

Request for a stay of execution No. 2/2026

S. G. (II)

v.

**Secretary General
of the Council of Europe**

ORDER ON A STAY OF EXECUTION

2 March 2026

INTRODUCTION

1. The present request concerns the alleged illegality of the decision not to select the applicant for the assessment stage following her application to an external recruitment procedure.

THE FACTS

2. The applicant is a staff member employed with the Council of Europe since 2004 and currently occupying a job at grade A4 under an indefinite term contract.

3. Following publication of vacancy notice No. 1097/2025, the applicant applied to take part in an external recruitment procedure for the A5 job of Head of Department of Health and Addictions - Executive Secretary of the Council of Europe International Co-operation Group on Drugs and Addictions (Pompidou Group).

4. By an email dated 20 January 2026 the Directorate of Human Resources (“DHR”) informed the applicant that she had not been selected for the assessment stage. The email indicated in this connection that “[*the DHR had*] received too many applications in proportion to the number of jobs [*they had*] to propose and had to narrow down the list of applications selected for the next stage in order to keep only the best profiles”.

5. On 18 February 2026 the applicant challenged the decision not to select her for the assessment stage of the recruitment procedure in question (hereafter “the contested decision”), by introducing both a request for management review addressed to the director of Human Resources and a formal complaint addressed to the Secretary General.

6. By email of 19 February 2026 the applicant was informed by the Director of Human Resources that as a job candidate to an external recruitment procedure, the contested decision was not subject to the management review procedure, but to the formal complaint procedure, and that she would receive a response to her formal complaint within the timeframe set out in the Staff Rule on grievance procedures. This procedure is still pending.

PROCEDURE

7. On 19 February 2026 the applicant applied to the Chair of the Administrative Tribunal for a stay of execution, in accordance with Article 12 of the Statute of the Tribunal and Article 14.8 of the Staff Regulations. Referring to the Staff Committee’s complaint of 15 January 2026 challenging the lack of statutory consultation with respect to the Organisation’s decision to make more systematic use of external recruitment for A4 and A5 jobs, the applicant is seeking the stay of execution of the ongoing external recruitment procedure for vacancy notice No. 1097/2025 “until the grievance procedures launched by the Staff Committee have been formally terminated” and, in the alternative, admission to the assessment stage.

8. On 20 February 2026, upon a request from the Chair, the Secretary General communicated to the Tribunal, on a confidential basis, the decision he had taken on 16 February 2026 regarding the administrative complaint of the Staff Committee referred to in paragraph 7.

9. On 24 February 2026 the Secretary General submitted his observations on the request for a stay of execution.

10. On 27 February 2026 the applicant submitted her observations in reply.

THE LAW

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

- as regards job candidates' access to the complaints and appeals procedure:

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.

(...)

14.10 In addition to staff members, the complaints and appeals procedure shall be open mutatis mutandis to:

(...)

14.10.3 job candidates, insofar as their complaint or appeal concerns irregularities of the selection process directly affecting them; (...)

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

Staff Regulations

Article XIV – Grievance procedures

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 Administrative 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.

- as regards participation of job candidates in external recruitment procedures:

Staff rule on entry into service

480. ADVERTISING VACANCIES

480.1 When a vacancy shall be filled through recourse to a recruitment procedure, a vacancy notice shall be advertised.

(...)

480.3 A vacancy notice shall include, in addition to the conditions for appointment referred to in Article 410, information relevant to the job inter alia the following:

480.3.1 job description;

480.3.2 requisite qualifications, competencies and experience;

480.3.3 the knowledge of languages required;

480.3.4 outline of the selection process;

(...)

490. RECRUITMENT PROCEDURES

490.1 Candidates who meet the criteria set out in the Staff Regulations and Staff Rules and the vacancy notice and whose applications demonstrate the best profile in terms of qualifications, experience and motivation shall be shortlisted for the recruitment evaluation process. (...)

I. THE PARTIES' SUBMISSIONS

12. In her application to the Tribunal, the applicant requests the Chair to suspend the execution of the decision not to include her on the shortlist for the assessment stage of the external recruitment procedure No. 1097/2025.

13. She submits that the contested decision was taken in violation of the Staff Regulations, which provide for an external recruitment procedure only for entry into service appointments at A1/A2 level and for appointments to grades A6 and A7, but not for appointments at A4/A5 level. She argues that an amendment to the Staff Regulations would have been necessary to fill the A5 job advertised under vacancy notice No. 1097/2025 through an external recruitment procedure. The applicant refers in this connection to the Staff Committee's complaint challenging the legality of the new approach adopted by the Organisation in relation to the publication of vacancy notices for A4 and A5 jobs, of which staff members were made aware via a posting of an intranet news on 10 December 2025.

14. The applicant further submits that the externalisation of the appointment procedures at A4/A5 level reduces the prospects of promotion for serving A grade staff members. She further maintains that the contested decision constitutes an abuse of discretion, opening the way to an arbitrary selection process in which no substantive reasons are given for rejecting candidatures, as was the case in the decision not to shortlist her for the assessment stage. She adds that the language requirements of vacancy notice No. 1097/2025, calling for excellent knowledge of one official language of the Organisation and only basic, instead of good knowledge of the other, do not align with standard language requirements for appointments in jobs at comparable or even lower levels of responsibility. The applicant considers that such a deviation from normal practice could suggest an intention to favour a particular candidate.

15. With regard to the condition of particular urgency, the applicant maintains that should the recruitment procedure not be immediately suspended, a candidate may be appointed before the Tribunal has ruled on her appeal, at which point it would become impossible to reinstate her candidature and to give full effect to a judgment upholding her appeal.

16. The applicant further submits that the loss of what she describes as a unique career opportunity constitutes serious and irreparable damage, which cannot be remedied through the award of monetary compensation or any other remedy.

17. For his part, the Secretary General submits that the applicant cannot allege to have been caused serious and irreparable damage, as the external recruitment procedure in question has been conducted in full compliance with the applicable rules. In the case at hand, he notes that the applicant did not meet the criteria set out in vacancy notice No. 1097/2025, in terms of requisite experience, and therefore could not be shortlisted. Whereas the vacancy notice required candidates to “*have at least 10 years of experience in the relevant fields, including 5 years in a senior leadership role within large teams*”, the applicant’s act of candidature displayed no experience in the fields of health or drug/addiction policymaking. Inasmuch as the applicant’s profile did not meet the advertised job, the Secretary General argues that she had no right to be shortlisted and cannot claim to have lost a career opportunity.

18. He adds that any damage which the applicant could possibly claim could in any case be remedied by means of monetary compensation and would therefore not be irreparable.

19. In the circumstances of the present case, the Secretary General asserts that granting a stay of execution would produce disproportionate effects, in terms of preventing the appointment of the successful candidate to a job of strategic importance for the department concerned until the end of the litigation procedure and hindering the smooth running of services. He argues that such an outcome would be in contradiction with the restraint which is expected from the Chair of the Tribunal in the exercise of his exceptional powers under Article 14.8 of the Staff Regulations.

20. In view of these considerations, the Secretary General asks the Chair to reject the request for a stay of execution as unfounded.

21. In her observations in reply, the applicant asserts that she fulfils all the requirements for the advertised job. She disputes the Secretary General’s restrictive interpretation of such requirements, arguing that the vacancy notice refers to experience “in the relevant fields”, without limitation to the fields of health or drug/addiction policymaking. The applicant further sets out the different areas in which she gained professional experience, both prior to her joining the Council of Europe and within the Organisation, to demonstrate the relevance of such experience in terms of satisfying the requirements of the vacancy notice.

22. Concerning the irreparable nature of the alleged prejudice, the applicant upholds that if the recruitment process continues and a candidate is appointed, she will be permanently deprived of the opportunity to be fairly considered for the job at hand as an internal candidate. As a candidate in an external recruitment procedure, which, in her view, should have been dealt with internally, she argues that having to compete with a higher number of candidates has unfairly decreased her career prospects and legitimate expectations as a staff member of the Organisation. Such harm cannot be remedied by a compensation, as it would result in the loss of a unique career opportunity, professional advancement and reputational standing within the Organisation. The irreversibility of the appointment process means that any subsequent remedy would be ineffective and the purpose of any appeal she could lodge would be defeated.

23. The applicant disputes the Secretary General's assertion that in the balance of the Organisation's interest in ensuring the proper functioning of the services and her interests as a candidate in a recruitment procedure, the former should prevail. She observes that the job in question remained vacant for several months following the retirement of the previous incumbent in September 2025, prior to the publication of vacancy notice No. 1097/2025. In her view, that circumstance contradicts the Secretary General's argument that the job could not remain vacant for several more months without adversely affecting the smooth running of services.

24. The applicant therefore maintains her request for a stay of execution as a necessary means to preserve the effectiveness of the appeal process and to uphold the principles of fairness and due process.

II. THE CHAIR'S ASSESSMENT

25. 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 its execution would give rise to 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.

Particular urgency

26. With regard to the requirement of particular urgency, the Chair notes that the decision not to shortlist the applicant was notified to her on 20 January 2026 and that the applicant's request for stay of execution was lodged on 19 February 2026, one day after the introduction of her formal complaint against the decision in question. It can be reasonably assumed that the recruitment process has since progressed and that a decision on the appointment of the successful candidate to the job at issue is likely to be taken imminently. The Secretary General himself has underlined the importance of this competition for the proper functioning of the department concerned.

27. In light of these circumstances, the Chair considers that the urgency requirement is satisfied in the present case - an assessment which, moreover, does not appear to be contested by the Secretary General.

Serious and irreparable damage

28. As regards the requirement of serious and irreparable damage, the Chair notes that in the present case, the prejudice relied upon by the applicant relates to her interest as a candidate in being fairly considered for a job for which she claims to qualify. The Secretary General, for his part, contests the existence of such a prejudice on the grounds that the applicant failed to meet the minimum requirements of the vacancy notice and could therefore not be shortlisted for the assessment stage.

29. It is thus apparent that, in the context of the present proceedings, it must be assessed whether the applicant can seriously and reasonably invoke such a prejudice to seek the protection afforded by a stay of execution, it being understood, however, that the question

whether the applicant was entitled to be shortlisted pertains to the merits of the dispute and can only be finally determined in the main proceedings.

30. In this respect, the Chair observes that in the first communication of the contested decision to the applicant, no mention was made of her failure to meet the requisite criteria in the vacancy notice (see paragraph 4). It was only after the applicant challenged this decision that she was informed that her alleged lack of relevant professional experience in the fields of health or drug/addiction constituted the reason for not shortlisting her.

31. The Chair further observes that the vacancy notice in question refers to “relevant fields”, in the plural, without specifying which areas of expertise are to be considered relevant for the purposes of shortlisting candidates and without restricting such areas to the fields of health and/or drug/addiction. Moreover, the vacancy notice provides the indication that the broader fields of “law, health and natural sciences, political science”, and other fields related thereto, are areas of study relevant to the department’s work.

32. In view of the foregoing, the Chair considers that the reasons relied upon by the applicant in support of her claim of prejudice cannot be viewed as devoid of seriousness. He therefore considers that the applicant can *prima facie* sustain that, by not being selected for the assessment stage, she suffers a prejudice which may trigger a stay of execution.

33. As to the serious character of the alleged prejudice, the Chair observes that the applicant is a serving staff member at grade A4 with over two decades of professional experience within the Council of Europe. She maintains that the contested decision deprives her of a unique opportunity for professional advancement within the Organisation. The Secretary General does not provide any elements to the contrary, beyond maintaining that the applicant did not qualify under the terms of the vacancy notice, and he does not specifically contest the applicant’s contention that the advertised job represents a rare opportunity for promotion.

34. As to the irreparable nature of the alleged damage, the Chair considers that in the particular circumstances of the present case the loss of the opportunity to be assessed in a competition for promotion to a senior-level job for which the applicant appears, *prima facie*, to meet the requirements as stated in the vacancy notice, may give rise to a prejudice that could not be adequately remedied by financial compensation (ATCE, request for a stay of execution No. 3/2025, S. G. v. Secretary General of the Council of Europe, [order of 10 June 2025](#), §§ 28 and 29). Furthermore, it appears that reinstatement in the selection procedure would no longer be feasible even if an appeal on the merits were to be upheld.

35. While recognising the need to balance the interests of the applicant against those of the Organisation in ruling on the present request, the Chair considers that the Secretary General does not show, *prima facie*, that the suspension of the contested decision would entail disproportionate adverse effects for the Organisation or the department concerned.

36. In light of the foregoing, the Chair finds that the implementation of the contested decision, combined with the risk that the job may be filled before the applicant’s claims are adjudicated, would result in serious and irreparable damage warranting the suspension of the decision.

37. Given that the applicant's request satisfies the condition of the particular urgency and that of serious and irreparable damage, the requested stay of execution must be granted. Although in her application, the applicant seeks the suspension of the contested decision "until the grievance procedures launched by the Staff Committee have been formally terminated", the Chair observes that he can only grant a stay of execution of a contested decision as long as the grievance procedures concerning that decision are pending and, in case of a further appeal, until a decision has been taken on that appeal.

For these reasons,

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

THE CHAIR OF THE ADMINISTRATIVE TRIBUNAL,

- grants the stay of execution applied for, insofar as it concerns the contested decision not to shortlist the applicant for an assessment in the context of the recruitment procedure No. 1097/2025;
- decides that the stay of execution remains in force until a decision has been taken on the applicant's formal complaint, and if this complaint is rejected, until a judgment on any appeal to the Tribunal is delivered, provided that such appeal is brought within the relevant time-limit.

Delivered on 2 March 2026, the English text being authentic.

The Registrar of the
Administrative Tribunal

Christina Olsen

The Chair of the
Administrative Tribunal

Paul Lemmens