CONSEIL DE L'EUROPE
COUNCIL OF EUROPE

TRIBUNAL ADMINISTRATIF
ADMINISTRATIVE TRIBUNAL

ORDER OF THE CHAIR of 22 February 2010

In the case of Ilknur YUKSEK v. Secretary General

THE FACTS

1. The complainant, Ms Ilknur Yuksek, is a Turkish national, who already works for the Organisation as a project manager. She has grade B5 in the Information Society and Action against Crime Service of the Directorate General for Human Rights and Legal Affairs.

2. The complainant applied to take part in the external recruitment procedure by competition on the basis of qualifications for positions of Administrative Project Assistant (grade B4), under Vacancy Notice No. e15/2009.

3. By e-mail of 8 January 2010, the complainant was informed that her application had been rejected.

4. On 1 February 2010, the complainant lodged an administrative complaint against that decision (Article 59 paragraph 1 of the Staff Regulations). She requested that the decision concerning her be annulled and that she be permitted to sit the tests in the competition on a provisional basis.

5. By application lodged on 9 February 2010, the complainant submitted an application to the Chair of the Administrative Tribunal for a stay of execution of the administrative act complained of (Article 59 paragraph 7 of the Staff Regulations).

6. On 12 February 2010, the Secretary General submitted his observations on the application for a stay of execution.

7. On 15 February 2010, the complainant informed the Chair that she was withdrawing her application for a stay of execution.

THE LAW

8. Under Article 59 paragraph 7 of the Staff Regulations, an application for a stay of execution of an act of the Administration may be submitted if its execution is likely to cause "grave prejudice difficult to redress".

According to the same provision, the Secretary General must, 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.

9. The complainant lodged her application for a stay of execution in order to secure the suspension of the Secretary General's decision not to accept her application to take part in the abovementioned competition. She requests the Chair to order the suspension of the competition pending the response to her administrative complaint and to authorise her to take part in the competition.

10. To justify her application for a stay of execution, the complainant emphasises that the oral tests in the competition will be held at the beginning of March, with the candidates who have been admitted being given approximately sixty days' notice. She adds that if the competition were to proceed that would cause her grave prejudice that would be difficult to redress.

11. The Secretary General informs the Chair that, without prejudice to any argument which he reserves the right to raises in his response to the complainant, it has been decided that the complainant should be allowed to sit the tests in the competition to be held at the beginning of March. A letter to that effect will be sent to her shortly.

12. According to the Secretary General, under Article 59 paragraph 7 of the Staff Regulations the complainant may apply for a stay of execution of the act complained of if its execution is likely to cause him or her grave prejudice difficult to redress.

13. The Secretary General adds that in the present case the complainant can no longer maintain that to proceed with the competition would be likely to cause her any prejudice whatsoever.

14. Consequently, the Secretary General considers that as the complainant's request to be allowed to participate in the competition has been accepted, the present application for a stay of execution has become devoid of purpose.

15. In that regard, the Secretary General recalls that there can be no question at this stage of any assessment of the arguments concerning the merits of the complainant's complaint. These matters are not for discussion, let alone examination, in the current proceedings, which are only concerned with urgent measures.

16. It is for that reason, in those circumstances and in the light of those elements, that the Secretary General requests the Chair to reject the application for a stay of execution lodged by the complainant as ill-founded.

17. Without lodging any memorial in reply, the complainant informs the Chair that she has decided to withdraw her application for a stay of execution.

18. The Chair notes that the complainant, after being informed of the decision to allow her to sit the tests in the competition to be held at the beginning of March, eventually withdrew her application for a stay of execution. Thus, the Chair considers that there is no need to adjudicate

on the application for a stay of execution of the decision challenged in the administrative complaint lodged by the complainant.

I, CHAIR OF THE ADMINISTRATIVE TRIBUNAL,

Declare

- the application for a stay of execution lodged by Ms Yuksek is withdrawn.

Done and ordered in Oberwil (Switzerland) on 22 February 2010.

The Registrar of the Administrative Tribunal	The Chair of the Administrative Tribunal
Sergio SANSOTTA	Luzius WILDHABER