

CONSEIL DE L'EUROPE

COUNCIL OF EUROPE

TRIBUNAL ADMINISTRATIF ADMINISTRATIVE TRIBUNAL

ORDER OF THE CHAIR OF 11 December 2020

in the case of **Kotryna FILIPAVICIUTE v. Secretary General**

THE FACTS

1. The complainant, Ms Kotryna Filipaviciute, applied to the Vacancy notice No. e7/2020 for the recruitment of Programme Managers (grade A1/A2/A3) within the Secretariat of the Committee of Experts on the Evaluation of Anti-Money Laundering Measures and the Financing of Terrorism (MONEYVAL).

2. The invitation letter for the written tests indicated that there would be two tests: a practical exercise and an essay.

3. The letter of convocation further specified that:

“The papers will be marked on a range of 0 to 20. Paper 1 is eliminatory. Candidates must obtain a minimum mark of 10/20 in Paper 1 for Paper 2 to be marked. Please note that the minimum mark may be increased depending on the number of successful candidates.

The overall average mark will be calculated using the following weighting: Paper 1 - 60% of overall average mark, Paper 2 - 40% of overall average mark. Those candidates with the best marks will be invited to an interview with the Appointments Board.”

4. The complainant was invited to participate in the written tests which took place online, through the digital platform TestReach, on 22 June 2020.

5. On 23 November 2020, the complainant was informed that her results in the written papers did not qualify her to be invited to the next stage of the selection procedure.

6. On 30 November 2020, the complainant lodged an administrative complaint with the Secretary General in accordance with Article 59(2) of the Staff Regulations. On the same day, she lodged an application with the Chair of the Administrative Tribunal for a stay of execution of the act complained of (Article 59(9) of the Staff Regulations).

7. In her application, the complainant asked the Chair of the Tribunal to order the stay of the execution of the decision not to invite her to the interviews of the e7/2020 competition, on account of technical irregularities which prevented her from obtaining the minimum mark in her first paper required for her second paper to be marked.

8. On 3 December 2020, the Secretary General submitted her observations on the request for a stay of execution.

9. On 7 December 2020, the complainant submitted her observations in response.

THE LAW

10. Under Article 59(9) of the Staff Regulations, an application for a stay of execution of the act complained of may be made if such execution is likely to cause him or her “grave prejudice difficult to redress”.

According to the same provision, the Secretary General shall, save for duly justified reasons, stay the execution of the act until the Chair of the Administrative Tribunal has ruled on the application in accordance with the Tribunal’s Statute.

11. The complainant lodged her application for the stay of the execution of the decision not to invite her to the interviews of the e7/2020 competition, on account of technical irregularities which prevented her from obtaining the minimum mark required in the written tests to be admitted to the next stage of the selection procedure.

12. In her observations, the Secretary General informed the Chair that on the basis of the information in her possession, she had decided to annul the result obtained by the complainant in her first written paper and to authorise her to retake this part of the written test. The Secretary General added that the answers provided by the complainant in her second written paper would be assessed if the complainant obtained the minimum score in the first written test.

13. As a result, the Secretary General concluded that the complainant’s request for a stay of execution of the decision not to select her for an interview before the Appointments Board was devoid of purpose, since the decision in question was to be considered quashed under the given circumstances.

14. In her observations in response, the complainant informed the Chair that having consented to the Secretary General’s decision to annul the result which she had obtained in her first written test and to authorise her to re-take this part of the online written exam, she withdraws her request for a stay of execution presented on 30 November.

15. Given the above, the Chair considers that there is no need to rule on the application for a stay of execution of the decision challenged by the administrative complaint lodged by the complainant.

For these reasons,

THE CHAIR OF THE ADMINISTRATIVE TRIBUNAL,

Notes :

- the application for a stay of execution submitted by the complainant is withdrawn.

Thus done and ordained in Supetar (Croatia) on 11 December 2020.

The Registrar of the
Administrative Tribunal

C. OLSEN

The Chair of the
Administrative Tribunal

N. VAJIĆ