

Request for a stay of execution No. 3/2025

S. G.

v.

**Secretary General
of the Council of Europe**

ORDER ON A STAY OF EXECUTION

10 June 2025

THE FACTS

1. 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.
2. Following publication of vacancy notice n° 051/2025, the applicant applied to take part in an internal competition procedure concerning the vacancy for the job of Head of Secretariat within the Secretariat of the Parliamentary Assembly – Directorate I – Democracy and Rule of Law (Committee on Legal Affairs and Human Rights and Committee on the Election of Judges to the European Court of Human Rights) (Grade A5).
3. By an email dated 29 April 2025, the Directorate of human resources (hereafter “DHR”) informed the applicant that she was not among the candidates who had been shortlisted for an interview.
4. By email dated 30 April 2025 in reply to a request by the applicant, the DHR explained that the decision not to select her for an interview was based on the consideration that her candidature, “taken alone or in comparison with the other candidates (...) did not demonstrate sufficiently the required vision and strategic insight, resilience and leadership competencies, which are key for this role”, despite clearly demonstrating her professional and technical expertise.
5. On 25 May 2025 the applicant lodged two separate requests for management review, one with the Secretary General of the Parliamentary Assembly contesting the decision of the hiring manager not to select her for an interview and one with the director general of Administration contesting the decision of the DHR to approve of the said decision of the hiring manager.
6. On the same date, she further lodged two separate formal complaints with the Secretary General of the Council of Europe (hereafter “Secretary General”), one contesting the decision of the hiring manager not to select her for an interview and one contesting the decision of the DHR to approve of the said decision of the hiring manager.
7. By email of 26 May 2025, the applicant was informed by the director of Human resources that her two formal complaints were premature pursuant to Article 14.4 of the Staff Regulations but that she would receive a response to her request for management review. At the time of the adoption of this order, no such decision had yet been taken.
8. On 27 May 2025, the applicant applied to the Chair of the Administrative Tribunal for a stay of execution of the recruitment procedure, in accordance with Article 14.8 of the Staff Regulations and Article 12 of the Statute of the Tribunal.
9. On 2 June 2025 the Secretary General submitted his observations on the request.
10. On 6 June 2025 the applicant submitted her observations in reply.

THE LAW

11. Under Article 14.3 of the Staff Regulations, a process of management review may be initiated by staff members contesting an administrative decision which 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.

12. Under Article 14.8 of the Staff Regulations, requesting a management review 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.

13. 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 complaint or any subsequent appeal. Decisions on a stay of execution are not subject to appeal.

I. THE PARTIES' SUBMISSIONS

14. In her request, the applicant asks the Chair to order the suspension of the ongoing appointment procedure for vacancy notice n° 051/2025 and to order that she be included in the shortlist of candidates to be interviewed. She indicates that in view of interviews being conducted, her case is of particular urgency and a continuation of the procedure would result in serious and irreparable damage.

15. The applicant challenges the assessment of her candidature by the hiring manager, as well as the decision of the DHR to endorse this assessment. She underlines that her candidature demonstrates her possession of the vision and strategy insight, resilience and leadership competencies required in the vacancy notice. She considers the decision taken by the hiring manager to be arbitrary, discriminatory and ill-motivated. She submits further that by approving this decision, the DHR did not apply a sufficient duty of care and committed a manifest error of assessment.

16. Concerning the particular urgency, the applicant maintains that if the selection procedure is not immediately suspended, a candidate may be appointed before her appeal is adjudicated, rendering it impossible to annul the appointment or to reinstate her in the procedure with full effect.

17. As for the existence of serious and irreparable damage, the applicant submits that the loss of a unique career opportunity, professional advancement, and the reputational harm from being excluded at this stage of the procedure constitute serious and irreparable harm, not susceptible to adequate redress through monetary compensation.

18. For his part, the Secretary General submits that the applicant cannot allege to have been caused serious and irreparable damage, as the internal competition procedure in question is conducted in full compliance with the applicable rules. He recalls that the applicant did not possess a right or a legitimate expectation to be shortlisted for an interview, since in pursuance of the applicable rules, only candidates whose applications best match the specific profile sought are invited to an interview in order to streamline appointment procedures.

19. In the Secretary General's view, the applicant does not demonstrate that she would suffer any serious or irreparable prejudice. The risk of not being shortlisted is inherent in any appointment procedure and is one that all candidates accept upon applying. In any event, if it were to exist, the prejudice that the applicant could claim could be remedied by means of

monetary compensation and would therefore not be irreparable. He insists on the need to avoid the adverse consequences for the Organisation of suspending the ongoing competition, which justifies that, in the balance of the interests of the Organisation and the interests of the applicants, the former should prevail.

20. The Secretary General therefore asks the Chair to dismiss the applicant's request for a stay of execution as unfounded.

21. In her observations in reply, the applicant maintains the serious and irreparable nature of the alleged prejudice. She reiterates that if the selection procedure continues and another candidate is appointed, she would be irreversibly deprived of a fair opportunity to be considered for a job for which she possesses all the required competencies and skills. As such harm would be irreversible, any subsequent remedy would be ineffective and the purpose of any appeal she could lodge would be defeated. Equally, the damage to her reputation would be irreparable.

22. The applicant observes further that soft skill selection criteria are typically assessed during the interview. In light of the possibility for a Staff Committee representative to attend the interviews, she considers that the decision not to shortlist her for the interview undermines the ability of the Staff Committee to discharge its statutory functions.

II. THE CHAIR'S ASSESSMENT

23. 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 if both requirements, i.e. particular urgency and serious and irreparable damage, are satisfied.

24. In the present case, although the applicant formally requests a stay of execution of the entire selection procedure (see paragraph 14 above), the Chair considers that the request can be examined only insofar as it concerns the contested decision, namely the decision not to shortlist the applicant for an interview in the context of the selection procedure in question. The Chair will therefore rule on the present application within this limited scope (see Administrative Tribunal of the Council of Europe, "ATCE", [order of the Chair of 17 May 2022](#), in the case of *Kirbas v. Secretary General of the Council of Europe*, § 26).

25. With regard to the particular urgency requirement, the Chair notes that the decision not to shortlist the applicant was notified to her on 29 April 2025. It emerges from the parties' submissions that the recruitment procedure 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 Secretariat of the Parliamentary Assembly of the Council of Europe.

26. 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.

27. As to the requirement of serious and irreparable damage, the Chair observes that the applicant is a serving staff member at grade A4 with over two decades of professional experience within the Organisation. She contests the decision not to shortlist her for an internal

competition for a job at grade A5. She maintains that she fully meets the competency requirements set out in the vacancy notice, and that the contested decision deprives her of a unique opportunity for professional advancement within the Council of Europe.

28. The Chair is not required, at this stage, to assess whether the contested decision violates any legitimate expectation to be shortlisted for a job for which the applicant allegedly has the required profile. The Chair notes, nevertheless, that, should her request for management review, or any subsequent formal complaint or appeal prove successful, the selection procedure may, by that time, have already concluded with the appointment of another candidate to the job in question. In such a scenario, the applicant would be definitively deprived of the opportunity to be considered for a job which she legitimately can describe as unique and potentially career-defining. As the Tribunal has already found in the past (ATCE, [order of the Chair of 21 October 2009](#) in the case of *Libs v. Secretary General of the Council of Europe*, §§ 24-25), such loss of opportunity, where reinstatement in the selection procedure would no longer be possible, may constitute a grave prejudice.

29. The Chair further considers that the harm which the applicant would suffer in such a case could not be adequately remedied by financial compensation. Nor does the possibility for the applicant to apply for other hypothetical future vacancies suffice to eliminate the irreparable nature of the harm in the present case. Given that the job at issue is at grade A5, it may be reasonably assumed that comparable vacancies within the Secretariat of the Parliamentary Assembly – offering a similar level of responsibility and matching the applicant's profile – are rare.

30. 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 hinder its ability to manage the ongoing competition procedure efficiently.

31. 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 the definitive loss of a concrete opportunity for promotion. Given the impossibility of placing the applicant in the same position *ex post facto*, this would constitute serious and irreparable prejudice warranting the suspension of the decision.

32. 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.

33. It is for the competent authorities to draw the appropriate conclusions following from the present order.

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 interview in the context of the selection procedure n° 051/2025;
- decides that the stay of execution remains in force until a decision has been taken on the applicant's requests for management review, and if these requests are rejected, until a decision on any formal complaint to the Secretary General is taken or a judgment on any appeal to the Tribunal is delivered, provided that such complaint and appeal are brought within the respective time-limits.

Delivered on 10 June 2025, the English text being authentic.

The Registrar of the
Administrative Tribunal

Christina Olsen

The Chair of the
Administrative Tribunal

Paul Lemmens