

Request for a stay of execution No. 04/2025

H

v.

Secretary General of the Council of Europe

STAY OF EXECUTION ORDER

27 June 2025

THE FACTS

1. The applicant, H, is employed by the Organisation on a fixed-term contract, which was originally due to expire on 18 June 2029.
2. In a letter from the Secretary General dated 21 May 2025, the applicant was informed that their fixed-term contract would be terminated on 31 December 2025. This decision had come about as a result of a restructuring of the departments where the applicant worked and the abolition of their job. In the same letter, the applicant was informed that they would be reassigned in the Organisation for the period from 1 June 2025 to 31 December 2025.
3. On 16 June 2025, the applicant lodged appeal No. 771/2025 seeking the annulment of the decision to terminate their contract on 31 December 2025 and of the decision to relieve them of their duties with effect from 1 June 2025. The applicant also seeks the annulment of the measures adopted to implement the restructuring of the departments where the applicant worked, in particular the external recruitment procedure to fill a new job, of a lower grade than the applicant's, which was advertised as a result of that restructuring.
4. On 18 June 2025, the applicant filed a request with the Chair of the Administrative Tribunal to grant a stay of execution, in accordance with Article 14.8 of the Staff Regulations.
5. This request was communicated to the Secretary General on 19 June 2025.
6. On 24 June 2025, the Secretary General submitted his observations on the request for a stay of execution.

THE LAW

7. In accordance with Article 14.3 of the Staff Regulations, read in conjunction with Article 14.6 of the same Regulations, staff members who consider that an administrative decision taken by the Secretary General personally is prejudicial to their interest and conflicts with their terms and conditions of appointment, or with any pertinent provisions of the Staff Regulations, Rules, Instructions or Policies, may lodge an appeal with the Administrative Tribunal against the decision in question.
8. Under Article 14.8 of the Staff Regulations, lodging an appeal does not suspend the contested administrative decision. The Administrative Tribunal may however be asked to suspend the implementation of an administrative decision in cases of particular urgency where the implementation of the said decision would cause serious and irreparable damage.
9. Under Article 12.1 of the Statute of the Administrative Tribunal, when a request for a stay of execution is filed, the Secretary General must, unless there are duly justified reasons, suspend the execution of the contested administrative decision until the Tribunal has ruled on the request.
10. Under Article 12.2 of the Statute of the Tribunal, the Chair must rule on behalf of the Tribunal within 15 days of a request for a stay of execution. The decision must not rule on the merits of the appeal. Decisions on a stay of execution are not subject to appeal.

I. THE PARTIES' SUBMISSIONS

11. In their request, the applicant asks the Chair to stay the execution of the decision to abolish their job and terminate their contract as part of the restructuring of the departments where they worked. They also seek the suspension of the implementation of any decision to fill the job for which a recruitment procedure was launched in connection with that restructuring and which will 'absorb' the duties the applicant performed until 31 May 2025.

12. The applicant argues that filling that job will create irreversible rights for the person appointed, thereby causing the applicant serious and irreparable damage. As to the urgency of their application, they submit that the recruitment procedure is intended to take effect in the immediate future, since the deadline for applications was 16 June last.

13. The applicant further submits that the stay of execution sought is strictly limited and proportionate. It is not intended to hinder the Organisation's restructuring plans or overturn a final decision, its sole purpose being to prevent irreversible consequences from occurring before the Tribunal rules on the merits. Since the applicant is to remain in the employ of the Organisation until the end of 2025, a temporary freeze on the recruitment procedure would not cause any significant harm to the Organisation, whereas making an appointment would create rights that would be difficult to reverse and would compromise any attempt to provide redress after the fact.

14. The Secretary General, for his part, maintains that the request for a stay of execution is not supported by any evidence that would prove the fact that the applicant would suffer damage and that it would be of a serious and irreparable nature. He observes that the job to be filled under the recruitment procedure whose suspension is sought is not the applicant's former job, which effectively ceased to exist on 1 June 2025 and is due to be abolished with effect from 31 December 2025. Insofar, therefore, as the recruitment procedure in question is not intended to replace the applicant, the latter has not shown how continuing that recruitment procedure until a successful candidate is appointed would cause the applicant serious and irreparable damage.

15. In these circumstances, the Secretary General submits that there is no justification for granting a stay of the recruitment procedure in question and that to do so would merely hamper the proper implementation of the restructuring sought by the Secretary General, thus rendering the stay manifestly disproportionate.

16. With regard to the other decisions whose suspension is sought by the applicant, namely the abolition of their job and the termination of their contract, the Secretary General observes that the applicant has failed to present any argument to show that they would be at risk of serious and irreparable damage if those decisions were implemented. He adds that, in any event, if the Tribunal were to rule in favour of the applicant, any pecuniary or non-pecuniary damage the applicant might suffer on account of the annulled decisions cannot be regarded as irreparable, since the Tribunal could order redress through financial compensation.

17. In these circumstances, the Secretary General submits that the request for a stay of execution must be dismissed as unfounded.

II. THE CHAIR'S ASSESSMENT

18. The Chair begins by noting that the present application concerns a number of separate decisions, even though they were adopted as part of the same restructuring of the departments where the applicant worked. In any case, the conditions for granting a stay of execution are, in accordance with Article 14.8 of the Staff Regulations, particular urgency and the serious and irreparable damage that implementing the decision would cause. As these two conditions are cumulative, the Tribunal may stay the contested decision only if both are met.

19. The Chair notes that, in the instant case, the arguments put forward by the applicant to demonstrate the serious and irreparable nature of the damage they seek to avoid by means of the stay of execution relate essentially to the decision to fill the job for which a recruitment procedure was launched as a result of the restructuring in question. It must be noted, however, that the applicant has not adduced any arguments to support their contention that they would suffer damage due, per se, to the decisions to abolish their job and to terminate their contract on 31 December 2025. The applicant refers to this only as a “legal and logical presupposition” of the recruitment procedure, whose suspension they are also seeking.

20. Even assuming that the implementation of these last decisions were prejudicial to the applicant – which has not been established in the instant case –, the Chair considers that the applicant has not shown that the prejudice would be such as to be incapable of being adequately remedied through the award of financial compensation by the Tribunal. The Chair notes that, for the purpose of assessing whether the prejudice incurred would be irreparable, it must be determined whether financial compensation would represent an adequate remedy for the damage caused. In that regard it must be borne in mind that purely financial damage cannot in principle be regarded as being difficult to redress, still less as irreparable, since, as a general rule, it can be the subject of financial compensation in an appeal on the merits (see Administrative Tribunal of the Council of Europe (ATCE), [Order of the Chair of 23 December 2021](#), No. 5/2021, D v. Secretary General of the Council of Europe, § 34; ATCE, [stay of execution order of 31 March 2025](#), No. 1/2025, B. H. v. Secretary General of the Council of Europe, § 27). The applicant has not pleaded any exceptional circumstances that would warrant a different conclusion in the instant case.

21. The Chair further notes that the applicant does not claim that they would suffer any damage other than pecuniary damage.

22. The Chair therefore considers that the damage in question is not such as to be incapable of being remedied through financial compensation, the applicant having provided no evidence to the contrary (ATCE, [stay of execution order of 31 March 2025](#), No. 1/2025, B. H. v. Secretary General of the Council of Europe, § 30).

23. As to the alleged damage linked to the separate decision to proceed with the recruitment in question, the Chair notes that the job to be filled through this procedure is not the one held by the applicant, and which it has been decided to abolish. The fact that, in the context of the restructuring in question, the holder of the new job may be required to carry out some of the duties previously performed by the applicant does not alter this conclusion. In these circumstances, continuing the recruitment procedure cannot be regarded as likely to cause the applicant damage, still less serious and irreparable damage within the meaning of the applicable provisions.

24. In the light of the foregoing, the Chair concludes that nor does the applicant's request establish that they would suffer serious and irreparable damage as a result of the decision to proceed with the contested recruitment.

25. In conclusion, the implementation of the Secretary General's contested decisions does not appear likely to cause the applicant damage so serious and irreparable that even the subsequent annulment of the said decisions would be unable to repair it.

26. As the existence of serious and irreparable damage has not been established, the applicant's request for a stay of execution must be dismissed.

27. This conclusion is without prejudice to the Tribunal's decision on the merits of the case or to the applicant's ability to refer during the contentious proceedings to any harm they might suffer as a result of the execution of the contested decisions and, if successful, to seek compensation for such harm.

For these reasons,

Ruling in accordance with Article 14.8 of the Staff Regulations, Article 12 of the Statute of the Administrative Tribunal and Rule 20 of the Rules of Procedure of the Administrative Tribunal,

THE CHAIR OF THE ADMINISTRATIVE TRIBUNAL,

dismisses the request for a stay of execution.

Delivered on 27 June 2025, the French text being authentic.

The Registrar of the
Administrative Tribunal

Christina Olsen

The Chair of the
Administrative Tribunal

Paul Lemmens