CONSEIL DE L'EUROPE——
——COUNCIL OF EUROPE

TRIBUNAL ADMINISTRATIF
ADMINISTRATIVE TRIBUNAL

ORDER OF THE CHAIR OF 19 February 2021

In the case of Ramon PRIETO SUAREZ

THE FACTS

1. The complainant, Mr Ramon Prieto Suarez, applied for the internal competition organised following the publication of vacancy notice no. 004/2021 to fill a position of Head of Division (grade A4) within the Directorate General of Democracy – Directorate of Antidiscrimination.

2. On 3 February 2021, the Human Resources Directorate (DHR) informed the complainant that, in accordance with Article 7 of Rule No. 1355 of 12 March 2014 laying down procedures for the implementation of the Regulations on appointments, a shortlisting of candidates had been carried out on the basis of the essential criteria set out in the vacancy notice and that he was not invited to the next stage of the selection procedure, i.e. the interview with the recruiting entity.

3. On 9 February 2021, the complainant lodged an administrative complaint with the Secretary General in accordance with Article 59, paragraph 2, of the Staff Regulations. On the same day, he lodged an application with the Chair of the Administrative Tribunal for a stay of execution of the contested act (Article 59, paragraph 9, of the Staff Regulations).

4. Claiming that he met all the essential requirements for the advertised position and that if his request were not granted, it would adversely affect him in several ways, the complainant asked the Chair to order the Secretary General to suspend "the selection procedure, with a view to enabling a review of the documents [he] submitted in [his] application (…) and having a new assessment on whether [his] qualifications met those set out in the vacancy notice, and in the event of a positive outcome, to participate in the selection process".

5. On 12 February 2021, the Secretary General submitted her observations on the request for suspension.

6. On 13 and 16 February 2021, the complainant submitted his submissions in response.

THE LAW

7. Under Article 59, paragraph 9, of the Staff Regulations, an application for suspension of the execution of a contested act may be made if such execution is likely to cause "serious damage which is difficult to repair".

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

8. The complainant lodged the application for suspension asking that the Chair order the Secretary General to suspend the selection procedure, so as to allow a review of his candidature and a new assessment of whether his qualifications meet those set out in the vacancy notice and, in the event of a positive outcome, allow him to participate in the selection process.

9. For her part, the Secretary General informed the Chair that, after having conducted a new examination of the file, again in the light of Article 7 of Rule No. 1355, she has decided to annul the disputed decision and to invite the complainant to the interview provided for under this procedure as soon as possible.

10. The Secretary General added that, as a result, the request for a stay of execution of "the selection procedure" was without object, since the contested act within the meaning of Article 59, paragraph 2, of the Staff Regulations – which is in fact the subject of the present application – is annulled.

11. For his part, the complainant informed the Chair that even though he had suffered irreparable harm to his reputation owing to the initial exclusion from the selection procedure, he was withdrawing his request for a stay of execution. In his view, his request had become moot in view of the decision to annul the contested decision not to shortlist his candidature and to invite him to the interviews. By the same token, the complainant asked the Tribunal "to ensure that interviews with candidates are conducted in the presence of a staff member from the Human Resources Directorate".

12. In this respect, the Chair notes that it is not within the remit of the Tribunal's mandate to act as an intermediary between the staff member and Administration in his/her dealings with the latter and that this kind of request should be put forth directly to the DHR.

13. The Chair took note that the complainant, having been informed of the decision to cancel the decision complained of, had withdrawn his request for suspension. The Chair therefore considers that there is no need to rule on the application for suspension 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 suspension submitted by the complainant is withdrawn.

Thus, done and ordered in Supetar (Croatia) on 19 February 2021.

The Registrar of the Administrative Tribunal	The Chair of the Administrative Tribunal
C. OLSEN	N. VAJIĆ