

CONSEIL DE L'EUROPE

COUNCIL OF EUROPE

TRIBUNAL ADMINISTRATIF ADMINISTRATIVE TRIBUNAL

ORDER OF THE CHAIR of 25 May 2023

in the case of R.K. v. Secretary General

The Chair of the Administrative Tribunal,

Having regard to Appeal No. 735/2023 lodged on 26 January 2023;

Having regard to the time limit set for the appellant to submit further pleadings, originally 8 March 2023, which was extended first to 22 March 2023 and then to 24 April 2023, at the request of the appellant and by decision of the Chair;

Considering that the appellant has not submitted further pleadings within the time limit set;

Considering that the appellant did not reply to the first letter from the Registry dated 25 April 2023, asking the appellant to confirm that they intended to continue the proceedings;

Considering that the second letter from the Registry dated 3 May 2023, informing the appellant that their appeal would be struck out of the list if they failed to submit pleadings by the new deadline of 5 May 2023, likewise went unanswered;

Having regard to the letter from the representative of the Secretary General of the Council of Europe dated 16 May 2023, in which he states that he has no objection to the appeal being struck out of the list;

Having regard to Article 15 of the Tribunal's Statute¹;

Having regard to Rule 20 of the Tribunal's Rules of Procedure²;

¹ The Statute of the Tribunal which applies to the present case is that adopted by [Resolution CM/Res\(2022\)65](#) of the Committee of Ministers of the Council of Europe on 16 November 2022 and which entered into force on 1 January 2023.

² The Rules of Procedure of the Tribunal which apply to the present case are the [Rules of Procedure adopted by the Tribunal on 1 September 1982](#). These rules have been superseded by the new [Rules of Procedure of the Administrative Tribunal](#), which were adopted on 26 January 2023 and entered into force on 10 February 2023.

Considering it appropriate to apply the procedure provided for in the said article/rule;

Having submitted a reasoned report to the Tribunal judges on 24 May 2023;

Noting that the judges raised no objection but assented to this order;

DECLARES

- Appeal No. 735/2023 struck out of the list on the grounds set out in the report appended hereto.

Done and ordered at Zagreb, on 25 May 2023, the French text being authentic.

Registrar

Chair

Christina OLSEN

Nina VAJIĆ

REPORT DRAWN UP FOR THE PURPOSES OF THE PROCEDURE PROVIDED FOR IN RULE 20 OF THE RULES OF PROCEDURE OF THE ADMINISTRATIVE TRIBUNAL AND ARTICLE 15 OF THE TRIBUNAL'S STATUTE

**Appeal No. 735/2023
R.K. v. Secretary General**

The present report concerns Appeal No. 735/2023. It has been drawn up for the purposes of the procedure provided for in Rule 20, paragraph 2, of the Rules of Procedure of the Administrative Tribunal and Article 15 of the Tribunal's Statute.

THE PROCEEDINGS

1. The appellant lodged their appeal on 26 January 2023. On 31 January 2023, the appeal was registered under No. 735/2023.
2. In a letter from the Registry dated 6 February 2023, the appellant was informed that the Chair had given them until 8 March 2023 to submit further pleadings. At the appellant's request and by decision of the Chair, this time limit was extended first to 22 March 2023 and then to 24 April 2023.
3. The appellant having failed to submit further pleadings within the time limit, the Registry wrote to the appellant on 25 April, asking them to confirm that they intended to continue the proceedings.
4. In the absence of a reply from the appellant to this letter, the Registry, acting on the instructions of the Chair, wrote to the appellant again on 3 May 2023, informing them that their appeal would be struck out of the list if they failed to submit pleadings by the new deadline of 5 May 2023.
5. In the absence of a reply from the appellant to this second letter, the Registry wrote to the appellant on 9 May 2023, informing them of the Chair's intention to use the procedure for striking a case out of the Tribunal's list.
6. On 16 May 2023, the Secretary General informed the Tribunal that she had no objection to the appeal being struck out.
7. On 24 May 2023, the Chair of the Tribunal submitted the present report to the members of the Tribunal.

THE CIRCUMSTANCES OF THE CASE

8. The appellant is a former local staff member employed by the Organisation under a fixed-term contract ("CDD"). The appellant's contract ended on 31 December 2021.

9. The appellant having lodged a complaint with the Commission against Harassment against the appellant's managers under Rule No. 1292 on the protection of human dignity at the Council of Europe³, the Commission issued its opinion and conclusions on 17 October 2022.

10. By memorandum dated 28 November 2022, the Deputy Secretary General informed the appellant that he endorsed the Commission against Harassment opinion, finding that there had been no harassment in this case. In his memorandum, the Deputy Secretary General also informed the appellant of the measures he had taken, based on the recommendations of the Commission against Harassment, with the aim of improving working conditions and avoiding further situations of this kind in the future.

11. On 27 December 2022, the appellant lodged an administrative complaint pursuant to Article 59, paragraph 2, of the Staff Regulations in force until 31 December 2022. In this complaint, the appellant stated that, in their view, the Commission against Harassment had not been impartial in its investigation and that they were adversely affected by its recommendations. The appellant was therefore applying to the Secretary General to "contest this decision in order to preserve [the appellant's] rights".

12. On 6 January 2023, the Director of Human Resources ad interim acknowledged receipt of the appellant's administrative complaint.

13. On 26 January 2023, the appellant lodged the present appeal. In it, the appellant contests the validity of the decision taken by the Secretary General on the basis of the recommendations of the Commission against Harassment and insists that they suffered harassment.

THE LAW

14. The appellant lodged an appeal against the Secretary General's decision not to accept that the appellant had been the victim of harassment in the workplace.

15. The appellant failed to submit further pleadings within the time limit set, even though it was extended several times at the appellant's request in the light of the difficulties they had cited. The appellant also failed to respond to the various letters sent by the Registry, seeking to ascertain whether the appellant still wished to pursue the case. Nor did the appellant object to the announcement made in one of these letters that the Chair was considering initiating the procedure to strike the appeal out of the list.

16. The Secretary General, for her part, raised no objection to the appeal being struck out of the list.

17. The Chair points out that, under Rule 20, paragraph 1 b, of the Rules of Procedure of the Administrative Tribunal applicable in this case⁴, an appeal may be struck out of the list "where the circumstances, in particular the appellant's failure to provide information requested or to observe time-limits set, lead to the conclusion that he does not intend to pursue his appeal." The Chair further points out that, in accordance with paragraph 2 of the same provision, "the Tribunal shall rule in accordance with the procedure set out in Article 5, paragraph 2 of the Statute" – the procedure in question being the one that applies when the appeal is manifestly

³ Rule No. 1292 was repealed from 1 January 2023 by Decision of the Secretary General of 30 December 2022 on entry into force of the Staff Rules implementing the new Staff Regulations.

⁴ See footnote 2.

inadmissible. Under the Statute of the Tribunal applicable in this case⁵, this procedure is described in Article 8 of the Statute.

18. Consequently, the Chair finds that the appeal must be struck out of the Tribunal's list of cases in accordance with the procedure laid down in the applicable provisions.

CONCLUSION

19. This report is submitted to the judges of the Tribunal so that they may exercise the supervision provided for in Rule 20, paragraph 2, of the Tribunal's Rules of Procedure applicable in the case⁶.

Chair
Nina VAJIĆ

⁵ See footnote 2.

⁶ See footnote 2.