

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

## **TRIBUNAL ADMINISTRATIF ADMINISTRATIVE TRIBUNAL**

**ORDER OF THE CHAIR of 22 February 2010**

**In the case of Loredana TASSONE v. Secretary General**

### **THE FACTS**

1. The complainant, Ms Loredana Tassone, is an Italian national who already works for the Organisation as a project manager / consultant. She has grade B5 in the Legal and Human Rights Capacity Building Department of the Directorate General for Human Rights and Legal Affairs.
2. The complainant applied to sit a competitive examination for the external recruitment to positions of Administrative Project Assistant (grade B4) and Principal Project Assistant (grade B5) in response to Vacancy Notices e15/2009 and e16/2009.
3. By two e-mails of 8 January 2010, the complainant was informed that her two applications had been rejected.
4. On 5 February 2010, the complainant lodged an administrative complaint in order to challenge the two decisions (Article 59 paragraph 1 of the Staff Regulations). She requested that the decisions concerning her be reviewed and that she be allowed to sit the tests on a provisional basis.
5. By an application, the original of which was lodged on 8 February 2010, the complainant requested the Chair of the Administrative Tribunal to stay the execution of the administrative acts which she had contested (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 the same date, 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 lodged if that 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 obtain a stay of execution of the Secretary General's decisions not to accept her applications to sit the abovementioned tests. She requests the Chair to order the suspension of the competition pending the response to her administrative complaint.

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

11. The Secretary General informs the Chair that, without prejudice to any argument on which he may rely in his response to the complainant, he has decided to allow her 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, Article 59 paragraph 7 of the Staff Regulations allows the complainant to 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 competitions would be likely to cause her any prejudice whatsoever.

14. In consequence, the Secretary General considers that, as the complainant's request to be able 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 administrative 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 administrative complaint and 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 decisions challenged in the administrative complaint submitted by the complainant.

**I, CHAIR OF THE ADMINISTRATIVE TRIBUNAL,**

Declare

- the application for a stay of execution lodged by Ms Tassone 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