Request for a stay of execution No. 6/2026

M. D. R.

v.

Secretary General
of the Council of Europe

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ORDER ON A STAY OF EXECUTION

12 August 2026

INTRODUCTION

1. The present request concerns the Administration's decision to regard the applicant as having resigned from her post with effect from 1 August 2026 in connection with her public office.

THE FACTS

2. The applicant was recruited as a grade B2 staff member on 1 March 1992. From 1 April 2010 to 31 July 2026, she held the post of administrative assistant on grade B4.

3. From 2014 onwards, the applicant served as a councillor in her local municipality. In May 2020, she was appointed deputy mayor. As such, she was on several occasions granted authorisation to carry out secondary employment in accordance with the provisions then in force of Article 35 of the Staff Regulations and Rule No. 1236 of 14 December 2006 on secondary activities of staff members and on publications and lectures dealing with subjects relating to the activities of the Organisation.

4. Following the entry into force of an administrative reform on 1 January 2023, the regulatory framework governing staff members' secondary activities changed and the aforementioned rule was repealed. Henceforth, under Article 1.9 of the new Staff Regulations, any staff member who becomes a candidate for public office of a political character, including at the local level, is placed on unpaid leave. If they are elected and accept the office they must resign from the Secretariat.

5. In the 2026 local elections, the applicant stood as a candidate without having been placed on unpaid leave. She was re-elected as deputy mayor in March 2026.

6. Following a report, the Ethics Officer contacted the applicant to remind her of the rules governing public office, in particular the provisions of Article 1.9 of the Staff Regulations.

7. This was followed by several exchanges between the applicant, the Ethics Officer and the Directorate of Human Resources regarding the options available to bring the applicant's situation into line with the applicable rules. These focused, in particular, on the date on which her possible resignation would take effect.

8. On 13 July 2026 the Director of Human Resources sent the applicant a memorandum notifying her that she was deemed to have resigned from the Organisation's Secretariat pursuant to Article 1.9 of the Staff Regulations and that her employment with the Council of Europe would end on 31 July 2026.

9. By email dated 17 July 2026, the applicant asked the Director of Human Resources to "kindly consider [her] request to resign with effect from 30 September 2026". In the email, she stated that she had "understood tacitly that leaving on that date might help to prepare the retirement procedure in an efficient manner, while, above all, ensuring the presence agreed to for the summer holiday period and allowing for the handover of various files to colleagues (…) in the interests of the central services of which [she was] a staff member" (translation). In an email sent the same day, the Director of Human Resources replied that it was not possible to defer the end date of her employment.

10. On 28 July 2026 the applicant lodged an administrative complaint against the decision of 13 July 2026 terminating her employment as of 31 July 2026 (hereinafter "the contested decision"). In the email accompanying the complaint, the applicant's counsel notified the Director of Human Resources that the applicant would be applying for a stay of execution "within 48 hours". Referring to Article 12.1 of the Tribunal's Statute, the applicant's counsel requested that "the Organisation [stay] the execution of the contested decision and [take] the necessary measures to ensure the continuity of the contractual relationship with the [applicant] until the Tribunal rules on the request [for a stay of execution]" (translation).

11. By email dated 29 July 2026, the head of the Litigation division of the Directorate of legal advice and public international law notified the applicant that the Secretary General considered that it would not be justified to suspend the contested decision pursuant to Article 12.1 of the Tribunal's Statute and that, consequently, "only a decision by the Tribunal granting [her] request for a stay of execution (…) could suspend the contested decision".

PROCEDURE

12. On 30 July 2026, the applicant filed the present request for a stay of execution of the contested decision with the Chair of the Administrative Tribunal, in accordance with Article 12 of the Statute of the Tribunal and Article 14.8 of the Staff Regulations.

13. On 4 August 2026 the Secretary General submitted his observations on the request for a stay of execution.

14. On 10 August 2026 the applicant submitted observations in reply.

THE LAW

15. The relevant provisions of the regulatory framework read as follows:

- as regards staff members holding public office of a political character, including at the local level:

Staff Regulations
Article I – Duties, obligations and privileges

(…)

1.9 Any staff member who becomes a candidate for public office of a political character, including at the local level, shall be placed on unpaid leave. A staff member who is elected and accepts the office shall resign from the Secretariat.

(…)

- as regards the applicable procedure in the case of a request for a stay of execution:

Staff Regulations
Article XIV – Grievance procedures

(…)
14.3 Staff members who consider that an administrative decision 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 initiate the process of management review, allowing for the correction of an improper decision or, where a decision was properly taken, its confirmation along with a reasoned explanation. The modalities of the review shall be set out in Staff Rules adopted by the Secretary General.
14.4 After pursuing management review, staff members who are not satisfied with the outcome thereof may lodge a formal complaint with the Secretary General against the contested administrative decision adversely affecting them, provided that they have a direct and existing interest in doing so. The modalities of the complaints procedure shall be set out in Staff Rules adopted by the Secretary General.
14.5 The Secretary General's decision on the complaint may be appealed to the Administrative Tribunal of the Council of Europe in accordance with the provisions of the Tribunal's Statute. While an appeal is pending, the Secretary General shall refrain from taking any further measure in respect of the staff member which, if the appeal was upheld, would make the redress sought impossible.
(…)
14.8 Requesting a management review, filing a complaint or lodging an appeal shall not suspend the contested administrative decision. However, the staff member may file a request with the Administrative Tribunal to suspend the implementation of a contested administrative decision in cases of particular urgency where the implementation of the administrative decision would cause serious and irreparable damage to the staff member.
(…)

Statute of the Tribunal
Article XII – Stay of execution

12.1 When a request for a stay of execution is filed under Article 14.8 of the Staff Regulations, the Secretary General shall, unless there are duly justified reasons, suspend the execution of the contested administrative decision until the Tribunal has ruled on the request.
12.2 The Chair, on behalf of the Tribunal, shall rule within 15 days on requests for a stay of execution, by giving a reasoned decision, which may be subject to certain conditions. The decision shall not rule on the merits of the appeal or the complaint. Decisions on a stay of execution shall not be subject to appeal.
(…)

16. As regards the regulatory framework which applied before the new Staff Regulations came into force on 1 January 2023, the provisions governing staff members holding elective public office at regional or local level were worded as follows:

Staff Regulations
In force from 7 July 2021 to 31 December 2022 – repealed with effect from 1 January 2023

Article 35 – Acceptance of an elective mandate at regional or local level

The Secretary General shall determine whether and to what extent a staff member may, in addition to his or her official duties, hold an elective mandate at regional or local level or whether he or she must take unpaid leave.

Rule No. 1236 of 14 December 2006 on secondary activities of staff members and on publications and lectures dealing with subjects relating to the activities of the Organisation

(Articles 27 and 32-35 of the Staff Regulations) – repealed with effect from 1 January 2023

Article 2 – Authorisation
This Rule grants staff members authorisation to engage in a secondary activity provided the general conditions set forth in Article 3 are satisfied. However, in the case of paid and political activities the additional conditions set out in Article 4 and 5 must also be satisfied.

(…)

Article 5 – Additional conditions relating to political activities
(…)
d. Staff members wishing to stand for elective office at regional or local level must notify the Secretary General who shall decide whether the staff members concerned shall be granted ordinary leave or unpaid leave for personal reasons for the duration of the election campaign.

e. The Secretary General shall determine whether and to what extent a staff member may, in addition to his or her official duties, hold an elective mandate at regional or local level or whether he or she must take unpaid leave.

I. THE PARTIES' SUBMISSIONS

17. With her application, the applicant requests that the Tribunal order a stay of execution of the Administration's decision compulsorily retiring her with effect from 30 July 2026.

18. The applicant provides a brief summary of the grounds on which her administrative complaint is based, alleging in this regard a breach of Articles 8 and 11 of the European Convention on Human Rights (ECHR), Article 1 of Protocol No. 1 to the ECHR, a failure to respect her right to be heard and a failure by Administration to observe its duty of care. Stating that these grounds are not without merit, she argues that it is necessary to determine whether there is particular urgency and serious and irreparable damage justifying a stay of execution.

19. With regard to the particular urgency, the applicant argues that it stems from the contested decision taking effect imminently and the resulting loss of her employment.

20. With regard to the serious and irreparable damage, the applicant argues that the execution of the contested decision would terminate her employment relationship with the Council of Europe for good and would be followed by her post being filled by another individual, thereby depriving her of any possibility of returning to the Organisation if she were to succeed in the contentious proceedings. She adds that, in such circumstances, it would be highly unlikely that she would find work in either the private or public sector, given her professional background and age. The harm she would suffer as a result would not be of a kind that could be remedied by financial compensation.

21. The applicant further argues that the execution of the decision to terminate her employment would cause her serious reputational damage. In view of the "forced" and "abrupt" nature of the resignation imposed on her, the applicant submits that the contested decision is "liable to be interpreted as punishing a lack of integrity, unlawful conduct and a breach of loyalty (…) towards the Organisation, which is particularly discrediting" (translation). Such harm would affect both her professional life and also her position as a locally elected representative.

22. The applicant also alleges a financial loss insofar as the execution of the contested decision would force her to take early retirement at the reduced rate of 62.67%. Furthermore, according to the information she says she was given by the Directorate of Human Resources, her pension would not actually be paid until September 2026.

23. In her observations in reply, the applicant returns to the specific circumstances of her case and underlines the "abrupt" nature of the contested decision, which terminated her indefinite-term contract after more than 34 years' service, without notice and without her having been heard beforehand, even though an amicable settlement involving her departure being deferred to the end of 2026 had apparently been considered. The applicant considers that the Secretary General's comments regarding her conduct (see paragraphs 25 and 26) are not relevant to the present proceedings, as they relate to the merits of the case. Furthermore, she disputes the Secretary General's assertion that the Organisation has applied Article 1.9 of the Staff Regulations uniformly to all staff members.

24. For his part, the Secretary General submits that the applicant has not provided proof that she would suffer serious and irreparable damage.

25. The Secretary General observes that the applicant cannot claim to have suffered any harm, given that the alleged harm is the result of her own failure to meet her obligations as a member of staff. In this regard, he points out that the applicant first breached her obligations by failing to inform the Organisation of her candidacy in the local elections and to take unpaid leave during the campaign, and subsequently by continuing her employment with the Council of Europe following her election, although she should have resigned from the Secretariat as of 15 March 2026.

26. The Secretary General underlines that the applicant, who had been granted authorisation in 2020 to hold elected local political office in addition to her post at the Council of Europe, pursuant to Article 35 of the Staff Regulations then in force, could not have failed to realise that the provisions of Article 1.9 of the Staff Regulations that came into force on 1 January 2023 applied to her situation. She cannot therefore claim that she was unable to prepare for the consequences of losing her job, in particular in terms of securing alternative sources of income or building up adequate savings.

27. The Secretary General observes that the applicant will in any event receive her retirement pension from 1 August 2026 and that, apart from a possible one-month delay in the payment of that pension, she will therefore receive on a continuous basis income sufficient to ensure her financial stability and to meet her basic needs.

28. The Secretary General also rejects the applicant's argument regarding the loss of alternative employment prospects, affirming that such harm cannot be attributed to the Organisation and is, in any event, unsubstantiated.

29. As to the reputational damage alleged by the applicant, the Secretary General considers that applying to the applicant, as to any staff member, the rule that election to a public office of a political character automatically entails the staff member's resignation once they accept that office does not, in itself, damage the reputation of the staff member concerned. It is, however, a measure necessary to protect the Organisation's reputation in accordance with the principles of legality and good administration. The Secretary General points out that, based on the commitments made in connection with her public office, the applicant ought to have complied of her own accord with the applicable regulatory framework during the 2026 local elections, as during the 2020 elections, when she apparently only put her situation in order at a late stage, at the initiative of the Administration.

30. In such circumstances, the Secretary General also notes that the balance that must be maintained in contentious proceedings between the parties and their respective interests would be upset if the applicant were to, by means of a request for a stay of execution, succeed in having the contested decision suspended, thereby compelling the Organisation to continue her employment contract.

31. Lastly, the Secretary General argues that any damage which the applicant might seek to have recognised if the contested decision were to be amended or set aside would, in any event, be made good through the award of financial compensation.

II. THE CHAIR'S ASSESSMENT

Conditions for obtaining a stay of execution

32. It should be noted from the outset that under Article 14.8 of the Staff Regulations, the Administrative Tribunal may be asked to suspend the implementation of an administrative decision in cases of particular urgency where this would cause serious and irreparable damage. The Tribunal may stay the contested decision only where both conditions, namely particular urgency and serious and irreparable damage, are satisfied.

33. It should further be pointed out that there can be no question, at this stage, of assessing the submissions relating to the substance of the complaints made by the applicant in her administrative complaint. These matters are not for discussion in the current proceedings, which are only concerned with urgent measures (Administrative Tribunal of the Council of Europe (ATCE), Request for a stay of execution No. 4/2026, M. G. v. Secretary General of the Council of Europe, order of 24 April 2026, § 31). It is therefore not necessary for the Chair to examine the requesting party's submissions concerning the merits of the case, as set out in paragraph 18 above.

Serious and irreparable damage

34. As to the requirement for serious and irreparable damage, the Chair observes that the applicant firstly alleges the harm suffered as a result of losing her job with the Organisation and its impact on her financial situation.

35. In this regard, the Chair notes that the disputed decision had the effect of terminating the applicant's contract on 30 July 2026. The case file shows that, during her exchanges with Administration on putting her situation in order, the applicant initially indicated that she might resign voluntarily no later than the beginning of 2027, or possibly by the end of 2026. The documents in the file further show that, in reply to an email dated 13 July 2026 from the Director of Human Resources, the applicant expressed her willingness to bring forward the date of her voluntary departure from the Organisation to 30 September 2026.

36. The damage at issue in this case therefore appears to be essentially confined to the difference between the amount of the applicant's pension and the salary she would have received if she had remained in active service with the Organisation for a period of just a few months (two months, in the event of her resigning on 30 September 2026, or up to six months in the event of her resigning on 31 January 2027). The Chair also notes that, since being retired, the applicant has been receiving a pension from the Organisation, which provides her with a regular and stable source of income.

37. In these circumstances, and given the sums involved, the Chair considers that the aforementioned financial loss is not of such a serious nature as to warrant the granting of a stay of execution. Having reached this conclusion, it is not necessary to rule on whether the damage is reparable or irreparable.

38. As to the reputational damage, the Chair points out that the present case concerns a resignation which the applicant was considering submitting of her own accord, not a disciplinary or other measure that might have been imposed as a result of any fault or misconduct on her part. Admittedly, the contested decision resulted in her being forced to

resign at an earlier date than she would have wished. Nevertheless, this resignation stemmed from a choice she had to make between keeping her post at the Council of Europe and continuing her public office, as holding both posts simultaneously is not permitted under the regulatory framework. Against this background, the President fails to see how a measure taken in strict compliance with that framework would be likely to damage the applicant's reputation, notwithstanding the fact that she contests the regulatory basis of the measure in question.

39. The applicant has therefore failed to demonstrate that the alleged damage to her reputation actually occurred.

40. In the light of the above, the Chair concludes that, in the present case, the applicant has provided no proof of any serious or irreparable damage stemming from the execution of the contested decision.

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

42. 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 she might suffer as a result of execution of the contested decision 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 12 August 2026, the French text being authentic.

The Registrar of the Administrative Tribunal	The Chair of the Administrative Tribunal
Christina Olsen	Paul Lemmens