

**119th Session**

**Judgment No. 3432**

THE ADMINISTRATIVE TRIBUNAL,

Considering the complaint filed by Mr B. M. against the European Patent Organisation (EPO) on 24 July 2012 and corrected on 29 August, the EPO's reply of 20 December 2012 and the complainant's e-mail of 20 October 2013 informing the Registrar of the Tribunal that he did not wish to enter a rejoinder;

Considering Article II, paragraph 5, of the Statute of the Tribunal;

Having examined the written submissions and decided not to hold oral proceedings, for which neither party has applied;

Considering that the facts of the case and the pleadings may be summed up as follows:

A. The complainant, who is a national of both the Netherlands and Kenya, joined the European Patent Office – the secretariat of the EPO – in the Netherlands in August 1998. Before arriving in the Netherlands in 1992, he married a Kenyan national in Kenya. Their child, O., was born in January 1991. Later that year, he divorced. He then moved alone to the Netherlands, where he married a Dutch national, with whom he had a daughter, S. He became a Dutch citizen through naturalisation in 1996 and divorced his second wife shortly after. In June 1999 his first wife died and he assumed full custody of O. In July 1999 he married another Kenyan citizen, who had two sons, A.

and Y., from a previous relationship. As the complainant intended that his third wife, her sons A. and Y., and his son O. should relocate to the Netherlands, he asked the EPO how to proceed. The EPO advised him to request a visa, known as a provisional residence permit (MVV) from the Dutch authorities. The complainant did so, but only his spouse was granted a visa. The children were not granted visas because the Dutch authorities considered that they could not travel under the complainant's passport; they would need to have their own passports, which they did not have.

In February 2002 the complainant's third wife returned to Kenya, where she gave birth to their daughter, F., in August 2002. She went back to the Netherlands with her daughter in November 2002. The complainant made several attempts in 2004 to obtain identity cards for O., A. and Y. to enable them to reside in the Netherlands, but he was unsuccessful. The EPO advised the complainant in April 2004 to submit visa applications to the Dutch authorities, explaining that Dutch authorities refused to issue identity cards to Dutch citizens and their family members forming part of their household under the 1977 Seat Agreement between the EPO and the Kingdom of the Netherlands concerning the Branch of the Office at The Hague. During that period the complainant faced severe financial difficulties, in particular because he had accumulated debts to buy a house in Kenya and in pursuing litigation over the custody of his children. In mid-November 2004 three-month visas were issued for O., A. and Y., who arrived in the Netherlands shortly after. Upon the expiry of their visas, they stayed in the country without having a residence permit.

In July 2006 the complainant wrote to the Director of Personnel explaining the difficulties he had faced regarding the immigration of his children and seeking financial assistance under Article 28 of the Service Regulations for Permanent Employees of the Office, which provides inter alia that if a permanent employee suffers injury by reason of her/his duties, the EPO shall compensate her/him in so far as she/he has not wilfully or through serious negligence herself/himself provoked the injury, and has been unable to obtain full redress. The complainant contended that he had been unable to repatriate the

children to the Netherlands because of his employment with the Office and he therefore requested compensation for the financial losses he had incurred as a result (various loans, attorney's fees, travel and communications expenses, costs relating to unpaid leave he had to take), as well as moral damages.

In August 2006 he submitted applications to the EPO for identity cards under the revised Seat Agreement, adopted in June 2006, on behalf of his wife and the children O., A. and Y. The applications were immediately forwarded to the Dutch authorities, which refused to issue identity cards for the children on the grounds that they were not legally resident in the country as their three-month visas had expired. Discussions ensued between the EPO, the complainant and the Dutch authorities and, on 9 February 2007, the complainant was informed that the Dutch authorities had decided to issue identity cards for the three children.

In the meantime, on 9 October 2006, having received no reply to his letter of 11 July 2006, the complainant's representative reiterated the request for assistance under Article 28 of the Service Regulations. On 18 January 2007 the complainant wrote again to the Administration, drawing attention to his earlier requests and seeking assistance. He added that he would probably file an internal appeal if his request was not granted.

On 20 February the complainant's representative wrote to the President of the Office claiming compensation under Article 28(2) of the Service Regulations. He contended that the Administration had failed to advise the complainant properly with respect to the immigration of his family and to ensure that the Dutch authorities complied with the Seat Agreement. He alleged that he had suffered material damages in the amount of 127,280.83 euros as he had been unable to secure a loan of that amount. He added that if his request was denied his letter should be considered an internal appeal, in which case he was also claiming moral damages and costs. On 22 March the President made an offer of financial assistance to the complainant, but the complainant did not accept it. The complainant was informed

on 16 April 2007 that the matter had been referred to the Internal Appeals Committee (IAC) for an opinion.

In its report of 27 February 2012 the majority of the IAC's members considered that there was no link between the complainant's alleged financial prejudice and his employment; it therefore recommended the rejection of the appeal as unfounded. During the internal appeal proceedings the complainant requested the IAC to disclose the legal assessment made by the Legal Service concerning his case, but the majority rejected the request on the ground that it was not decisive to the outcome of the case. The minority of the IAC's members considered that the complainant's children were entitled to have identity cards under the Seat Agreement, because the purpose of Article 7 of the Seat Agreement was to ensure that EPO employees and their family could freely stay in the country of employment. In its view, allowing stay but denying entry would be a non-sense. It therefore concluded that the EPO had a duty to try to obtain the identity cards, and recommended that he be granted material and moral damages, plus costs. The IAC unanimously recommended that he be compensated for undue delay in the internal appeal proceedings but the majority and the minority disagreed as to the amount to be awarded to him.

By a letter of 27 April 2012 the Director of Regulations and Change Management, acting with delegation of authority from the President, informed the complainant that his appeal was rejected as partially irreceivable and entirely unfounded. He stated that the decision to file a visa application under Dutch law was his personal responsibility and that he had decided to do so after having obtained relevant information and advice from the EPO, which supported him during all phases of the immigration process of his spouse and children; consequently there was no breach of the duty of care. He awarded him 500 euros for undue delay. That is the decision the complainant impugns before the Tribunal.

B. The complainant alleges breach of the EPO's duty of care insofar as it improperly advised him to apply for visas for his children on the ground that the Dutch Government would not agree to authenticate the

identity cards which could be issued by the EPO under the Seat Agreement. Consequently, there was delay in having his children move to the Netherlands because the Dutch authorities did not grant them visas when the complainant first applied for them. The complainant was prejudiced because of the EPO's failure to take adequate measures to compel the Dutch Government to apply the Seat Agreement, which guaranteed the right of abode for family members of EPO's employees.

He criticises the EPO for the delays and difficulties relating to the issuing of the identity cards for his children under the revised Seat Agreement. He alleges that he suffered a financial loss due to the delay in obtaining legal residence in the Netherlands for his children, in particular because he had to buy a house in Kenya and to engage in lengthy litigation to obtain custody of his children. He alleges that the EPO acted in violation of Article 28(2) of the Service Regulations in not granting him the financial compensation he had requested. He argues that, contrary to the IAC's majority opinion, Article 28(2) does not require a strict causal link between the damages he suffered and his duties.

According to the complainant, the IAC erred in rejecting his request for disclosure of the legal assessment of his situation by the Legal Service following the offer for financial assistance made to him. He argues that neither he nor the minority members of the IAC have seen the document, which was highly improper.

The complainant alleges that the compensation of 500 euros granted by the President with respect to the three-year delay in the internal appeal proceedings is wholly inadequate in the circumstances of the case. He asks the Tribunal to award him damages in the amount of 127,280.83 euros, plus interest as from 28 January 2007. He also claims moral damages and costs.

C. In its reply the EPO argues that some of the complainant's claims for relief are irreceivable because they were not mentioned on the initial complaint form, but were added when he corrected his complaint.

It denies having acted contrary to its duty of care. It explains that, despite the provisions of Articles 7 and 8 of the 1977 Seat Agreement, the Dutch authorities used to reject applications for authentication of identity cards issued by the EPO for Dutch citizens or members of their families forming part of their household. In view of this established practice, the EPO advised the complainant to apply for a normal visa for his children as it thought this would be the most effective way to secure the children's residence in the Netherlands. The complainant was nevertheless free to proceed differently. The EPO adds that the difficulties faced by the complainant's children entering the Netherlands resulted from the fact that they did not have a passport of their own. The complainant also bore responsibility for the delay in settling his family in the Netherlands, in particular because he had failed to follow the immigration procedure before the expiry of his children's three-month visas and, as a result, they stayed illegally in the country as from February 2005. Consequently, when he applied for their identity cards, in August 2006, under the revised Seat Agreement, the Dutch authorities asked him to provide documents and clarifications to ensure that the children had entered the country legally, but he did not have all the requested documents. The EPO emphasises that, from the outset it supported the complainant: it answered his requests for administrative assistance, made two offers for financial assistance, liaised with the Dutch authorities, and finally convinced them to apply the revised Seat Agreement to his case.

The EPO asserts that the complainant is not entitled to compensation under Article 28(2) of the Service Regulations, because he has not shown a link between the alleged injury and his employment or duties. Indeed, the alleged injury resulted from a personal decision, namely to relocate his wife and children to the Netherlands rather than leave them in Kenya, and not from his duties.

Lastly, the EPO points out that the complainant has failed to substantiate his claim for damages, merely indicating the amount of the loan without providing evidence. With regard to his request for disclosure, it states that it was unable to locate the requested legal

assessment and draws attention to the IAC majority's finding that the requested document was not decisive for the outcome of the case.

### CONSIDERATIONS

1. On 11 July 2006, the complainant sought assistance from his employer, the EPO, under Article 28 of the Service Regulations. That article provides:

- “(1) If, by reason of his office or duties, any permanent employee, or former permanent employee, or any member of his family living in his household is subject to any insult, threat, defamation or attack to his person or property, the Organisation shall assist the employee, in particular in proceedings against the author of any such act.
- (2) If a permanent employee or a former permanent employee suffers injury **by reason of his office or duties**, the Organisation shall compensate him in so far as he has not wilfully or through serious negligence himself provoked the injury, and has been unable to obtain full redress.
- (3) To the extent to which he receives compensation from the Organisation the employee shall make over to it any claim he may have against any third party.” (Emphasis added.)

The circumstances in which this request was made can be described generally in the following way. The complainant was born in Kenya but became a citizen of the Netherlands in 1996. He commenced working with the EPO in the Netherlands in 1998. The complainant has married three times. His first marriage was to a Kenyan with whom he had a child, O., in January 1991. Later that year the complainant and his first wife were divorced. His marriage to his second wife, a Dutch national, ended in 1996. That marriage produced one child who was a Dutch national. As a result of the death of his first wife in June 1999, the complainant assumed full custody of O.

2. In July 1999, the complainant married his third wife, a national of Kenya. She had, at that time, two children by an earlier relationship, A. and Y. In the following five years the complainant made various attempts for his third wife and O., A. and Y. to remain both temporarily and more permanently in the Netherlands. The complainant and his third wife had a daughter, F., in August 2002.

The EPO was involved, in various ways, with these attempts. They often involved liaison between the EPO and the Dutch Ministry of Foreign Affairs (MFA). In so far as the children were concerned, these attempts were by and large unsuccessful until February 2007 when identity cards were issued to the three children. These events were occurring against a background in which the EPO had an agreement with the Kingdom of the Netherlands that, amongst other things, addressed the rights of EPO staff and their families to reside in the Netherlands. That agreement was renegotiated with the result that a revised agreement was entered into in June 2006 coming into force on 27 June 2006.

The 11 July 2006 request for assistance under Article 28 was followed by a further request on 9 October 2006 and yet another on 18 January 2007. All sought the assistance identified in the 11 July 2006 communication. The 18 January 2007 communication indicated that if the request was not granted, there would probably be an internal appeal. This occurred on 20 February 2007. It took some considerable time for the internal appeal to be resolved. Indeed it was not until 27 February 2012 that the Internal Appeals Committee (IAC) published its report. A majority of the IAC (three members) recommended that the appeal should be rejected in part as not admissible and otherwise should be dismissed as unfounded on the merits. However the majority recommended that the complainant be paid 500 euros for the undue length of the appeal procedure. A minority (two members) recommended that the EPO pay the complainant 43,000 euros financial damages, 20,000 euros moral damages and costs. In a letter dated 27 April 2012, the complainant was informed that the appeal was rejected as inadmissible in part and otherwise unfounded on the merits. This is the impugned decision.

3. The complainant's brief (without annexures) in the proceedings before the Tribunal comprises three pages. It is, at times, expressed in inappropriately colourful language. The brief effectively adopts the documented argument of the complainant in the internal appeal (a practice the Tribunal does not approve of) as well as the articulation of the complainant's claim in the correspondence of

20 February 2007. The complainant did not file a rejoinder in response to the EPO's reply.

4. A convenient starting point in considering this complaint is to ascertain the scope and effect of Article 28. Central to that is the question of what is comprehended by the expression "by reason of his office or duties". It can be seen that the expression appears twice in Article 28. The words "by reason of" seek to establish a causal connection between the holding of an office or the performance of duties and the insult, threat, defamation or attack to his person or property (Article 28(1)), or a causal connection between the holding of an office or the performance of duties and the suffering of the injury (Article 28(2)). This article is intended to confer a benefit on employees and should not be narrowly construed. The word "injury" would comprehend at least physical injury, psychological injury or financial injury. Thus if an employee suffers a financial injury "by reason of his office or duties", Article 28(2) is engaged. However both in Article 28(1) and Article 28(2) the word "shall" is used. That is to say, the Article is expressed in mandatory terms and imposes a duty on the EPO to provide assistance under Article 28(1) and, under Article 28(2), a duty to provide compensation. Article 28(2) does not confer on the EPO a discretion to decide whether or not to provide compensation in any given situation. Compensation must be provided. Accordingly it is extremely unlikely that the causal connection created by the words "by reason of" is intended to comprehend any situation where the injury has a tenuous, remote or indirect connection to the performance of duties or holding an office.

Whether Article 28(2) is engaged cannot be determined in the abstract. It is necessary to ask, in any particular case, whether the injury has a direct connection to the performance of the duties of the official in question or has a direct connection with the official holding the office she/he occupies within EPO. The complainant's initial request for assistance under Article 28 was in an e-mail dated 11 July 2006. It was in these terms:

"I considered to have suffered a very serious injury when not being able to repatriate my children for years because of my employment with the Office.

I therefore claim the assistance of the Office in getting compensation for this e.g. from the Dutch Authorities, both in terms of *moral damages* (that I provisionally estimate one thousand Euro per month during which my children could not be repatriated) as well as for my *financial losses* (interest paid over loans, lawyers costs, travel and communication expenses, costs for and related to unpaid leave; bills already provided to the Office), with the legal interests.”

5. This claim was referred to in a letter of 18 January 2007 from Mr G. (who was a staff representative and counsel for the complainant) which, in turn, was referred to in another letter from Mr G. dated 20 February 2007 that initiated the internal appeal (on the assumption, which proved to be correct, that the claim would be rejected). The amount claimed under Article 28 was 127,280.83 euros, which was the total amount of a loan debt the complainant had incurred. The purpose of the loan was described, in a very summary way, in this letter of 20 February 2007. It was to purchase a home in Kenya (for his children who could not reside in the Netherlands) and to fund lengthy litigation (over the custody and control of two of the children). The letter of 20 February 2007 also appears to have contained a claim for moral damages for the “brutal and insensitive approach to the problem” by the EPO. Also claimed in the letter were “moral damages for wilful disregard of the provisions of Art. 28 and natural justice, and costs”.

6. There was a measure of imprecision about what the complainant was claiming and the rights he was asserting both before the lodging of the internal appeal, in the notice of appeal itself and during the internal appeal process. However the complaint filed with this Tribunal was against an express decision made by a delegate of the President in a letter dated 27 April 2012. It was not suggested that, in addition, there was some implied decision against which the complainant was appealing to this Tribunal. Thus the subject matter of the complaint can be gleaned from the contents of the decision of the delegate in a letter dated 27 April 2012. There are three elements. The first was that the delegate rejected the contention that there had been “breach of duty of assistance under Article 28”. The second was

that the delegate rejected the contention there had been a breach of the EPO's duty of care. The third, really linked to the first two, was the rejection by the delegate of the President of a claim for moral damages.

7. It is to be recalled that for a period of almost five years from early 2000 to November 2004, the complainant was unable to secure the entry into the Netherlands of his three children, O. (though such attempts were made for this child as early as in the middle of 1999), Y. and A. It is also to be recalled that the complainant settled in the Netherlands in the early 1990s, obtaining Dutch citizenship in 1996. It was not until 1998 that the complainant commenced working with the EPO. It was shortly after this (July 1999) that the complainant married his third wife creating responsibilities in relation to Y. and A. The three children were able to enter the Netherlands in November 2004 on short stay arrangements only. Notwithstanding this, the complainant kept the children in the Netherlands after their legal right to remain had lapsed. The question that then arises is whether the financial and psychological burden assumed or experienced by the complainant (in maintaining his family and particularly doing so in Kenya which involved the purchase of a house and engaging in expensive and protracted litigation and pursuing their entry into the Netherlands temporarily and later permanently) was an injury suffered by the complainant by reason of his office or duties.

Quite obviously it is not an injury suffered by reason of his duties. Consideration of that causal connection would focus on the work actually done by the complainant. However also, in the Tribunal's opinion, it was not an injury suffered by the complainant by reason of his office. It is true that the complainant may well have continued to live in the Netherlands because he was able to secure employment with the EPO and thus remained in the Netherlands because he held an "office" in that Organisation. However the occupation of that office did not, of itself, create the financial and psychological burdens just discussed. It cannot be said that that burden was created, and thus the injury was suffered, "by reason of" his office. The connection between the financial and psychological burdens and the occupation of the

office is only tenuous and, accordingly, the complainant had no right to compensation under Article 28(2) of the Service Regulations.

8. This leads to a consideration of whether the EPO breached its duty of care to the complainant. In the complainant's brief, it is argued that the EPO engaged in "lax and negligent behaviour", adopted an "unnecessarily subservient attitude" to the Dutch authorities and was "negligent and grossly insensitive" in its dealings with the complainant. Moreover the EPO gave "wrong and incompetent advice" to the complainant in relation to bringing his children to the Netherlands in order to live with him long-term.

Central to this issue was the approach of the EPO in advising the complainant how best to secure entry into the Netherlands for his children with a view to them remaining there. In its reply in these proceedings before the Tribunal, the EPO explains its understanding of the position and how events unfolded in the period 2000 and following. Firstly under the "Agreement between the European Patent Organisation and the Kingdom of the Netherlands concerning the Branch of the European Patent Office at The Hague of 19 October 1977" (the 1977 Seat Agreement), employees of the EPO working in The Hague (and family members forming part of their household) did not need a residence permit and were exempt from provisions governing aliens' registration. Such staff are entitled to personal identity cards issued by the EPO and authenticated by the MFA. Though by 2000, the identity cards issued by the EPO were being replaced by identity cards issued by the MFA.

The EPO submits that, as the Dutch Government did not agree to issue identity cards to staff holding Dutch citizenship (or their family members), it was appropriate to advise the complainant (as the EPO did) to follow the normal procedure for Dutch citizens wishing to bring their non-Dutch family members to the Netherlands. This procedure was known as the "IND procedure" and was administered by the Immigration and Naturalisation Service of the Ministry of the Interior and Kingdom Relations (IND).

9. In early 2000, the complainant wanted to bring his third wife and O., Y. and A. to relocate to the Netherlands. The EPO advised the complainant to pursue the IND procedure. This required, as a first step, obtaining a provisional residence permit (MVV). The complainant made such an application for his third wife and the three children. In relation to the children, this application was unsuccessful because, as the Dutch Consulate in Mombasa advised the complainant, it was not permissible for the children to travel under the complainant's passport. They needed their own passport. In relation to the third wife, she secured an MVV and arrived in the Netherlands in July 2000 but returned in February 2002. It is to be recalled that the complainant and his third wife had a daughter, F., in August 2002 who was born in Kenya. She was placed on the complainant's passport and could travel with him.

A further attempt to obtain MVVs was made, on the advice of the EPO, in April 2004. Shortly after, the children were enrolled in a boarding school but two of the children had been, to use the complainant's language, "kidnapped", which led to the legal proceedings referred to earlier. In August 2004 the complainant sought the assistance of the EPO in relation to the MVV applications. The EPO communicated with the MFA on several occasions in the latter part of 2004. In November 2004 MVVs were issued to the three children though they were only valid for three months. Under the IND procedure, it was necessary, so the EPO contends, for the complainant then to have applied for a regular residence permit for each of the children before the MVVs expired. This, so the EPO contends, the complainant did not do. In mid-2006 there was correspondence between the EPO and the MFA about whether applications had been made for residency permits for the three children.

As noted earlier, a revised Seat Agreement was negotiated between the EPO and the Dutch Government in the early 2000's culminating with an agreement signed on 27 June 2006 that took effect on the same day.

It appears the complainant did not pursue the applications for residency permits because he had been advised by the Staff Union of

the EPO (SUEPO) that it was unnecessary to follow the IND procedure and that his children were entitled to identity cards. He advised the EPO of this in August 2006. The EPO took this up with the MFA, which indicated an unwillingness to issue identity cards. However by February 2007, the MFA had altered its position and then decided to issue identity cards to the three children.

10. The gravamen of the complainant's case on this issue was that the EPO was wrong in advising him to follow the IND procedure and it should have robustly insisted, with the Dutch authorities, that it was unnecessary to do so having regard to the 1977 Seat Agreement. It must be said that it is highly contestable that the complainant's children, to secure residence in the Netherlands, had to go through the IND procedure. Having regard to Articles 7 and 8 of the 1977 Seat Agreement it is highly arguable that employees of the EPO (whether Dutch nationals or not) were entitled to an identity card (Article 8) issued by the EPO, as were members of their families forming part of the household. Moreover it is highly arguable that Article 7 obviated the need for employees and members of their family to have a residence permit. There is nothing in the material before the Tribunal to suggest that the EPO did anything other than advise individuals in the position of the complainant (as a Dutch national) to follow the IND procedure that, presumably, the Dutch authorities believed was appropriate for Dutch nationals even if employed by the EPO. This advice was proffered, it appears, because of the position adopted by the Dutch authorities. Having regard to the terms of Articles 7 and 8 it would have been open to the EPO to have pursued with the Dutch authorities whether it was necessary for people in the position of the complainant (as a Dutch national) to follow the IND procedure even if, under domestic Dutch law, Dutch nationals were obliged to follow it. While the jurisprudence of the Tribunal militates against the conclusive interpretation of an agreement such as the 1977 Seat Agreement (see for example Judgment 1182, under 6) with a view to determining the rights and obligations of the parties under such an agreement, it does not follow that the duty of care of the international organisation bound by such an agreement cannot be measured by

reference to the possibly if not probably correct interpretation. As the EPO quite properly and appropriately notes in its reply, the jurisprudence of this Tribunal holds that an international organisation can, in appropriate cases, “employ its own considerable power and authority and influence to have the [national] authorities change their position” (see Judgment 2032, consideration 17).

11. In the present case, the EPO should not have simply given effect to the approach of the Dutch authorities in relation to the rights of individuals who were both EPO employees and Dutch nationals. As just noted, it was highly arguable that the approach of the Dutch authorities was wrong. Accordingly, the EPO breached its duty of care to the complainant in simply advising him to follow the IND process, which plainly involved a bureaucratic pathway that was considerably less straightforward than the issuance of an identity card. The EPO should not have given this advice without having first, on the complainant’s behalf at least, pressed the Dutch authorities to issue his children with identity cards and to have done so by reference to the 1977 Seat Agreement. However much of the ill fortune which befell the complainant arose not only from initially following the advice of the EPO to engage in the IND process, but also from his failure to follow through on the IND process by applying, before the children’s MVVs expired in February 2005, for regular residence permits. Thus, not all of the damage the complainant suffered was caused by the EPO’s breach of its duty of care. In these circumstances, the losses suffered by the complainant are difficult to quantify.

12. Nonetheless, the Tribunal has concluded that a global assessment should be made of the material damages suffered by the complainant and that an appropriate amount is 30,000 euros. The complainant is also entitled to moral damages in the sum of 15,000 euros. Costs should be awarded in the sum of 4,000 euros. Also, the Tribunal agrees that the 500 euros awarded to the complainant for the delay in the internal appeal which took of the order of five years to resolve, was inadequate. Damages in an additional sum of 2,000 euros should be awarded.

DECISION

For the above reasons,

1. The EPO shall pay the complainant 15,000 euros by way of moral damages.
2. The EPO shall pay the complainant material damages in the sum of 30,000 euros.
3. The EPO shall pay the complainant an additional sum of 2,000 euros for the delay in the internal appeal.
4. The EPO shall pay the complainant 4,000 euros costs.
5. All other claims are dismissed.

In witness of this judgment, adopted on 14 November 2014, Mr Giuseppe Barbagallo, President of the Tribunal, Mr Michael F. Moore, Judge, and Sir Hugh A. Rawlins, Judge, sign below, as do I, Dražen Petrović, Registrar.

Delivered in public in Geneva on 11 February 2015.

GIUSEPPE BARBAGALLO

MICHAEL F. MOORE

HUGH A. RAWLINS

DRAŽEN PETROVIĆ