



**UNITED NATIONS APPEALS TRIBUNAL
TRIBUNAL D'APPEL DES NATIONS UNIES**

Judgment No. 2020-UNAT-1073

**Erik Kennes
(Appellant)**

v.

**Secretary-General of the United Nations
(Respondent)**

JUDGMENT

Before:	Judge Dimitrios Raikos, Presiding Judge Graeme Colgan Judge Kanwaldeep Sandhu
Case No.:	2020-1374
Date:	30 October 2020
Registrar:	Weicheng Lin

Counsel for Appellant: Mohamed Abdou, OSLA

Counsel for Respondent: André Luiz Pereira de Oliveira

JUDGE DIMITRIOS RAIKOS, PRESIDING.

1. Mr. Erik Kennes contested the decision of the Administration not to complete the disciplinary process against him and to place a note in his Official Status File (OSF). The United Nations Dispute Tribunal (UNDT or Dispute Tribunal) by Judgment No. UNDT/2020/001 rejected his application as not receivable. For reasons set out below, we affirm, although with partially different reasoning, that Mr. Kennes' application was not receivable.

Facts and Procedure

2. Mr. Kennes is a former staff member of the United Nations Organization Stabilization Mission in the Democratic Republic of the Congo (MONUSCO). Before the UNDT, Mr. Kennes contested the Administration's decisions (a) not to complete the disciplinary process against him; and (b) to place a note in his OSF following his resignation from the Organization.

3. On 17 April 2017, Mr. Kennes received formal allegations of misconduct.

4. On 12 May 2017, Mr. Kennes was informed of his selection for a position with the United Nations Multidimensional Integrated Stabilization Mission in Mali (MINUSMA). In response, Mr. Kennes confirmed his continued interest and that he could be released from his current position after the completion of an administrative inquiry against him.

5. On 15 May 2017, Mr. Kennes notified MONUSCO of his intention to resign. He emphasized that he reserved his rights to reply to any allegations that had been made against him as part of the disciplinary inquiry and that his resignation was not linked to the progress of this inquiry.

6. On 7 June 2017, Mr. Kennes submitted his comments on the formal allegations of misconduct.

7. Effective 1 July 2017, Mr. Kennes resigned from the Organization.

8. Later in July 2017, Mr. Kennes was informed of his selection for a position with the United Nations Multidimensional Integrated Stabilization Mission in the Central African Republic (MINUSCA) and he confirmed his availability for the position.

9. By e-mail dated 28 July 2017, the Administration asked that Mr. Kennes clarify his intention as he had confirmed his interest and availability for positions with MINUSMA and MINUSCA, respectively, and yet he had resigned effective 1 July 2017.

10. By e-mail dated 31 July 2017, Mr. Kennes advised that in order to avoid the risk of being dismissed and to avoid finding himself without a job, he had decided to resign and start another job. He wrote that he remained interested in the position in MINUSCA but given the situation he was in, he sought the Administration's advice.

11. By e-mail dated 2 August 2017, the Administration explained that should Mr. Kennes withdraw his resignation, he would be placed on administrative leave with full pay pending the completion of the disciplinary process, and that should he maintain his resignation, a note would be placed on his OSF stating that the Administrative Law Section of the Office of Human Resources Management (ALS/OHRM) should be notified if he returned to the Organization in the future. He was informed that, in such case, the disciplinary process against him would resume.

12. On 5 August 2017, Mr. Kennes responded that he maintained the resignation but that he would still contest the allegations against him until his name was cleared.

13. On 3 October 2017, the Chief, ALS/OHRM notified Mr. Kennes that the following note would be placed in his OSF and he was requested to provide his comments in accordance with Administrative Instruction ST/AI/292 (Filing of adverse material in personnel records): "Mr. Kennes resigned from the Organization effective 1 July 2017. At that time, a matter concerning Mr. Kennes had not been resolved. Please contact [ALS/OHRM], at Headquarters, if Mr. Kennes should become employed as a staff member within the United Nations Common System in the future."

14. On 26 October 2017, Mr. Kennes submitted his comments objecting to the note being placed in his OSF.

15. On 3 November 2017, Mr. Kennes requested management evaluation. On 27 November 2017, he was advised that his management evaluation request was not receivable on grounds that there was no right to a completion of a disciplinary proceeding and that he did not allege any procedural irregularity or improper motives in connection with the decision to place a note in his OSF.

16. On 7 January 2020, the UNDT in New York issued Judgment No. UNDT/2020/001, dismissing Mr. Kennes' application on grounds that it was not receivable. The UNDT found that when Mr. Kennes responded on 5 August 2017 that he would maintain his resignation, he knew or reasonably should have known that the Administration decided not to complete a disciplinary process and to place a note in his OSF, as stated in the e-mail of 2 August 2017. Accordingly, Mr. Kennes should have requested management evaluation within 60 days from the notification of the contested decisions on 5 August 2017. As he failed to do so, the application was time-barred.

17. Moreover, the UNDT found that the Administration's obligation to complete a disciplinary process was predicated on the fact that a staff member had an ongoing employment relationship with the Organization and such obligation no longer existed toward a former staff member. The potential of future injury was not an appealable administrative decision.

18. Turning to the note placed in Mr. Kennes' OSF, the UNDT found that the note was not a separate decision that produced direct legal consequences but merely a recording of the Administration's decision not to complete a disciplinary process following his resignation and its intention to resume such process should he rejoin the Organization. As such, it was not an appealable decision.

19. On 9 March 2020, Mr. Kennes filed an appeal with the United Nations Appeals Tribunal (Appeals Tribunal) and the Secretary-General filed his answer on 18 May 2020.

Submissions

Mr. Kennes' Appeal

20. Mr. Kennes requests that the Appeals Tribunal vacate the impugned Judgment and remand the case to the UNDT for a consideration on the merits on the following grounds.

21. Mr. Kennes' application was receivable *ratione temporis*. The UNDT erred in finding that the Administration's e-mail to Mr. Kennes dated 2 August 2017 was the relevant date for the purposes of calculating the deadline for a request for management evaluation since acts and recommendations subject to subsequent approval do not constitute administrative decisions. The e-mail was part of a bilateral discussion between Mr. Kennes

and the Organization and did not contain a final or unilateral decision taken by the Organization. There was therefore no administrative decision before Mr. Kennes' confirmation of his resignation on 5 August 2017.

22. Mr. Kennes' application contesting the decision not to complete the disciplinary process was receivable *ratione materiae*. The UNDT erred in finding that the Administration had the right not to conclude a disciplinary process even after having received a response to the allegations from Mr. Kennes. The Administration failed to afford Mr. Kennes due process after the commencement of the process. The UNDT erred in assuming that the Administration retained the same level of discretion before (discretion to initiate disciplinary action) and after the initiation of disciplinary proceedings. The UNDT failed to give consideration to a former staff member's right to clear his name and to maintain his eligibility for future employment. The non-completion of the disciplinary process was combined with an attempt to preclude Mr. Kennes from future reemployment with the Organization.

23. The UNDT erred in finding that his application contesting the decision to place adverse materials in his OSF was not receivable *ratione materiae*. The UNDT based its finding on its understanding that the language in the note was not adverse to Mr. Kennes, an issue going to the merits of the case which should not have been considered as part of the receivability assessment. The UNDT also failed to properly address Mr. Kennes' arguments on the potential prejudice and instead found that the consequences alleged did not occur and could only arise in the future were Mr. Kennes to rejoin the Organization. The UNDT's finding contradicts the jurisprudence which recognizes the possibility to challenge decisions limiting or curtailing future reemployment, even in the absence of any actual reappointment decision. It was also unreasonable to find no adverse consequences had actually occurred in Mr. Kennes' case while at the same time recognizing that his resignation from the Organization was in part triggered by his inability to move to a new post with MINUSCA. Finally, the lack of specificity of the note is in and of itself prejudicial.

The Secretary-General's Answer

24. The Secretary-General requests that the Appeals Tribunal dismiss the appeal and affirm the UNDT Judgment. The Secretary-General contends that the UNDT correctly found that Mr. Kennes' application was not receivable.

25. Specifically: The application was not receivable *ratione temporis* because Mr. Kennes' request for management evaluation was out of time. Mr. Kennes failed to request management evaluation within 60 days from the notification of the contested decisions on 2 August 2017.

26. The contested decisions were not subject to judicial review. The decisions did not produce direct legal consequences affecting the terms and conditions of Mr. Kennes' prior appointment. The consequences alleged did not occur and could only arise in the future were Mr. Kennes to rejoin the Organization.

27. Further, the Secretary-General submits that Mr. Kennes has failed to demonstrate any error of law or fact by the UNDT warranting a reversal of the Judgment.

28. Mr. Kennes has not demonstrated that his claim regarding the decision not to proceed with the disciplinary process against him was receivable *ratione temporis*. The decision was clear and it was communicated to Mr. Kennes on 2 August 2017. When Mr. Kennes responded on 5 August 2017 that he would maintain his resignation, he knew or reasonably should have known that the Administration decided not to complete a disciplinary process.

29. Mr. Kennes has not demonstrated that his claim regarding the decision not to proceed with the disciplinary process against him was receivable *ratione materiae*. The Administration followed relevant procedures. It was a result of Mr. Kennes' decision to resign that the disciplinary proceedings were discontinued. The consequences alleged by Mr. Kennes are speculative and do not show any direct legal effect when Mr. Kennes is no longer employed by the Organization.

30. Mr. Kennes has not demonstrated that his claims regarding the placement of the note in his OSF were receivable. Contrary to Mr. Kennes' contention, the UNDT did not address the merits of Mr. Kennes' claims and correctly found that the note was merely a recording of the decision not to proceed with the disciplinary process and did not produce any direct legal

consequences. The UNDT correctly found that in the present case, the placement of the note was not a separate administrative decision.

Considerations

31. The issue before this Tribunal is whether the Dispute Tribunal correctly concluded that Mr. Kennes' challenge of the decisions not to complete the disciplinary process against him and to place a note in his Official Status File was not receivable. This Tribunal determines, though partially with a different reasoning, that the UNDT's conclusion is correct for the reasons that follow.

Did Mr. Kennes request management evaluation in a timely manner?

32. Under Article 8(1)(c) of the UNDT Statute, an application shall be receivable if the applicant has previously submitted a contested decision for management evaluation where required. This obligation upon the applicant is also prescribed in Staff Rule 11.2(a), which provides that a staff member wishing to formally contest an administrative decision shall, as a first step, submit to the Secretary-General in writing a request for management evaluation. Pursuant to Staff Rule 11.2(c), a request for management evaluation is to be submitted to the Secretary-General within 60 calendar days from the date on which the staff member received notification of the administrative decision to be contested.

33. It is settled case law that requesting management evaluation is a mandatory first step in the appeal process.¹ The Appeals Tribunal has noted many times that the requirement of management evaluation assures that there is an opportunity to quickly resolve a staff member's complaint or dispute without the need for judicial intervention.

34. Moreover, the Appeals Tribunal has held that it is the role of the Dispute Tribunal to adequately interpret and comprehend the application submitted by the moving party, whatever name the party attaches to the document, as the judgment must necessarily refer to the scope of the parties' contentions. Thus, the Dispute Tribunal has the inherent power to

¹ *Olowo-Okello v. Secretary-General of the United Nations*, Judgment No. 2019-UNAT-967, para. 25.

individualize and define the administrative decision challenged by a party and to identify the subject(s) of judicial review.²

35. In the present case, the e-mail, sent to Mr. Kennes on 2 August 2017, stated, in relevant part, that:

Should you choose instead to maintain your resignation, ... [w]ith regard to the disciplinary matter, in accordance with standard practice for staff members who have separated during the process, a note will be placed on your Official Status file stating that, should you return to work for the Organization, the Administrative Law Section should be notified. No other information about the disciplinary matter will be placed on your Official Status file. Should you return to the Organization in the future, the disciplinary matter would resume. You will then be given the opportunity to comment on the note to file prior to it being placed on your Official Status file.

36. By applying the above provisions and principles to the present case, we find no fault with the UNDT's reasoning in that, when Mr. Kennes responded on 5 August 2017 that he would maintain his resignation, "he knew or reasonably should have known that the Administration decided not to complete a disciplinary process and to place a note in his OSF, as stated in the email of 2 August 2017" and, accordingly, Mr. Kennes "should have requested a management evaluation within 60 days from the notification of the contested decisions on 5 August 2017, but instead he requested a management evaluation on 3 November 2017, more than 60 days later".³

37. Mr. Kennes takes issue with the UNDT's findings arguing that the UNDT erred in taking this e-mail as a point of reference for the purposes of calculating the deadline for management evaluation, since acts and recommendations which are subject to subsequent approval do not constitute administrative decisions, and the e-mail did not contain a final or unilateral decision taken by the Organization. He claims, further, that the UNDT erred in finding that a decision existed before he had confirmed his choice on 5 August 2017 and that the decisions not to proceed with the disciplinary process and to place the note on his official status file were presented by the Administration as mutually exclusive options.

² *Olowo-Okello v. Secretary-General of the United Nations*, Judgment No. 2019-UNAT-967, para. 26; *Cardwell v. Secretary-General of the United Nations*, Judgment No. 2018-UNAT-876, para. 23; *Fasanella v. Secretary-General of the United Nations*, Judgment No. 2017-UNAT-765, para. 20.

³ Impugned Judgment, paras. 23 and 24.

38. We do not find merit in these arguments. Contrary to Mr. Kennes' assertions, the e-mail of 2 August 2017 was not a mere recommendation, as it clearly conveyed the decision taken and the consequences of Mr. Kennes' possible choice. Arguably, when Mr. Kennes responded on 5 August 2017 to the above e-mail, confirming that he would maintain his resignation, it was fully clear to him that the decision of the Administration, dated 2 August 2017, to not further continue a disciplinary process against him and resume and complete such process if he became a staff member again, as well as to place a note in his OSF, was final as the suspensory condition laid down in this e-mail, i.e. his choice to stick to this resignation, had been fulfilled. Consequently, at the material time, on 5 August 2017, Mr. Kennes knew or reasonably should have known of the content and finality of the above decision, which triggered the time limits for him to request management evaluation. By failing to do so within the following 60 days, his request for management evaluation was time-barred, as correctly held by the UNDT, even if the distinct heads of this decision were to be categorized as appealable administrative decisions.

39. However, while not contested by the parties, we note that the UNDT should have found Mr. Kennes' application not receivable *ratione materiae* which is the case if there is no timely request for management evaluation⁴ and not *ratione temporis*. Nevertheless, this error by the UNDT does not adversely affect its correct ultimate conclusion that Mr. Kennes' application was not receivable.

Receivability of the decision by the Administration not to proceed with the disciplinary process

40. In terms of the decision by the Administration not to complete the disciplinary process, we recall that, as per the settled jurisprudence, an appealable administrative decision is a decision whereby its key characteristic is the capacity to produce direct legal consequences affecting a staff member's terms and conditions of appointment. Further, the date of an administrative decision is based on objective elements that both parties (Administration and staff member) can accurately determine.⁵

⁴ *Fairweather v. Secretary-General of the United Nations*, Judgment No. 2020-UNAT-1003, para. 39, footnote 6.

⁵ *Larriera v. United Nations Joint Staff Pension Board*, Judgment No. 2020-UNAT-1004, para. 29; *Olowo-Okello v. Secretary-General of the United Nations*, Judgment No. 2019-UNAT-967, para. 31; *Farzin v. Secretary-General of the United Nations*, Judgment No. 2019-UNAT-917, para. 36.

41. Deciding what is and what is not a decision of an administrative nature may be difficult and must be done on a case-by-case basis and will depend on the circumstances, taking into account the variety and different contexts of decision-making in the Organization. The nature of the decision, the legal framework under which the decision was made, and the consequences of the decision are key determinants of whether the decision in question is an administrative decision.⁶ What matters is not so much the functionary who takes the decision as the nature of the function performed or the power exercised. The question is whether the task itself is administrative or not.

42. In the case at hand, the UNDT Judge, based on the Appeals Tribunal's ruling in *Lee*⁷, that a decision must have a direct impact and not the potential of a future injury to be considered as an appealable administrative decision, held that the contested decision not to complete the disciplinary process against Mr. Kennes was not an appealable administrative decision as it had no direct legal consequences affecting the terms and conditions of his appointment.⁸ In further assessing the various arguments made by Mr. Kennes that the decision had direct legal consequences because it (a) would affect his right to be reemployed with the Organization in the future, (b) placed an indefinite duty to cooperate with the Organization, and (c) would result in placing him on administrative leave immediately following any future reemployment, the UNDT concluded that all these were only potential consequences that might arise in the future if Mr. Kennes sought employment with the Organization or was selected for a job and became a staff member again.⁹

43. Mr. Kennes submits that the UNDT erred in concluding that the Administration was entitled not to complete the disciplinary process even after having received a response to the allegations from him. He argues that in so doing the Administration was granted "a blanket discretion without any consideration of due process and other contractual rights". He further avers that disciplinary proceedings, once initiated, are heavily regulated, and the Administration is required to comply with a series of rules and obligations designed to ensure that staff members' due process rights are respected, and that the UNDT disregarded the former staff member's right to clear his name and to maintain his eligibility for future

⁶ *Olowo-Okello v. Secretary-General of the United Nations*, Judgment No. 2019-UNAT-967, para. 32; *Lloret Alcañiz et al. v. Secretary-General of the United Nations*, Judgment No. 2018-UNAT-840, para. 62; *Lee v. Secretary-General of the United Nations*, Judgment No. 2014-UNAT-481, para. 50.

⁷ *Lee v. Secretary-General of the United Nations*, Judgment No. 2014-UNAT-481, para. 52.

⁸ Impugned Judgment, para. 33.

⁹ *Ibid.*, para. 32.

employment with the Organization. Finally, Mr. Kennes submits that he was denied an opportunity to be heard on the allegations made against him, and he was precluded from having his defense duly considered and reviewed by the decision-maker.

44. We do not find merit in these arguments either. Under the specific circumstances of the case at bar and the nature of the decision, we agree with and uphold the UNDT's findings that the decision of the Administration not to complete the disciplinary process and instead resume it, should Mr. Kennes become staff member again in the future, did not constitute an appealable administrative decision for the purpose of Article 2(1) of the UNDT Statute, as it did not have a present and direct adverse impact on the terms and conditions of Mr. Kennes' employment.

45. Further, the Appeals Tribunal agrees with the UNDT's conclusion that the Administration has no duty to proceed with, and lacks capacity to conduct, a disciplinary measure once a staff member has left the Organization, as its authority to complete a disciplinary process is predicated on the fact that a staff member has an ongoing employment relationship with the Organization, which was not the case here in light of Mr. Kennes' capacity as former staff member.

46. Last but not least, in any event, Mr. Kennes is not deprived of his right to raise a proper defense in terms of the charges leveled against him and challenge any possible irregularities in connection with any step of the disciplinary process, including alleged violation of his due process rights, in the context of an appeal after the conclusion of the entire process, should he become a staff member again and the Administration resume the disciplinary proceedings against him.¹⁰

Receivability of the decision to put a note in Mr. Kennes' OSF

47. Turning to the decision to place a note in Mr. Kennes' OSF, the UNDT held, in the same vein, in the context of examining the receivability of the application before it, that such is not an appealable administrative decision as it has no direct legal consequences affecting the terms and conditions of his appointment.

¹⁰ *Auda v. Secretary-General of the United Nations*, Judgment No. 2017-UNAT-786, para. 30, citing *Birya v. Secretary-General of the United Nations*, Judgment No. 2015-UNAT-562, para. 47 and *Nwuke v. Secretary-General of the United Nations*, Judgment No. 2010-UNAT-099, para. 36.

48. In the course of reviewing the nature of the contested decision the UNDT found that:¹¹

[T]he note in question is not a separate decision that produces any direct legal consequences but merely a recording of the Administration's decision not to complete a disciplinary process following his resignation and its intention to resume such process should he rejoin the Organization, as clearly communicated in the email of 2 August 2017. The purpose of this note seems to be to ensure compliance with sec. 6.5(d) of ST/AI/2016/1 (Staff selection and managed mobility system), which provides that "[f]ormer staff members ... shall not be eligible to be considered for positions in the Secretariat following their separation from service on any of the following grounds: ... (d) Resignation during an investigation of misconduct or the initiation of a disciplinary process, unless the former staff member agrees to cooperate with an ongoing investigation or disciplinary process until its conclusion". ...

49. We do not find any reason to differ from the UNDT's conclusion. In arriving at it, the UNDT correctly put weight on the mere informative and instructive nature of the contested decision, which did not involve a certain and present adverse impact on Mr. Kennes' status as a former staff member. Mr. Kennes' claim that the UNDT's analysis is both factually and legally erroneous because, whether or not the note is prejudicial to his interests is a question that goes to the merit of the case, and therefore, it was improper to examine it as part of the receivability assessment, is not persuasive since the possible adverse impact of an administrative decision on a staff member's terms and conditions of appointment is one of the requisite key characteristics of an appealable administrative decision (*force exécutoire*) and, therefore, goes to the receivability *ratione materiae* context. However, as already elaborated upon, such a direct adverse consequence on Mr. Kennes' status is lacking in the present case due to the mere informative and instructive nature of the contested note.

50. Moreover, the UNDT properly dismissed as misplaced the various arguments advanced by Mr. Kennes before it, and reiterated on appeal, contending that:¹²

[T]he placement of the note in his file has direct legal consequences in that, *inter alia*, (a) the note makes his reemployment dependent on future contacts with ALS/OHRM, which affects his contractual rights as a staff member to be reemployed without any such condition; (b) the nature, content and scope of future contacts with OHRM are unclear and may well include disclosure of information related to the disciplinary process to third parties; and (c) the note may be reasonably perceived as a means to circumvent the procedural requirements set out in ST/AI/292 by allowing the

¹¹ Impugned Judgment, para. 36.

¹² Impugned Judgment, para. 37.

Administration to make additional contacts in relation to the “unresolved matter” without necessarily being limited to the specific content of the note placed on file and without affording him the opportunity to comment on such future contacts with OHRM.

As already noted, all these are hypothetical allegations and refer to potential consequences in the future, should Mr. Kennes seek employment with the Organization or be selected for a job and become a staff member again.

51. Finally, Mr. Kennes contends that the UNDT Judgment directly contradicts the settled jurisprudence which recognizes the possibility to challenge decisions limiting or curtailing future reemployment, even prior to, or in the absence of, any actual reappointment decision. In the case of *Olowo-Okello*, this Tribunal specified that “should the Administration decide to place adverse material in Mr. Olowo-Okello’s official status file, he will not be precluded from contesting, within the applicable time limits, the Administration’s potential denial to remove such material, the non-renewal decision, as well as any decisions based on such adverse material”.¹³ Mr. Kennes submits that the Appeals Tribunal also clarified that the decision to block the appellant from being rehired was an administrative decision with adverse consequences for the staff member. The Tribunal did not require Mr. Olowo-Okello to wait to be reemployed before challenging the note placed in his file but rather instructed him to comply with the applicable time limits.

¹³ *Olowo-Okello v. Secretary-General of the United Nations*, Judgment No. 2019-UNAT-967, para. 1.

52. Mr. Kennes' reliance on the *Olowo-Okello* precedent is misplaced. As correctly argued by the Secretary-General, the circumstances in the *Olowo-Okello* case are clearly distinguishable from the present case. In the *Olowo-Okello* case, which concerned a challenge to the administrative decision not to renew his contract for lack of the requisite medical clearance, we found that "the 25 July 2018 statement by the Administration, due to its nature, was not sufficient to qualify as an administrative decision directly affecting the terms of appointment or contract of employment of Mr. Olowo-Okello, as required by Article 2(1) of the UNDT Statute. It was not a final decision made by the Administration and did not involve a decision with an adverse, certain and present impact on Mr. Olowo-Okello's status."¹⁴ We further ruled that, in the absence of an explicit final decision by the Administration on this issue, it would be, at the least, unfair for Mr. Olowo-Okello to be expected to presume that such a decision was taken on 22 March 2019, as Mr. Olowo-Okello had never made a claim to the competent authority to remove the adverse material from his OSF, and that, should the Administration eventually decide to place such adverse material in his OSF, Mr. Olowo-Okello would not be precluded from raising before the Administration, and if unsuccessful, before the MEU and the UNDT—within the time limits prescribed in the Staff Rules and the UNDT's Rules of Procedure—the possibly negative effects and challenge any explicit or implicit, administrative decision denying the removal of it, the non-renewal of his appointment and other administrative decisions taken based on this material.¹⁵ In the case at hand, as already found, there is no such an administrative decision giving rise to present and certain negative effects to Mr. Kennes' status, but merely an informative and instructive note placed in his OSF, which is not justiciable.

53. In view of the above, we dismiss the appeal.

¹⁴ *Ibid.*, para. 37.

¹⁵ *Ibid.*, paras. 38 and 39.

Judgment

54. The appeal is dismissed and Judgment No. UNDT/2020/001 is hereby affirmed.

Original and Authoritative Version: English

Dated this 30th day of October 2020.

(Signed)

Judge Raikos, Presiding
Athens, Greece

(Signed)

Judge Colgan
Auckland, New Zealand

(Signed)

Judge Sandhu
Vancouver, Canada

Entered in the Register on this 21st day of December 2020 in New York, United States.

(Signed)

Weicheng Lin, Registrar