATCE, appeal No. 617/2019, *Ubowska v. SG*, judgment of 17 December 2019, para 35

- "[A]ccording to [the case law of the Tribunal] and according to international administrative case-law the burden of proof lays in principle on a complainant to substantiate any claims of inappropriate behaviour by an employer (see ILOAT, judgment of 6 February 2019, No. 4097, N. (No 2) v. World Health Organisation, paragraph 14; ATCE Appeal No. 285/2011, André Parienti v. Secretary General, judgment of 16 May 2003, paragraph 54).

  However, in cases involving sensitive issues like alleged retaliation, harassment or discrimination, the burden of proof can be for a staff member/appellant concerned excessively heavy due to his or her inability to produce unbreakable evidence capable of directly proving that the alleged improper measure or action by the employer has actually taken place in his or her respect. The Tribunal therefore considers that in those cases, to discharge his or her burden of proof, the appellant should at least specify the facts or indications showing a material probability that the improper action or measure actually occurred. In other words, the appellant should indicate the facts showing a sufficient causal link between his or her behaviour and the action or measure by the employer, which is seen as improper.

  The Tribunal further considers, bearing in mind paragraph 25 of Recommendation CM/Rec(2014) [of the Committee of Ministers to member States on the protection of whistle-blowers] that the appellant, who alleges the existence of the improper measure or action against him or her, has to establish prima facie that he or she was a victim of such an action or measure. If this burden of proof is satisfied, then it is up to the employer to produce evidence that there was a legitimate and substantiated reason for adoption of a measure which is considered by the appellant as improper."
    - ATCE, appeal No. 605/2019*, X v. SG*, judgment of 31 October 2019, paras 64 to 66

- "[A] staff member believing themselves to be harassed must be able to prove the existence of facts warranting a presumption of harassment, and the person accused of it must prove that his actions do not constitute harassment or are justified by reasons unrelated to any harassment".
    - ATCE, appeal No. 593/2018, *Schio v. Governor of the Development Bank*, judgment of 20 June 2019, para 100
      See also:
    - ATCE, appeal No. 673/2021, *C v. Governor of the Development Bank*, judgment of 27 January 2022, para 90

- ATCE, appeal No. 592/2018, *Demir Saldirim (II) v. SG*, judgment of 30 January 2019, para 45, also cited under "**Scope of judicial review**"

- "In support of [her ground relating to a potential negligence from the Council of Europe and the breach of its duty of care] the appellant claims that there have been other accidents and that the Council of Europe has therefore failed to fulfil its duty of care. However, she puts forward no information that would prove her assertions. Neither does she provide prima facie evidence – the fact of requesting a hearing of witnesses without giving details does not constitute such evidence – although it was up to her as the person alleging those facts to provide the proof or at the very least prima facie evidence that would give the Tribunal reason to consider that the Organisation was aware of the hazardous nature of the situation. It is true that the Health and Safety Committee

expressed an opinion that tended towards such a conclusion. However, that opinion was only given preventively and above all, only after the appellant's accident."

- ATCE, appeal No. 545/2014, *Jaffrey v. SG*, judgment of 23 October 2015, para 83

- "The appellant does not argue that any error was made in assessing his competencies and his suitability for recruitment. He merely asserts, without providing any proof of this, that he was ruled out because of the preference given to candidates with experience of working at the Council of Europe.

  While it is true that it is difficult for him to provide proof relating to discussions of which he has no knowledge, given the secrecy surrounding them, the fact remains that the appellant has not provided the Tribunal with any details concerning the tenor of the interview which might have made it possible to substantiate his claims. Neither does the appellant provide any evidence showing that he possessed the required competencies to be recruited and that the Organisation wrongly excluded him and gave undue preference to other candidates, so that it exceeded the limits of its discretionary power in matters of recruitment. (…)

  Consequently, the appellant has provided no prima facie evidence of any irregularity in the procedure, despite the fact that the burden of proving his allegations rests with him."

  - ATCE, appeal No. 554/2014, *Petrashenko v. SG*, judgment of 20 March 2015, paras 33 to 36

Damage / Harm

- "As to the appellant's alternative request for financial compensation for the damage incurred, the Tribunal notes that if her probationary period had been successful, the appellant's CDD could have been renewed for a further year. The Tribunal also notes (…) that if she had been regularly monitored through the appraisal procedure, there was a fifty percent probability that she would have completed her probationary period successfully. The appellant would not, however, have been entitled to the renewal of her CDD after it came to an end. Consequently, the material relief may in principle be set at half the amount of her last basic salary payment (plus any allowances which the appellant was paid before her departure from the Organisation) multiplied by the number of months (twelve) for which she could have been employed if her CDD had been renewed. In the instant case, it has to be taken into account however that the appellant's last CDD was extended by two months to give her the required notice (…). The last basic salary payment must therefore be multiplied by ten.

  Having been deprived of the regular support and supervision which a staff member on a probationary period can reasonably be expected to be afforded, the appellant also suffered non-pecuniary damage, which the recognition of the infringement alone cannot adequately remedy. Accordingly, the Tribunal finds it appropriate to award the appellant €5 000 under this head."

  - ATCE, appeal No. 747/2024, *M.-L. L. v. SG*, judgment of 30 January 2025, paras 59 and 60

- "[W]here the damage relied on by an appellant originates in the adoption of a decision which is the subject of claims for annulment, (…) the rejection of those claims for annulment entails, in principle, the rejection of the claims for damages, since the latter are closely connected".

- ATCE, appeal No. 723/2022, *Zaytseva v. SG*, judgment of 12 June 2023, para 68

  See also:
- ATCE, appeal No. 671/2020, *Nectoux v. SG*, judgment of 21 October 2021, para 60
- ATCE, appeals Nos. 661/2020 and 662/2020, *Bohner (VII) and Cagnolati v. SG*, judgment of 27 April 2021, para 121
- ATCE, appeals Nos. 640/2020-644/2020, 646/2020-648/2020, *Parsons (V) and Others v. SG*, and appeals Nos. 649/2020, 652/2020-660/2020 and 664/2020, *Verneau (II) and Others v. SG*, judgment of 20 April 2021, para 228
- ATCE, appeal No. 645/2020, *Priore (II) v. SG*, judgment of 15 January 2021, para 99 and cited case law

- "[I]n accordance with settled case law if a submission for compensation is closely linked to a claim for annulment, the rejection of the latter also entails the rejection of the claim for compensation."
  - ATCE, appeal No. 651/2020*, B v. SG*, judgment of 13 July 2021, para 183

- "The Tribunal notes that it is not sufficient to plead an alleged violation by the Administration in order to justify a claim for compensation for the damage suffered, and that it must also be shown that this material and/or pecuniary damage is in fact real. "
  - ATCE, appeal Nos. 666/2020 and 667/2020, *Dalvy and Ochoa-Llido v. SG*, judgment of 28 June 2021, para 95

- ATCE, appeals Nos. 640/2020-644/2020, 646/2020-648/2020, *Parsons (V) and Others v. SG*, and appeals Nos. 649/2020, 652/2020-660/2020 and 664/2020, *Verneau (II) and Others v. SG*, judgment of 20 April 2021, paras 181, 182 and 184, also cited under "**Acquired rights**"

- "In respect of the appellant's claim for pecuniary damage [for not having received an offer of employment], the Tribunal recalls that under Article 60, paragraph 2, of the Staff Regulations, it may order the Organisation to pay compensation to the appellant for the damage resulting from the contested act. However, although the appellant was recommended for the post by the interview panel (…) the status of which was not further explained by the Secretary General, the Tribunal notes that it belongs to the Secretary General, using her discretionary powers, to make a final appointment (…). Therefore, the Tribunal cannot speculate on whether the appellant would eventually have been hired or not. Accordingly, it dismisses the appellant's request for pecuniary damage.

  Regarding the appellant's claims for non-pecuniary damage, the Tribunal recalls that it has come to the conclusion that the contested decision had been adopted on the basis of an error of law (…). In this respect the Tribunal considers that the fact of having lost the opportunity of being recruited to the post advertised, certainly caused distress to the appellant. Therefore, deciding on an equitable basis, the Tribunal awards the appellant the amount of EUR 4,000 under that head".
  - ATCE, appeal No. 638/2020, *Zrvandyan v. SG*, judgment of 30 November 2020, paras 63 and 64

- "The Tribunal notes that as it cannot rule on the merits of the case because of an irregularity in the complaints procedure, it need not grant the appellant's claim for non-pecuniary damage. The same applies to her claim for compensation for loss of wages".
  - ATCE, appeal No. 626/2020, *A v. Central Commission for the Navigation of the Rhine*, judgment of 30 November 2020, para 54

- "While it is true that, in the past, the Tribunal has been invited to take into consideration earnings from other employment in an appeal concerning the execution of an earlier decision, the fact is that, ultimately, the Tribunal ruled on another point of law (Appeal No. 348/2005 – Carlos Bendito (IV) v. Governor of the Council of Europe Development Bank, decision of 19 May 2006, paragraph 51) without taking into account the earnings in question."
  - ATCE, appeal No. 606/2019, *Cosset v. SG*, judgment of 30 October 2019, para 91

- "While it is true that the Tribunal has not found any breach by the Organisation of the principles of good faith or care towards the appellant, it has nevertheless come to the conclusion that there has been a failure to comply with the applicable regulatory provisions in the instant case.

  This failure undoubtedly caused non-pecuniary harm to the appellant. This harm, however, is a consequence not of the fact that she was not recruited but rather of the fact that she was denied the possibility of being selected for the post thrown open to competition. In effect, even though the appellant had been performing the same duties under temporary contracts and might, therefore, have been chosen from among the five persons on the reserve list, the Tribunal cannot speculate as to what the outcome might have been and state positively that the appellant is the one who would have been chosen."
  - ATCE, appeal No. 604/2019, *Mihalache v. SG*, judgment of 30 October 2019, paras 109 and 110

- "[T]he principle underlying the provision of compensation for breach of internal procedural requirements, including those governing the appraisal process, is that the appellant should as far as possible be put in the position he or she would have enjoyed had the procedure complied with the internal procedural requirements. The Tribunal will award financial compensation only where it is satisfied that the loss or damage complained of was actually caused by the breach it has found, since the Bank cannot be required to pay damages for which is not responsible."
  - ATCE, appeals Nos. 561-564, *Kacsandi (I, II, III, and IV) v. Governor of the Development Bank*, judgment of 26 April 2016, para 143

- "The Tribunal notes, regarding the appellant's claims, firstly that she failed to quantify a number of them during the written procedure. She also failed to quantify them later during the oral proceedings. (…)

  The Tribunal cannot establish the appellant's right to payment of those claims while giving her the right to quantify them afterwards. Therefore, since these claims have not been supported or justified, they should be dismissed. It is up to the appellant to decide whether she wishes to again request their reimbursement by lodging an administrative request in application of Article 59, paragraph 1 of the Staff Regulations."

- ATCE, appeal No. 529/2012, *Rougie-Eichler v. SG*, judgment of 20 March 2015, para 94

- "The Tribunal acknowledges that, because the Administration's offer [regarding the crediting of prior service for the purposes of pension entitlement] was received belatedly by the appellant, she had less time than the six months mentioned in the offer to decide whether she accepted it. However, despite the complexity of the calculation method, the Tribunal does not consider that the appellant suffered any real prejudice on that account, such that it could be concluded that the act complained of adversely affected her within the meaning of Article 59, paragraph 2, of the Staff Regulations. Moreover, the appellant alleged the existence of a prejudice due to the failure to observe the six-month period, but she did not prove its existence."
  - ATCE, appeal No. 546/2014, *Devaux v. SG*, judgment of 30 January 2015, para 20

Liability of the Administration

- "[I]n accordance with the relevant case law, in order for the Council of Europe to incur non-contractual liability, three cumulative conditions must be met: the Organisation's conduct must be unlawful, actual damage must have been suffered and there must be a causal link between the conduct and the damage pleaded (see, *inter alia*, ATCE, Appeals Nos. 666/2020 and 667/2020, *Dalvy and Ochoa-Llido v. Secretary General of the Council of Europe*, decision of 28 June 2021, § 64; Court of Justice of the European Union, judgment of 12 September 2024, D'Agostino and Dafin v. BCE, C-566/23 P, paragraph 23 and the case law cited)."
  - ATCE, appeals Nos. 746/2024 and 748 to 758/2024, *A. S. T. and Others v. SG*, judgment of 5 February 2025, para 20

- "[I]nternational administrative tribunals have repeatedly reiterated that an international organisation cannot be held liable to its staff, whether serving or retired, for matters that fall exclusively within the sovereignty of the national authorities in tax matters. The tribunals have also made it clear that it is the responsibility of staff to comply with their tax obligations, and that no obligation to provide advice or assistance regarding officials' tax responsibilities can be imputed to the employing organisation (see ILOAT, Judgment No. 3878 of 28 June 2017, under 16; ILOAT, Judgment No. 1491 of 1 February 1996, under 6).
  (…)
  [I]nternational administrative tribunals within the co-ordination system, such as the Administrative Tribunal of the North Atlantic Treaty Organization, have taken a similar position in recent years (…) (NATO Administrative Tribunal, judgment of 24 May 2022, No. 2021/1327, UK v. NATO International Staff, §§ 59 and 60 [and] (…) judgment handed down on 14 June 2022 (No. 2021/1329, AB v. NATO International Staff)."
  - ATCE, appeals Nos. 746/2024 and 748 to 758/2024, *A. S. T. and Others v. SG*, judgment of 5 February 2025, paras 63 and 64

- "Where, as in the case in point, the Administration has recourse to an external service provider to assist it in the process of organising a test, it retains full responsibility for the proper conduct of that test."
  - ATCE, appeal No. 730/2022, *Conrad (III) v. SG*, judgment of 10 November 2023, para 43

- "[T]he Tribunal notes that there is no need for it to rule on the seriousness of the harassment or the Organisation's liability.

  In the proceedings before the Tribunal, the Secretary General does not dispute either the seriousness of the harassment or the Organisation's liability, which can therefore be assumed to have been established. That being so, the only point which the Tribunal is required to decide is whether this liability is capable of giving rise to compensation.

  The Tribunal notes that the Organisation made every endeavour to protect the appellant from the harassment which he claimed to have suffered.

  Having arrived at this conclusion, the Tribunal is compelled to note that the various arguments put forward by the appellant have not convinced it that the Organisation is guilty of the wrongdoing of which the appellant complains."
    - ATCE, appeal No. 586/2017, *Paolillo v. SG*, judgment of 17 May 2018, paras 74 to 81

Costs and expenses

- "[F]rom the file it transpires that the appellants became aware of the criteria used for the risk assessment and its respective outcome only during the proceedings before the Tribunal. Even though the details of these assessments, which the impugned decisions are mainly based upon (…) were not essential for resorting to the Tribunal, it cannot be excluded that the appellants would have been in a better position to prepare their appeal, or that they might even have decided not to bring an action if they had received this information at the pre-litigation level (see *mutatis mutandis* EU Civil Service Tribunal, Judgment of 18 September 2012, Cuallado Martorell v. Commision, paragraph 112). Therefore, in view of the [rule in the Tribunal's statute providing that in the event of an unsuccessful appeal, the Tribunal may, if exceptional circumstances so justify, decide that the Council of Europe shall reimburse all or part of the costs incurred by the appellant], the Tribunal holds that the Council of Europe shall reimburse half of the costs incurred by the appellants."
    - ATCE, appeals Nos. 739, 740 and 741/2023, *E. T. and Others v. SG*, judgment of 22 March 2024, para 90

- "[U]nder paragraph 3 of the aforementioned Article 11 [of the Statute of the Tribunal], in cases where it has rejected an appeal, the Tribunal may, if it considers there are exceptional circumstances justifying such an order, decide that the Council shall reimburse in whole or in part properly vouched expenses incurred by the appellant, and in view of the harassment suffered by the appellants and acknowledged by the Secretary General, the Tribunal, as an exceptional measure, orders that each appellant be reimbursed in the amount of EUR 3 000."
    - ATCE, appeal Nos. 666/2020 and 667/2020, *Dalvy and Ochoa-Llido v. SG*, judgment of 28 June 2021, para 102

Execution of the decision

- "[T]he principle of *res judicata* requires the Organisation "not merely to refrain from acting in disregard of a judgment, but first and foremost to take whatever action the judgment may require" (ILOAT, judgment No. 553 of 30 March 1983, consideration 1). Under this case law, "in order to comply with the judgment annulling the measure and to implement it fully, the institution responsible for the annulled measure is required to have regard not only to the operative part of the judgment but also to the grounds which led

to the judgment and constitute its essential basis, in so far as they are necessary to determine the exact meaning of what is stated in the operative part. It is those grounds which, on the one hand, identify the provision held to be illegal and, on the other, indicate the reasons which underlie the finding of illegality contained in the operative part and which the institution concerned must take into account when replacing the annulled measure" (Civil Service Tribunal, Judgment of 12 April 2016 in the case F-98/15)".

- ATCE, appeals Nos. 677-711/2022, 713-718/2022 and 724-727/2022, *Frossard (II) and Others v. SG*, judgment of 6 June 2023, para 100

See also:

- ATCE, appeal No. 665/2020, *Yuksek (II) v. SG*, judgment of 12 February 2021, para 86

- "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 recognized 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."
  - ATCE, appeal No. 639/2020, *Mihalache (II) v/ SG*, judgment of 30 November 2020, para 16

- "[B]y reason of [the decision of the Tribunal] decision, the appellant's rights must be restored, including those of a pecuniary nature which cannot be quantified at this stage but must be calculated during the execution phase of the decision and, if necessary, contested through the appropriate channels if the appellant does not agree with the said calculation. Also, the question raised by the Secretary General concerning any earnings the appellant may have received during the period after he was removed from his post relates not to the examination of this appeal but rather to the execution of the Tribunal s decision (see the appeals in la Peña v. Governor of the Council of Europe Development Bank)."
  - ATCE, appeal No. 624/2019, *Martz v. SG*, judgment of 6 April 2020, para 72

- ATCE, appeal No. 604/2019, *Mihalache v. SG*, judgment of 30 October 2019, paras 104 and 106, also cited under "**No power of injunction**"

No right to appeal

- "Because he only raised the objection of bias [of the Tribunal] after the decision taken on his appeal No. 625/2019 had been served on him, the course of action taken by the appellant amounts, de facto, to laying claim to a right of appeal against the decision. As the Tribunal's decisions are not open to appeal, the appellant cannot succeed in his aim and the Tribunal dismisses his request."
  - ATCE, appeal No. 625/2019, *Brannan (IV) v. SG*, decision of the 8 January 2021, para 18

List of keywords (in alphabetical order)

- ATCE, appeal No. 580/2017, *Demir Saldirim v. SG*, judgment of 31 January 2018, paras 89, 91, 98 and 103
- ATCE, appeal No. 584/2017, *Agramunt Font de Mora v. SG*, order of the President of 10 November 2017, paras 67 to 76
- ATCE, appeal No. 554/2014, *Petrashenko v. SG*, judgment of 20 March 2015, paras 33 to 36

Adversarial proceedings

- ATCE, appeal No. 766/2024, *L. D. (III) v. SG*, judgment of 24 June 2025, paras 64, 66 and 67
- ATCE, stay of execution request No. 1/2023, order of 13 July 2023, *L. C. v. SG*, para 30
- ATCE, appeals Nos. 555/2014 and 556/2014, *Mayer and Kellens v. SG*, judgment of 28 April 2015, paras 87 and 88

Allowance in respect of dependent children or other dependants

- ATCE, appeal No. 623/2019, *Smith v. SG*, judgment of 6 April 2020, paras 95, 96, 100 and 104
- ATCE, appeal No. 570/2016, *Cross v. SG*, judgment of 12 May 2017, paras 72, 73, 79 and 80

Appointment / Recruitment / Entry into service

- ATCE, appeal No. 763/2024 *M.-S. F. v. SG*, judgement of 3 June 2025, para 32 and 35
- ATCE, appeal No. 742/2023, *I. S. v. SG*, judgment of 22 March 2024, para 41
- ATCE, appeals Nos. 722/2022, 731/2022, 732/2022 and 733/2022, *Orekhova and Others v. SG*, judgment of 4 April 2023, para 57
- ATCE, appeal No. 719/2022, *Gurin v. SG*, judgment of 31 January 2023 , paras 48 and 49
- ATCE, appeal No. 604/2019, *Mihalache v. SG*, judgment of 30 October 2019, paras 45, 83 to 88, 109 and 110
- ATCE, appeal No. 592/2018, *Demir Saldirim (II) v. SG*, judgment of 30 January 2019, para 37
- ATCE, appeal No. 581/2017, *de Almeida Pereira v. SG*, judgment of 7 March 2018, paras 44 to 47
- ATCE, appeal No. 543/2014, *Kurt Torun v. SG*, judgment of 6 February 2015, paras 54 to 57

Appointments Review Committee / Appointments Board

- ATCE, appeals Nos. 761/2024 and 762/2024, *L. D. (I and II) v. SG*, judgment of 25 March 2025, para 111
- ATCE, appeals Nos. 722/2022, 731/2022, 732/2022 and 733/2022, *Orekhova and Others v. SG*, judgment of 4 April 2023, para 55
- ATCE, appeal No. 665/2020, *Yuksek (II) v. SG*, judgment of 12 February 2021, paras 70 to 72, 77 to 79 and 82

Burden of proof

- ATCE, appeal No. 738/2023, *C. A. v. SG*, judgment of 25 January 2024, para 35
- ATCE, stay of execution request No. 1/2023, order of 13 July 2023, *L. C. v. SG*, paras 37 and 39
- ATCE, appeal No. 719/2022, *Gurin v. SG*, judgment of 31 January 2023 , para 59
- ATCE, appeal No. 673/2021, *C v. Governor of the Development Bank*, judgment of 27 January 2022, para 90

- ATCE, appeal Nos. 666/2020 and 667/2020, *Dalvy and Ochoa-Llido v. SG*, judgment of 28 June 2021, para 77
- ATCE, appeal No. 665/2020, *Yuksek (II) v. SG*, judgment of 12 February 2021, para 73
- ATCE, appeal No. 625/2019, *Brannan (IV) v. SG*, decision of the 8 January 2021, paras 15 to 17
- ATCE, appeal No. 617/2019, *Ubowska v. SG*, judgment of 17 December 2019, para 35
- ATCE, appeal No. 605/2019, *X v. SG*, judgment of 31 October 2019, paras 64 to 66
- ATCE, appeal No. 593/2018, *Schio v. Governor of the Development Bank*, judgment of 20 June 2019, para 100
- ATCE, appeal No. 592/2018, *Demir Saldirim (II) v. SG*, judgment of 30 January 2019, para 45
- ATCE, appeal No. 545/2014, *Jaffrey v. SG*, judgment of 23 October 2015, para 83
- ATCE, appeal No. 554/2014, *Petrashenko v. SG*, judgment of 20 March 2015, paras 33 to 36

Candidature

- ATCE, appeal No. 763/2024 *M.-S. F. v. SG*, judgment of 3 June 2025, paras 39, 40, 41, 43 and 46
- ATCE, appeal No. 736/2023, *A. A. v. SG*, judgment of 30 November 2023, paras 28, 29 and 31
- ATCE, appeal No. 729/2022, *Ramazanova v. SG*, judgment of 12 June 2023, para 51
- ATCE, appeal No. 665/2020, *Yuksek (II) v. SG*, judgment of 12 February 2021, para 69
- ATCE, appeal No. 580/2017, *Demir Saldirim v. SG*, judgment of 31 January 2018, paras 89, 91, 98, 103 and 105 to 107
- ATCE, appeal No. 579/2017, *Uysal v. SG*, judgment of 31 January 2018, paras 102 to 104

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- ATCE, appeal No. 744/2024, *I. S. V. v. SG*, judgment of 14 August 2024, paras 55 to 59
- ATCE, appeal No. 745/2024, *Z. G. v. SG*, judgment of 22 March 2024, para 30
- ATCE, appeals Nos. 739, 740 and 741/2023, *E. T. and Others v. SG*, judgment of 22 March 2024, para 65
- ATCE, appeal No. 738/2023, *C. A. v. SG*, judgment of 25 January 2024, paras 30, 37 and 38
- ATCE, appeal No. 673/2021, *C v. Governor of the Development Bank*, judgment of 27 January 2022, para 93
- ATCE, appeal No. 603/2019, *Ana v. SG*, judgment of 22 October 2019, paras 48, 49 and 52
- ATCE, appeals Nos. 587/2018 and 588/2018, *Devaux (II) and (III) v. SG*, judgment of 9 October 2018, paras 63 to 70
- ATCE, appeal No. 581/2017, *de Almeida Pereira v. SG*, judgment of 7 March 2018, paras 44 to 47

Classification of jobs

- ATCE, appeal No. 603/2019, *Ana v. SG*, judgment of 22 October 2019, para 55

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- ATCE, appeal No. 616/2019, *Lourenco Agostinho v. SG*, judgment of 17 December 2019, paras 66 to 70
- ATCE, appeals Nos. 587/2018 and 588/2018, *Devaux (II) and (III) v. SG*, judgment of 9 October 2018, paras 61, 62 and 101 to 103
- ATCE, appeal No. 581/2017, *de Almeida Pereira v. SG*, judgment of 7 March 2018, paras 44 to 47

Costs and expenses

- ATCE, appeals Nos. 739, 740 and 741/2023, *E. T. and Others v. SG*, judgment of 22 March 2024, para 90
- ATCE, appeal No. 541/2013, *Palmieri (VIII) v. SG*, judgment of 20 December 2023, paras 104 to 108
- ATCE, appeal Nos. 666/2020 and 667/2020, *Dalvy and Ochoa-Llido v. SG*, judgment of 28 June 2021, para 102

Damage / Harm

- ATCE, appeal No. 747/2024, *M.-L. L. v. SG*, judgment of 30 January 2025, paras 59 and 60
- ATCE, appeal No. 723/2022, *Zaytseva v. SG*, judgment of 12 June 2023, para 68
- ATCE, appeal No. 671/2020, *Nectoux v. SG*, judgment of 21 October 2021, para 60
- ATCE, appeal No. 651/2020, *B v. SG*, judgment of 13 July 2021, para 183
- ATCE, appeal Nos. 666/2020 and 667/2020, *Dalvy and Ochoa-Llido v. SG*, judgment of 28 June 2021, para 95
- ATCE, appeals Nos. 661/2020 and 662/2020, *Bohner (VII) and Cagnolati v. SG*, judgment of 27 April 2021, para 121
- ATCE, appeals Nos. 640/2020-644/2020, 646/2020-648/2020, *Parsons (V) and Others v. SG*, and appeals Nos. 649/2020, 652/2020-660/2020 and 664/2020, *Verneau (II) and Others v. SG*, judgment of 20 April 2021, paras 181, 182, 184 and 228
- ATCE, appeal No. 645/2020, *Priore (II) v. SG*, judgment of 15 January 2021, para 99
- ATCE, appeal No. 638/2020, *Zrvandyan v. SG*, judgment of 30 November 2020, paras 63 and 64
- ATCE, appeal No. 626/2020, *A v. Central Commission for the Navigation of the Rhine*, judgment of 30 November 2020, para 54
- ATCE, appeal No. 606/2019, *Cosset v. SG*, judgment of 30 October 2019, para 91
- ATCE, appeal No. 604/2019, *Mihalache v. SG*, judgment of 30 October 2019, paras 109 and 110
- ATCE, appeals Nos. 561-564, *Kacsandi (I, II, III, and IV) v. Governor of the Development Bank*, judgment of 26 April 2016, para 143
- ATCE, appeal No. 529/2012, *Rougie-Eichler v. SG*, judgment of 20 March 2015, para 94
- ATCE, appeal No. 546/2014, *Devaux v. SG*, judgment of 30 January 2015, para 20

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- ATCE, appeal No. 673/2021, *C v. Governor of the Development Bank*, judgment of 27 January 2022, para 85

Disciplinary Board / Joint Advisory Committee on Discipline

- ATCE, appeal No. 651/2020, *B v. SG*, judgment of 13 July 2021, paras 136 to 141
- ATCE, appeal No. 624/2019, *Martz v. SG*, judgment of 6 April 2020, paras 51 and 52

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- ATCE, appeal No. 651/2020, *B v. SG*, judgment of 13 July 2021, paras 169 and 171
- ATCE, appeal No. 624/2019, *Martz v. SG*, judgment of 6 April 2020, paras 55 and 61
- ATCE, appeal No. 622/2019, *Brechenmacher (II) v. SG*, judgment of 5 February 2020, para 88, and 100 to 102
- ATCE, appeal No. 591/2018, *Brechenmacher v. SG*, judgment of 2 April 2019, paras 83, 84, 87, 94 and 95

Discretion / Discretionary power

- ATCE, appeal No. 766/2024, *L. D. (III) v. SG*, judgment of 24 June 2025, para 76

- ATCE, appeal No. 763/2024 *M.-S. F. v. SG*, judgment of 3 June 2025, para 36
- ATCE, appeals Nos. 761/2024 and 762/2024, *L. D. (I and II) v. SG*, judgment of 25 March 2025, paras 93 and 94
- ATCE, appeal No. 747/2024, *M.-L. L. v. SG*, judgment of 30 January 2025, para 49
- ATCE, appeal No. 743/2024, *B. S. v. Governor of the Development Bank*, judgment of 25 November 2024, para 68
- ATCE, appeal No. 745/2024, *Z. G. v. SG*, judgment of 22 March 2024, para 31
- ATCE, appeals Nos. 739, 740 and 741/2023, *E. T. and Others v. SG*, judgment of 22 March 2024, para 66
- ATCE, appeal No. 738/2023, *C. A. v. SG*, judgment of 25 January 2024, para 33
- ATCE, appeal No. 736/2023, *A. A. v. SG*, judgment of 30 November 2023, para 26
- ATCE, appeal No. 730/2022, *Conrad (III) v. SG*, judgment of 10 November 2023, paras 41 and 44
- ATCE, appeal No. 723/2022, *Zaytseva v. SG*, judgment of 12 June 2023, para 42
- ATCE, appeals Nos. 677-711/2022, 713-718/2022 and 724-727/2022, *Frossard (II) and Others v. SG*, judgment of 6 June 2023, paras 92 and 93
- ATCE, appeals Nos. 722/2022, 731/2022, 732/2022 and 733/2022, *Orekhova and Others v. SG*, judgment of 4 April 2023, paras 54, 56 and 57
- ATCE, appeal No. 712/2022, *Kirbas v. SG*, judgment of 31 January 2023, paras 31 and 32
- ATCE, appeal No. 669/2020, *Rouabaa v. SG*, judgment of 24 June 2022, para 53
- ATCE, appeal No. 675/2021, *Rouabaa (II) v. SG*, judgment of 31 March 2022, para 29
- ATCE, appeal No. 651/2020, *B v. SG*, judgment of 13 July 2021, paras 169 and 171
- ATCE, appeal No. 665/2020, *Yuksek (II) v. SG*, judgment of 12 February 2021, para 68
- ATCE, appeal No. 650/2020, *Levertova v. Governor of the Development Bank*, judgment of 12 February 2021, para 50
- ATCE, appeal No. 624/2019, *Martz v. SG*, judgment of 6 April 2020, para 61
- ATCE, appeal No. 604/2019, *Mihalache v. SG*, judgment of 30 October 2019, paras 83 to 88
- ATCE, appeal No. 594/2018, *Bauer v. Governor*, judgment of 20 June 2019, para 63
- ATCE, appeals Nos. 587/2018 and 588/2018, *Devaux (II) and (III) v. SG*, judgment of 9 October 2018, paras 61, 62, 101 to 103, and 109
- ATCE, appeals Nos. 561-564, *Kacsandi (I, II, III, and IV) v. Governor of the Development Bank*, judgment of 26 April 2016, para 119
- ATCE, appeal No. 567/2015, *Skouras v. SG*, judgment of 29 January 2016, paras 81 and 82
- ATCE, appeals Nos. 555/2014 and 556/2014, *Mayer and Kellens v. SG*, judgment of 28 April 2015, paras 74, 75, 77 and 86
- ATCE, appeal No. 543/2014, *Kurt Torun v. SG*, judgment of 6 February 2015, paras 54 to 57

Dismissal

- ATCE, appeal No. 624/2019, *Martz v. SG*, judgment of 6 April 2020, paras 62 and 65
- ATCE, appeal No. 591/2018, *Brechenmacher v. SG*, judgment of 2 April 2019, paras 83, 84, 87, 94 and 95

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- ATCE, appeals Nos. 746/2024 and 748 to 758/2024, *A. S. T. and Others v. SG*, judgment of 5 February 2025, paras 66 and 70
- ATCE, appeal No. 545/2014, *Jaffrey v. SG*, judgment of 23 October 2015, paras 47 to 49

Duty of care

- ATCE, appeals Nos. 746/2024 and 748 to 758/2024, *A. S. T. and Others v. SG*, judgment of 5 February 2025, para 70
- ATCE, appeals Nos. 739, 740 and 741/2023, *E. T. and Others v. SG*, judgment of 22 March 2024, para 86
- ATCE, appeal No. 723/2022, *Zaytseva v. SG*, judgment of 12 June 2023, paras 57 to 61
- ATCE, appeal No. 671/2020, *Nectoux v. SG*, judgment of 21 October 2021, para 58
- ATCE, appeal No. 665/2020, *Yuksek (II) v. SG*, judgment of 12 February 2021, para 62
- ATCE, appeals Nos. 587/2018 and 588/2018, *Devaux (II) and (III) v. SG*, judgment of 9 October 2018, para 100, 108 and 109
- ATCE, appeals Nos. 548-553/2014, *Cucchetti Rondanini and Others v. SG*, judgment of 28 April 2015, para 71
- ATCE, appeal No. 546/2014, *Devaux v. SG*, judgment of 30 January 2015, para 22

Duty to provide reasons / No or insufficient reasons

- ATCE, appeals Nos. 761/2024 and 762/2024, *L. D. (I and II) v. SG*, judgment of 25 March 2025, paras 101 and 102
- ATCE, appeal No. 743/2024, *B. S. v. Governor of the Development Bank,* judgment of 25 November 2024, para 56
- ATCE, appeals Nos. 739, 740 and 741/2023, *E. T. and Others v. SG*, judgment of 22 March 2024, para 85
- ATCE, appeal No. 721/2022, *Izyumenko v. SG*, judgment of 12 June 2023, para 45
- ATCE, appeals Nos 722/2022, 731/2022, 732/2022 and 733/2022, *Orekhova and Others v. SG*, judgment of 4 April 2023, para 62
- ATCE, appeal No. 671/2020, *Nectoux v. SG*, judgment of 21 October 2021, para 50
- ATCE, appeal No. 651/2020*, B v. SG*, judgment of 13 July 2021, paras 78 to 80
- ATCE, appeals Nos. 640/2020-644/2020, 646/2020-648/2020, *Parsons (V) and Others v. SG*, and appeals Nos. 649/2020, 652/2020-660/2020 and 664/2020, *Verneau (II) and Others v. SG*, judgment of 20 April 2021, paras 125 and 127
- ATCE, appeal No. 624/2019, *Martz v. SG*, judgment of 6 April 2020, para 55
- ATCE, appeal No. 622/2019, *Brechenmacher (II) v. SG*, judgment of 5 February 2020, paras 83, 88, and 100 to 102
- ATCE, appeal No. 606/2019, *Cosset v. SG*, judgment of 30 October 2019, paras 69, 72 , 73 and 74
- ATCE, appeals Nos. 595-601/2018, *Alberelli (III) and Others v. SG*, judgment of 20 June 2019, paras 83 to 86
- ATCE, appeal No. 591/2018, *Brechenmacher v. SG*, judgment of 2 April 2019, paras 83, 84, 87, 92, 94 and 95

Education allowance

- ATCE, appeals Nos. 619/2019, 620/2019 and 621/2019, *Gorey (IV), Gorey (V) and Bjerregaard v. SG*, judgment of 27 February 2020, paras 87 and 90
- ATCE, appeal No. 570/2016, *Cross v. SG*, judgment of 12 May 2017, paras 72, 73, 79 and 80

Emergency

- ATCE, stay of execution request No. 4/2024, order of 10 September 2024, *L. D. (II) v. SG,* para 28
- ATCE, stay of execution request No. 3/2024, order of 22 May 2024, *L. D. v. SG*, para 34 and 35

- ATCE, stay of execution request No. 2/2024, order of 14 May 2024, *B. S. v. Governor of the Development Bank*, paras 23 and 27
- ATCE, stay of execution request No. 1/2024, order of 27 March 2024, *M. M. N. v. SG*, para 22

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- ATCE, appeal No. 745/2024, *Z. G. v. SG*, judgment of 22 March 2024, para 33
- ATCE, appeal No. 742/2023, *I. S. v. SG*, judgment of 22 March 2024, para 43
- ATCE, appeals Nos. 739, 740 and 741/2023, *E. T. and Others v. SG*, judgment of 22 March 2024, para 78
- ATCE, appeal No. 738/2023, *C. A. v. SG*, judgment of 25 January 2024, para 39 and 40
- ATCE, appeals Nos. 722/2022, 731/2022, 732/2022 and 733/2022, *Orekhova and Others v. SG*, judgment of 4 April 2023, para 65
- ATCE, appeal No. 719/2022, *Gurin v. SG*, judgment of 31 January 2023, para 59
- ATCE, appeals Nos. 661/2020 and 662/2020, *Bohner (VII) and Cagnolati v. SG*, judgment of 27 April 2021, para 90
- ATCE, appeal No. 625/2019, *Brannan (IV) v. SG*, judgment of 30 November 2020, para 61
- ATCE, appeal No. 623/2019, *Smith v. SG*, judgment of 6 April 2020, para 105
- ATCE, appeal No. 617/2019, *Ubowska v. SG*, judgment of 17 December 2019, paras 34 and 35
- ATCE, appeal No. 590/2018, *Korljan v. SG*, judgment of 30 January 2019, para 95
- ATCE, appeals Nos. 587/2018 and 588/2018, *Devaux (II) and (III) v. SG*, judgment of 9 October 2018, paras 63 to 70
- ATCE, appeal No. 557/2014, *Hedman v. SG*, judgment of 10 December 2015, paras 64 and 65

Error of law

- ATCE, appeals Nos. 761/2024 and 762/2024, *L. D. (I and II) v. SG*, judgment of 25 March 2025, para 97
- ATCE, appeal No. 638/2020, *Zrvandyan v. SG*, judgment of 30 November 2020, para 56
- ATCE, appeal No. 624/2019, *Martz v. SG*, judgment of 6 April 2020, paras 62 and 65

Execution of the decision

- ATCE, appeals Nos. 677-711/2022, 713-718/2022 and 724-727/2022, *Frossard (II) and Others v. SG*, judgment of 6 June 2023, para 100
- ATCE, appeal No. 665/2020, *Yuksek (II) v. SG*, judgment of 12 February 2021, para 86
- ATCE, appeal No. 639/2020, *Mihalache (II) v/ SG*, judgment of 30 November 2020, para 16
- ATCE, appeal No. 624/2019, *Martz v. SG*, judgment of 6 April 2020, para 72
- ATCE, appeal No. 604/2019, *Mihalache v. SG*, judgment of 30 October 2019, paras 104 and 106

Exhaustion of internal remedies / Management review / Administrative complaint

- ATCE, appeal No. 763/2024 *M.-S. F. v. SG*, judgment of 3 June 2025, paras 50 and 51
- ATCE, appeals Nos. 761/2024 and 762/2024, *L. D. (I and II) v. SG*, judgment of 25 March 2025, para 90
- ATCE, appeal No. 738/2023, *C. A. v. SG*, judgment of 25 January 2024, para 30
- ATCE, appeal No. 673/2021, *C v. Governor of the Development Bank*, judgment of 27 January 2022, paras 54 to 56, 94 and 95
- ATCE, appeal No. 665/2020, *Yuksek (II) v. SG*, judgment of 12 February 2021, paras 55 and 56

- ATCE, appeal No. 618/2019, *Ubowska (II) v. SG*, judgment of 17 December 2019, paras 41, 42 and 47
- ATCE, appeal No. 616/2019, *Lourenco Agostinho v. SG*, judgment of 17 December 2019, paras 70 and 76
- ATCE, appeal No. 605/2019, *X v. SG*, judgment of 31 October 2019, para 72
- ATCE, appeal No. 593/2018, *Schio v. Governor of the Development Bank*, judgment of 20 June 2019, paras 73 and 74
- ATCE, appeal No. 586/2017, *Paolillo v. SG*, judgment of 17 May 2018, paras 70, 71 and 73
- ATCE, appeals Nos. 561-564, *Kacsandi (I, II, III, and IV) v. Governor of the Development Bank*, judgment of 26 April 2016, para 112
- ATCE, appeal No. 567/2015, *Skouras v. SG*, judgment of 29 January 2016, para 87
- ATCE, appeal No. 559/2014, *Oristanio v. Governor of the Development Bank*, judgment of 29 January 2016, paras 34, 35 and 44
- ATCE, appeal No. 543/2014, *Kurt Torun v. SG*, judgment of 6 February 2015, para 48

Factual error

- ATCE, appeal No. 570/2016, *Cross v. SG*, judgment of 12 May 2017, paras 72, 73, 79 and 80

Final decision / Confirmatory decision

- ATCE, appeals Nos. 761/2024 and 762/2024, *L. D. (I and II) v. SG*, judgment of 25 March 2025, paras 86 to 88
- ATCE, appeal No. 672/2020, *Kowalczyk-Kędziora v. SG*, judgment of 21 October 2021 , paras 32 and 33
- ATCE, appeal No. 668/2020, *Kalovska Roussou v. SG*, judgment of 24 June 2021, para 44
- ATCE, appeals Nos. 661/2020 and 662/2020, *Bohner (VII) and Cagnolati v. SG*, judgment of 27 April 2021, para 71
- ATCE, appeals Nos. 640/2020-644/2020, 646/2020-648/2020, *Parsons (V) and Others v. SG*, and appeals Nos. 649/2020, 652/2020-660/2020 and 664/2020, *Verneau (II) and Others v. SG*, judgment of 20 April 2021, para 46
- ATCE, appeal No. 566/2015, *Seifert v. Governor of the Development Bank*, judgment of 31 March 2016, para 51

General principles of law

- ATCE, appeal No. 763/2024, *M.-S. F. v. SG*, judgment of 3 June 2025, paras 33 and 34
- ATCE, appeals Nos. 587/2018 and 588/2018, *Devaux (II) and (III) v. SG*, judgment of 9 October 2018, paras 98 and 99

Good administration

- ATCE, appeal No. 616/2019, *Lourenco Agostinho v. SG*, judgment of 17 December 2019, para 70
- ATCE, appeals Nos. 555/2014 and 556/2014, *Mayer and Kellens v. SG*, judgment of 28 April 2015, para 84

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- ATCE, appeal No. 747/2024, *M.-L. L. v. SG*, judgment of 30 January 2025, para 53
- ATCE, appeal No. 729/2022, *Ramazanova v. SG*, judgment of 12 June 2023, para 50
- ATCE, appeals Nos. 640/2020-644/2020, 646/2020-648/2020, *Parsons (V) and Others v. SG*, and appeals Nos. 649/2020, 652/2020-660/2020 and 664/2020, *Verneau (II) and Others v. SG*, judgment of 20 April 2021, paras 209 and 216

- ATCE, appeals Nos. 587/2018 and 588/2018, *Devaux (II) and (III) v. SG*, judgment of 9 October 2018, paras 108 and 109

Grounds

- ATCE, appeal No. 673/2021, *C v. Governor of the Development Bank*, judgment of 27 January 2022, paras 54 to 56
- ATCE, appeals Nos. 595-601/2018, *Alberelli (III) and Others v. SG*, judgment of 20 June 2019, paras 111 to 113
- ATCE, appeal No. 593/2018, *Schio v. Governor of the Development Bank*, judgment of 20 June 2019, paras 73 and 74
- ATCE, appeal No. 559/2014, *Oristanio v. Governor of the Development Bank*, judgment of 29 January 2016, para 44
- ATCE, appeal No. 543/2014, *Kurt Torun v. SG*, judgment of 6 February 2015, para 48

Harassment

- ATCE, appeal No. 766/2024, *L. D. (III) v. SG*, judgment of 24 June 2025, paras 103 and 106
- ATCE, appeals Nos. 761/2024 and 762/2024, *L. D. (I and II) v. SG*, judgment of 25 March 2025, paras 109, 122 and 123
- ATCE, appeal No. 673/2021, *C v. Governor of the Development Bank*, judgment of 27 January 2022, para 90
- ATCE, appeal No. 651/2020*, B v. SG*, judgment of 13 July 2021, paras 118 and 119
- ATCE, appeal Nos. 666/2020 and 667/2020, *Dalvy and Ochoa-Llido v. SG*, judgment of 28 June 2021, paras 64, 69, 77 and 90
- ATCE, appeal No. 594/2018, *Bauer v. Governor*, judgment of 20 June 2019, paras 60 to 62, and 70
- ATCE, appeal No. 593/2018, *Schio v. Governor of the Development Bank*, judgment of 20 June 2019, para 99
- ATCE, appeal No. 586/2017, *Paolillo v. SG*, judgment of 17 May 2018, paras 74 to 81
- ATCE, appeals Nos. 582/2017 and 583/2017*, Brillat (III) and Priore v. SG*, judgment of 17 May 2018, paras 118 to 122
- ATCE, appeals Nos. 561-564, *Kacsandi (I, II, III, and IV) v. Governor of the Development Bank*, judgment of 26 April 2016, paras 134 and 135

Health care expenses

- ATCE, appeals Nos. 746/2024 and 748 to 758/2024, *A. S. T. and Others v. SG*, judgment of 5 February 2025, para 66

Hierarchy of norms / Precedence of rules / Hierarchy of rules

- ATCE, appeal No. 743/2024, *B. S. v. Governor of the Development Bank,* judgment of 25 November 2024, para 64

Household allowance

- ATCE, appeal No. 623/2019, *Smith v. SG*, judgment of 6 April 2020, paras 95, 96, 100 and 104

Impartiality of judges / Recusal / Withdrawal / Abstention

- ATCE, appeal No. 625/2019, *Brannan (IV) v. SG*, decision of the 8 January 2021, paras 10, 12 to 14, and 15 to 17

Interest in the proceedings

- ATCE, appeals Nos. 761/2024 and 762/2024, *L. D. (I and II) v. SG*, judgment of 25 March 2025, paras 137 and 139
- ATCE, appeals Nos. 640/2020-644/2020, 646/2020-648/2020, *Parsons (V) and Others v. SG*, and appeals Nos. 649/2020, 652/2020-660/2020 and 664/2020, *Verneau (II) and Others v. SG*, judgment of 20 April 2021, para 58
- ATCE, appeal No. 604/2019, *Mihalache v. SG*, judgment of 30 October 2019, para 45
- ATCE, appeals Nos. 595-601/2018, *Alberelli (III) and Others v. SG*, judgment of 20 June 2019, paras 102 to 104
- ATCE, appeals Nos. 571-576 and 578/2017, *Brannan (II) and Others v. SG*, judgment of 14 November 2017, paras 69 and 70

Interim measures – Provisional measures

- ATCE, stay of execution request No. 1/2025, order of 31 March 2025, *B. H. v. SG*, paras 31 and 32
- ATCE, stay of execution request No. 5/2024, order of 30 December 2024, *C. V. v. SG*, para 35
- ATCE, appeal No. 567/2015, *Skouras v. SG*, judgment of 29 January 2016, para 97

Internal rules of the Organisation

- ATCE, appeals Nos. 640/2020-644/2020, 646/2020-648/2020, *Parsons (V) and Others v. SG*, and appeals Nos. 649/2020, 652/2020-660/2020 and 664/2020, *Verneau (II) and Others v. SG*, judgment of 20 April 2021, paras 181, 182 and 184
- ATCE, appeal No. 625/2019, *Brannan (IV) v. SG*, judgment of 30 November 2020, para 53
- ATCE, appeals Nos. 619/2019, 620/2019 and 621/2019, *Gorey (IV), Gorey (V) and Bjerregaard*, judgment of 27 February 2020, paras 82 and 83
- ATCE, appeal No. 590/2018, *Korljan v. SG*, judgment of 30 January 2019, para 76
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