

CONSEIL DE L'EUROPE

COUNCIL OF EUROPE

TRIBUNAL ADMINISTRATIF ADMINISTRATIVE TRIBUNAL

ORDER OF THE CHAIR of 30 January 2023 in the case of Paolo LOBBA v. Secretary General

The Chair of the Administrative Tribunal,

Having regard to appeal No. 734 lodged by Paolo Lobba on 12 October 2022;

Having regard to the appellant's communication to the Registry on 21 December 2022, in which the appellant gave notice of his decision to withdraw his appeal;

Having regard to the communication sent by the representative of the Secretary General of the Council of Europe on 5 January 2023 in which he stated that the Secretary General has no objection to the appellant's appeal being struck off the list;

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

Having regard to Article 5, paragraph 2, of the Statute of the Administrative Tribunal¹ to which appeal No. 734 is subject in pursuance of Article 3 of Resolution CM/Res(2022)65 adopting the new Statute of the Administrative Tribunal of the Council of Europe;

Considering that it is appropriate to apply the procedure provided for in the said articles;

Having submitted a reasoned report to the judges on 26 January 2023;

Noting that the judges raised no objection but, on the contrary, gave their consent to this order;

¹ The Statute of the Tribunal which applies to the present case is set out in Appendix XI to the Staff Regulations adopted by [Resolution Res\(81\)20](#) of the Committee of Ministers of the Council of Europe on 25 September 1981. All references in the present order to the Statute are therefore to be understood as references to the 1981 Staff Regulations.

DECLARES

- appeal No. 734/2022 struck off the Tribunal's list of cases on the grounds set out in the report appended hereto.

Done and ordered in Zagreb (Croatia), on 30 January 2023, this order being notified to the parties, the English 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 5 § 2 OF THE STATUTE OF THE TRIBUNAL

**Appeal No. 734/2022
Paolo LOBBA v. Secretary General**

The present report concerns appeal No. 734/2022 lodged by Paolo Lobba. 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 5, paragraph 2, of the Tribunal's Statute.

THE PROCEEDINGS

1. The appellant party lodged his appeal on 12 October 2022. On the same date, the appeal was registered under No. 734/2022.
2. On 21 December 2022, the appellant informed the Chair that he did not wish to pursue the appeal.
3. On 5 January 2023, the Secretary General informed the Tribunal that she had no objection to the appeal being struck off the list.
4. On 26 January 2023, the Chair of the Tribunal submitted the present report to the members of the Tribunal.

THE FACTS

5. The appellant is a staff member who concluded a fixed-term contract with the Council of Europe as of 1 September 2022 following his successful participation in competition No e22/2021 for the recruitment of Legal Analysts/Legal Advisors (grade A1/A2). He had previously been employed by the Organisation as an assistant lawyer (grade B3) under a fixed-term contract as of 1 September 2019. At the time of the conclusion of his second contract, the appellant was on parental leave and had relocated to a country other than the country of his duty station.
6. The appellant received the offer of employment for his A-category position on 25 July 2022. The offer indicated Strasbourg as the appellant's place of recruitment and thus contained no mention of any entitlement to an installation allowance or to reimbursement of travel and removal expenses. It further specified that the rates of the expatriation allowance and of the basic family allowance took into account the appellant's "previous services in the duty country as from September 2019, thus, the degressivity will start in September 2024".
7. On 29 July 2022, by the same email by which the appellant accepted the offer of employment to the Directorate of Human Resources ("DHR"), he submitted an administrative

complaint under Article 59 of the Staff Regulations². In his complaint, the appellant claimed that by determining that his place of recruitment for the purpose of his second contract was Strasbourg, the Organisation failed to consider the factual establishment of his residence outside the duty country, and therefore committed an error of law and fact. He challenged the decision taken on this basis not to grant him the installation allowance and not to reimburse his travel and removal expenses upon taking up his new duties. He also challenged the decision to take into account the periods of his service since 2019, including the period spent on parental leave, for the calculation of the progressive reduction of the expatriation and basic family allowances.

8. On 23 August 2022, the Secretary General dismissed the complaint.

9. On 12 October 2022, the appellant lodged the present appeal.

THE LAW

10. In his appeal, the appellant challenged the Secretary General's decision determining his entitlement to the various applicable allowances (installation, expatriation, and basic family allowance) and payment of expenses (travel and removal expenses) upon the conclusion of his second employment contract with the Organisation.

11. In a communication received by the Registry on 21 December 2022, the appellant informed the Tribunal that he wished to withdraw the appeal, on the grounds that the parties had reached a friendly settlement on 20 December 2022.

12. The Secretary General, for her part, raised no objections to the appeal being struck off the list of cases.

13. The Chair points out that under the terms of Rule 20, paragraph 1 a of the Tribunal's Rules of Procedure, an appeal may be struck out if an appellant states that he or she wishes to withdraw it and according to 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 of the Tribunal regarding cases where the appeal is manifestly inadmissible.

14. The Chair further notes that, in the present case, the parties have reached a friendly settlement and that the appellant submits that he has no longer grounds for maintaining the appeal. Thus, there is no reason why the appeal should not be struck from the list. Admittedly, in the written submission informing the Tribunal of the decision not to pursue the appeal, the appellant gave no indication of the terms of the settlement reached and its enforcement between the parties outside these proceedings. Accordingly, the Chair is unable to carry out any review of this agreement, neither the rationale nor the ins and outs of the decision. However, this omission is no reason not to order that the appeal be struck off the Tribunal's list of cases.

² The Staff Regulations which applied at the time of the facts of the present case are those which were adopted by [Resolution Res\(81\)20](#) of the Committee of Ministers of the Council of Europe on 25 September 1981. All references in the present order to the Staff Regulations are therefore to be understood as references to the 1981 Staff Regulations.

15. Therefore, the Chair notes that the appeal is to be struck off the Tribunal's list of cases according to the procedure provided for in Rule 20, paragraph 2, of the Rules of procedure.

CONCLUSION

16. This report is submitted to the judges of the Tribunal so that they may exercise the supervision provided for in Article 5, paragraph 2, of the Statute of the Tribunal, to which Rule 20, paragraph 2, of the Rules of Procedure refers.

Chair

Nina VAJIĆ