Organisation internationale du Travail
Tribunal administratif

International Labour Organization
Administrative Tribunal

*Registry's translation,
the French text alone
being authoritative.*

T. (No. 4)

v.

ICC

139th Session **Judgment No. 4949**

THE ADMINISTRATIVE TRIBUNAL,

Considering the fourth complaint filed by Mr P. T. against the International Criminal Court (ICC) on 6 October 2022, the ICC's reply of 27 March 2023, corrected on 17 April 2023, the complainant's rejoinder of 25 July 2023 and the ICC's surrejoinder of 24 October 2023;

Considering Articles II, paragraph 5, and VII 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 may be summed up as follows:

The complainant challenges his summary dismissal for serious misconduct.

The complainant joined the ICC in 2003. At the material time, he worked as a Cooperation Adviser at grade P-4 in the Jurisdiction, Complementarity and Cooperation Division of the Office of the Prosecutor of the ICC, under a fixed-term appointment.

On 11 October 2021 the Prosecutor orally informed the complainant that, having received allegations that the latter had made inappropriate comments, involving in particular breaches of his duty of confidentiality, he had decided to suspend him from duty with

immediate effect. He asked the complainant to leave the building at once, escorted by his supervisor.

The following day, the complainant received written notice of that decision by email and by a letter delivered to him in person and signed for at his home address. In that letter, the Prosecutor stated that the allegations made against him concerned a discussion he had had on the morning of 11 October 2021 with members of a delegation from a State Party visiting the Court. The complainant was informed that the suspension decision, taken pursuant to Rule 110.5(a) of the Staff Rules of the Court and pending the outcome of disciplinary proceedings relating to those allegations, was made with immediate effect and with pay for a period of three months. The Prosecutor explained that the decision "[was] necessary in order not to prejudice the interests of the Office of the Prosecutor and the Court, to ensure the integrity of the consideration of the allegations made against [him], and because the alleged conduct [was] of such a nature to discredit and harm the reputation of the Office and the Court". In addition, the Prosecutor asked the complainant to immediately hand over to the Administration all property of the Court in his possession. The complainant was also informed that his access to the Court's intranet had been temporarily disabled and that he could only access the Court's premises with prior authorisation. The complainant appealed against that decision and requested the suspension of action on that decision and also on the two subsequent decisions extending the measure. The dismissal of that appeal and the rejection of the suspension requests are the subject of four complaints filed before the Tribunal and addressed in Judgments 4947 and 4948, also delivered in public this day.

At his request, the complainant met with the Prosecutor on 15 October 2021 in relation to the decision to suspend him and the allegations made against him.

The complainant was notified on 20 October 2021 of the Prosecutor's decision to refer the allegations made against him, together with a note of their meeting of 15 October 2021, to the Independent Oversight Mechanism (hereinafter "the Mechanism") for an initial review, in accordance with Resolution ICC-ASP/19/Res.6 and

paragraph 8 of Annex II to that resolution, concerning the Operational Mandate of the Mechanism. In his memorandum of referral to the Head of the Mechanism, the Prosecutor pointed out in particular that the complainant and his hierarchy had been informed, prior to the incident of 11 October, of his instructions and expectations regarding meetings with parties external to the Court and of the need to seek prior approval in this respect.

On 22 October 2021 the Mechanism informed the complainant that an investigation had been opened into allegations made against him that he might have engaged in misconduct or unsatisfactory conduct. The Mechanism specified that it was alleged that the complainant had disclosed confidential and/or inappropriate information to two members of the delegation from a State Party on 11 October 2021 and that, in doing so, he might have expressed views that adversely affected the reputation and interests of the Court. The complainant was informed that, if the allegations were found to be true, this could constitute a breach of various provisions of the Staff Rules of the Court, the Code of Conduct for the Office of the Prosecutor, the Code of Conduct for Staff Members and the Standards of Conduct for the International Civil Service, which might amount to unsatisfactory conduct within the meaning of Section 5 of the Code of Conduct for Staff Members and Staff Rule 110.1. During its investigation, the Mechanism interviewed, inter alia, the participants at the informal meeting, including the complainant, between 3 November and 10 December 2021.

The Mechanism presented its investigation report to the Prosecutor on 23 December 2021. It began by stating that the scope of its investigation did not extend to the alleged failure to adhere to the Prosecutor's instructions regarding contact with parties external to the Court. The Mechanism explained that those instructions did not constitute administrative issuances and that any failure to follow them would therefore not constitute misconduct under its operational mandate but rather was a performance issue to be handled through performance management by the Prosecutor. After analysing the arguments and the evidence gathered, the Mechanism found, however, that there was sufficient evidence to conclude that the complainant had

breached his obligation of confidentiality and that his conduct could amount to a breach of his duty of loyalty.

On 30 December 2021 the Legal Adviser sent a letter to the Head of the Mechanism concerning the exclusion of the allegations made against the complainant on the failure to adhere to the Prosecutor's instructions. He explained that the Prosecutor took the view that, depending on circumstances, such a failure could certainly amount to misconduct rather than being solely an appraisal issue and could constitute a violation of the Court's Staff Regulation 1.2(c), Section 5.3(a) of the Code of Conduct for Staff Members and paragraphs 18 and 19 of the Standards of Conduct for the International Civil Service. The Head of the Mechanism was therefore asked to extend his investigation to include this allegation in his further considerations of the disciplinary action to be taken.

The Head of the Mechanism replied to the Legal Adviser on 31 December. He maintained the Mechanism's position regarding the Prosecutor's instructions but stated that it was a purely legal issue on which he would not want to make a definitive call. The Head of the Mechanism refused to re-open the investigation into the complainant's case and noted that the Prosecutor obviously had the authority, should he wish, to include the alleged failure to follow instructions in disciplinary proceedings.

The Legal Adviser sent the Mechanism's report to the complainant on 11 January 2022 and informed him that the Prosecutor did not share the Mechanism's stance on excluding the allegations of a failure to follow his instructions from the investigation. The complainant was also informed that, in the light of that report, the Prosecutor had decided to pursue the matter in accordance with Section 2.6 of Administrative Instruction ICC/AI/2008/001 of 5 February 2008 on Disciplinary Procedures (hereinafter "the 2008 Administrative Instruction"). The Legal Adviser informed the complainant of the allegations made against him, provided him with a copy of the Mechanism's report and associated annexes, and invited him to respond within ten working days.

The complainant provided his comments on 27 February 2022. In substance, he maintained that the allegations made against him were not substantiated by any material evidence, that none of the allegations had been proved beyond reasonable doubt and that there had been no misconduct on his part, in particular because he did not possess the confidential information which had supposedly been shared at the meeting. The complainant stated that he had merely expressed his personal opinion without in any way criticising the Office or the Prosecutor, and that no negative impact on the Court had been established. In addition, the complainant submitted that the investigation procedure was flawed.

Having examined the complainant's response, the Prosecutor decided to refer the matter to the Disciplinary Advisory Board on 11 March 2022, pursuant to Staff Rule 110.4(a) and Section 3 of the 2008 Administrative Instruction. In so doing, he explained that, based on the evidence before him, he had reached the conclusion that the facts appeared to indicate that the complainant had: (a) failed to adhere to the Prosecutor's instructions regarding contact with the diplomatic community when he met with representatives of a State Party visiting the Court to discuss work-related matters without the required authority and approval; (b) breached his duty of confidentiality by virtue of that unauthorised meeting and by the nature of the discussions that took place at the meeting; (c) shared views and opinions with external parties contradicting official communications by the Office and instructions and/or policy approaches set by the Prosecutor; and (d) shared views and opinions, including on his working relations with the Prosecutor, that appeared to have been designed to undermine the confidence of the representatives of the State Party in the Office and in the Prosecutor, thus breaching his duty of loyalty.

After several exchanges of written submissions between the parties, the Disciplinary Advisory Board delivered its report to the Prosecutor on 9 June 2022. As a preliminary issue, the Board addressed the complainant's suspension with immediate effect. The Board stated, in this regard, that Rule 110.5(a), read in conjunction with Sections 2.1, 2.4 and 2.5 of the 2008 Administrative Instruction, required that a

preliminary investigation be carried out before a staff member could be suspended. It regarded the short time that elapsed between the allegations being brought to the Prosecutor's attention and the decision to suspend the complainant from duty as insufficient to carry out a preliminary investigation and that this departure from procedure was not warranted in view of the conduct alleged. The Board also found that meeting with a party external to the Court in contravention of the Prosecutor's instructions was not a disciplinary matter but rather an issue of performance management, and it did not recommend disciplinary action in this regard. However, taking into account the evidence that, by taking part in the meeting in question, the complainant had participated in discussions about the work of the Office, it noted that such conduct warranted a written or oral reprimand. In addition, the Board considered that the evidence did not support a finding that the complainant had breached his obligation of confidentiality, nor that he had shared opinions with external parties in contradiction of the Prosecutor's communication in order to undermine the State Party's confidence in the Office and pointed out that the Prosecutor had made no allegation that the Office's interests had actually been harmed by the complainant's actions. The Board noted that, even if the Prosecutor still considered that the evidence proved unsatisfactory conduct on the part of the complainant, it took the view that, since the complainant's suspension – which had lasted for eight months – had been decided on without a preliminary investigation, it was more than sufficient sanction in the circumstances, along with a written censure.

By a letter of 8 July 2022, the complainant was informed of the Prosecutor's decision to reject the findings of the Disciplinary Advisory Board and, having taken into account the various aggravating and mitigating factors, to impose upon him the disciplinary measure of summary dismissal with immediate effect. The Prosecutor concluded that the complainant's actions constituted serious misconduct incompatible with the continued performance of his duties. That is the impugned decision.

In his complaint, the complainant asks the Tribunal to set aside the impugned decision and to order the removal of any mention of that decision or of the disciplinary proceedings from his official status file. He claims compensation of 50,000 euros for the moral injury which he alleges he has suffered as a result of the unlawfulness of the impugned decision, the breach of the principle of equal treatment and the breach of the duty of care and good faith, together with compensation of 5,000 euros for the moral injury which he alleges he has suffered as a result of the excessive length of the procedure. The complainant also claims material damages for the harm suffered as a result of being deprived of his employment contract between July 2022 and March 2024, equivalent to 20 months' net salary, "benefits" and allowances, together with interest at a rate to be determined by the Tribunal. In addition, he seeks the award of six months' salary, allowances and other financial benefits for the loss of the opportunity to continue in the Court's employment beyond the end of his contract, the payment of indemnities under Staff Rule 109.2(m)(vi), and the reimbursement of 85 per cent of his three children's school fees for 2022-2023 and 2023-2024 and the medical expenses incurred for one of his daughters. Lastly, the complainant seeks the award of costs, which he assesses as at least 7,000 euros.

The ICC asks the Tribunal to declare the complainant's complaint unfounded and deny him all the relief he seeks. The Court also asks the Tribunal to pay the costs of the proceedings, in particular all expenses incurred for the case.

CONSIDERATIONS

1. The complainant is a former staff member of the International Criminal Court (ICC) who joined the organisation on 2 September 2003. At the material time, he held the role of Judicial Cooperation Adviser in the Jurisdiction, Complementarity and Cooperation Division of the Office of the Prosecutor of the Court. In the present complaint, he impugns before the Tribunal the Prosecutor's decision of 8 July 2022

to impose on him the disciplinary sanction of summary dismissal for serious misconduct.

In the impugned decision, the Prosecutor did not follow the unanimous opinion of the Disciplinary Advisory Board in its report of 9 June 2022, which had concluded, firstly, that the matters of which the complainant was accused and the charges of misconduct laid against him had not been proved beyond reasonable doubt and, secondly, that, if the Prosecutor considered nonetheless that the evidence proved unsatisfactory conduct on the part of the complainant, then, in view of the fact that his suspension – which had lasted for eight months – had been decided on without a preliminary investigation, the imposition of such a measure was more than sufficient sanction in the circumstances, along with a written censure.

2. An incident which occurred towards the end of the morning of 11 October 2021 led to the decision by the Prosecutor to suspend the complainant from duty with pay and with immediate effect from 11 October 2021 and, subsequently, to the decision to impose on him the disciplinary sanction of summary dismissal for serious misconduct. That incident gave rise to five complaints filed before the Tribunal.

Apart from the present complaint (the complainant's fourth), three other complaints, being his first, second and fifth, are addressed in Judgment 4947, also delivered in public this day. They concern the Prosecutor's decisions to reject the complainant's requests for the suspension of action on the decision to suspend him with pay and with immediate effect on 11 October 2021 for a period of three months, and on the decisions to extend that suspension on two occasions, also for three months, pending the outcome of the internal appeal procedures that were underway. His third complaint, which is addressed in Judgment 4948, also delivered in public this day, concerns the decision to impose on him a suspension measure.

3. The written submissions and the evidence on file show that on 11 October 2021, around midday, the Prosecutor orally informed the complainant, in the presence of the person responsible for human

resources at the Office of the Prosecutor, the Senior Adviser to the Prosecutor and the Head of International Cooperation – Mr B. – who was the complainant's line manager, that he had just received allegations that the complainant had made inappropriate comments during a conversation he had had earlier that day over coffee with a colleague from the Prosecutor's Office, Mr D., and two members of a delegation from a State Party visiting the Court.

The Prosecutor told the complainant, in particular, that the information received involved an alleged breach of confidentiality regarding a situation that the Court was dealing with at the time and an alleged failure to abide by the standards of conduct expected of a member of staff of the Prosecutor's Office. He also informed the complainant that he had decided to suspend him from duty immediately and asked him to leave the building at once, escorted by his line manager, which he did at around 12.30 p.m. In the written notice of suspension with pay delivered to the complainant at his home the following day, that is on 12 October 2021, the Prosecutor also explained that the measure suspending him from duty with immediate effect had been taken to ensure the integrity of the consideration of the allegations made and to protect the reputation of the Court and the Office.

4. The written submissions and the evidence on file show that the incident of 11 October 2021 unfolded within a period of approximately fifteen minutes. The Tribunal notes that the Prosecutor accused the complainant of participating in what he regarded as an unauthorised meeting with diplomats, in direct contravention of his instructions, and of a resulting breach of his duty of discretion. According to the organisation, during the informal discussion which took place on that occasion, the complainant made inappropriate remarks in relation to two of the topics discussed.

In the first place, regarding the situation of an ICC investigation into [country X] and, in particular, concerning an earlier public statement made by the Prosecutor, the complainant is alleged to have said, in front of the two external persons who were members of a

delegation from a State Party visiting the Court and in response to a question from one of them about the Prosecutor's remark that the delay in launching one aspect of the investigation was due to a lack of internal resources, that "the case against [the secret service agency of a major power] is ready, all the evidence is there", in a tone seemingly dismissive of the Prosecutor's public statement.

In the second place, it appears that the complainant also expressed his personal frustration in front of the two members of the delegation from the State Party in question about the restructuring and reorganisation of the Office of the Prosecutor following the recent arrival of the new Prosecutor, in particular with regard to his role and his sense of having been sidelined.

5. The Tribunal notes that, following the suspension, the Prosecutor asked the organisation's Independent Oversight Mechanism (hereinafter "the Mechanism") to carry out an investigation into the complainant's conduct. As part of its investigation, the Mechanism interviewed the complainant, his line manager, Mr B., as well as his colleague, Mr D., and the two members of the delegation from the State Party visiting the Court, the latter three of whom had all been present at the incident of 11 October 2021. In its report of 23 December 2021, the Mechanism commented in particular as follows:

– the two delegates seemed reluctant to cooperate, in the Mechanism's view;
– the meeting over coffee on the morning of 11 October 2021 appears to have been impromptu;
– there was certainly some discussion about what was perceived by the participants other than the complainant as his frustration and his sense of being sidelined in the organisation's new structure;
– the topic of the Prosecutor's recent public statement was also discussed and the Mechanism found Mr D.'s account of the discussions to be the most credible, especially when compared with the complainant's denials and the hesitancy of the other two individuals present;

– the complainant's conduct and the conversations he had after the incident, first with Mr B. and then with Mr D., when he said that he had committed a blunder or that, apart from one topic, he had not said anything inappropriate, could amount to material evidence.

In the light of this assessment, the Mechanism considered that there could have been breaches of confidentiality or of the duty of loyalty on the part of the complainant and, therefore, recommended that appropriate disciplinary action be taken against him. The Tribunal notes that the Mechanism nonetheless considered that the scope of its investigation did not extend to the complainant's alleged failure to adhere to the Prosecutor's instructions regarding contact with diplomats, because such instructions of an administrative nature concerned the complainant's performance management rather than whether or not his conduct was satisfactory.

6. The Tribunal also notes that, following the report from the Mechanism, the Prosecutor first notified the complainant, on 11 January 2022, that he intended to initiate disciplinary proceedings in respect of four allegations that he worded as follows:

> "a. You met with diplomats at the Seat of the Court to discuss work-related matters without the required authorisation and approval, contrary to specific instructions of the Prosecutor;
>
> b. You breached confidentiality by virtue of the unauthorised meeting with externals and by the nature of the discussions that allegedly took place at the meeting;
>
> c. You shared views and opinions with externals contradicting official communications by the Office and instructions and/or policy approaches set by the Prosecutor in the independent and impartial exercise of his functions, and known to the staff;
>
> d. You shared views and opinions, including on your working relations with the Prosecutor, that appear to have been designed to undermine the confidence of State Party representatives in the Office and in the Prosecutor."

The Tribunal notes that, on 11 March 2022, the Prosecutor then decided to refer the matter to the Disciplinary Advisory Board pursuant to Staff Rule 110.4(a), mentioning the same four charges.

7. The written submissions and the evidence on file show that the Disciplinary Advisory Board proceeded to deliver a unanimous opinion on 9 June 2022, in which, after pointing out that the complainant's suspension had by then lasted eight months, the Board concluded that, "considering the ILOAT's jurisprudence on proportionality of sanctions, [it was] strongly of the view that further action would not be proportional to the alleged offence". As already stated, the Disciplinary Advisory Board noted that, even if the Prosecutor considered that the evidence proved unsatisfactory conduct on the part of the complainant, given that his suspension had been decided on without a preliminary investigation, it was more than sufficient sanction in the circumstances, along with a written censure.

The Tribunal observes that, in that opinion, the Board took the view, in particular, that the measure suspending the complainant from duty with immediate effect should have been preceded by a preliminary investigation, that meeting external parties in contravention of the Prosecutor's instructions was a performance management issue rather than a disciplinary matter and that such conduct warranted at most a written or oral reprimand, that no sanction should be imposed in relation to confidentiality obligations in the absence of convincing evidence of any breach thereof, and that the allegation that the complainant had shared views and opinions with parties external to the Court was not proven beyond reasonable doubt, noting particularly that the organisation had not alleged that the Court's interests had been harmed in any way since the incident.

8. The Tribunal notes, lastly, that, in the impugned decision in which he rejected the Disciplinary Advisory Board's unanimous opinion, the Prosecutor first of all expressed the grounds for his decision to impose the sanction of summary dismissal for serious misconduct in a way that differed somewhat from the four charges listed in the previous notifications of 11 January and 11 March 2022. In this decision, the Prosecutor referred to the following four grounds:

> "[...]
>
> First, clear disregard of written and oral instructions not to engage with the diplomatic community or state officials without advance approval;

> Second, previous disregard leading to direct intervention by the Prosecutor, which left no ambiguity about his instructions;
>
> Third, discussing the Situation in [country X] and sharing confidential and/or inaccurate information with externals purporting to state that evidence was available to obviate the needs of an investigation, thus casting doubt on or/and contradicting the Prosecutor's Press Statement [...];
>
> Fourth, sharing personal frustrations with external contacts while ignoring the possibility to raise such concerns with the Prosecutor directly including as part of his Open Door Policy, showing the inability to separate personal and professional."

In his assessment, the Prosecutor went on to explain these four grounds, grouping them into three numbered sections headed as follows:

> "1. Meeting with diplomats at the Seat of the Court to discuss work-related matters without the required authorisation and approval, contrary to the specific instructions of the Prosecutor.
>
> [...]
>
> 2. Breaching confidentiality by nature of the discussions that took place at the meeting, and sharing views and opinions which contradicted official communications by the Office undermining the independence, impartiality and credibility of the Office of the Prosecutor.
>
> [...]
>
> 3. You shared views and opinions including on your working relations with the Prosecutor that appear to have been designed to undermine the confidence of State Party representatives in the Office of the Prosecutor."

The Prosecutor concluded that the appropriate disciplinary sanction was summary dismissal for serious misconduct, emphasising the following:

> "Having considered the [Disciplinary Advisory Board]'s findings and recommendations, as well as the [Mechanism's] Report and undertaken a proportionality assessment, the Prosecutor has reached the conclusion that the gravity and totality of your unsatisfactory conduct amount to serious misconduct. This is incompatible with the continued performance of your duties as a Judicial Cooperation Adviser, and such that it cannot be compensated by existing mitigating factors, or appropriately addressed through other disciplinary measures available to him under the Court's legal framework."

9. The Prosecutor imposed the disciplinary sanction of summary dismissal for serious misconduct on the complainant pursuant to subparagraph (viii) of Staff Rule 110.6(a), which provides as follows:

"**Rule 110.6: Disciplinary measures**

(a) Disciplinary measures may be imposed by the Registrar or the Prosecutor, as appropriate, and may take one or more of the following forms:

(i) Written censure;

(ii) Deferment for a specified period or withholding of within-grade increment;

(iii) Loss of one or more within-grade increments;

(iv) Suspension without pay;

(v) Fine;

(vi) Demotion;

(vii) Termination of appointment, with or without notice, or compensation in lieu thereof, notwithstanding staff rule 109.2; or

(viii) Summary dismissal for serious misconduct pursuant to staff rule 110.7.

[...]"

Paragraphs (a) and (b) of Staff Rule 110.7, to which Staff Rule 110.6(a)(viii) refers, state as follows:

"**Rule 110.7: Summary dismissal for serious misconduct**

(a) If a staff member is guilty of serious failure to observe the standards of conduct set forth in staff rule 110.1, the sanction of summary dismissal may be applied to him or her by the Registrar or the Prosecutor, as appropriate.

(b) Without limiting the circumstances in which a staff member may be summarily dismissed, a staff member's failure to observe the standards of confidentiality set out in staff regulation 1.2(j) may warrant his or her summary dismissal.

[...]"

With regard to disciplinary measures, Staff Rule 110.1 concerning unsatisfactory conduct further provides as follows:

"**Rule 110.1: Unsatisfactory conduct**

Failure by a staff member to act in accordance with any official document of the Court governing rights and obligations of staff members, such as the Staff Regulations and Rules and the Financial Regulations and Rules, or any

> relevant resolutions and decisions of the Assembly of States Parties, or failure to observe the standards of conduct expected of an international civil servant, may amount to unsatisfactory conduct within the meaning of staff regulation 10.2(a), leading to the institution of disciplinary proceedings and the imposition of disciplinary measures."

Under Staff Regulation 10.2(a), to which Staff Rule 110.1 refers, the Prosecutor may impose disciplinary measures on staff members whose conduct is unsatisfactory. Staff Regulation 1.2(b) also provides that "[s]taff members of the Court shall uphold the highest standards of efficiency, competence and integrity", specifying that "[t]he concept of integrity includes, but is not limited to, compliance with the relevant standards on confidentiality established by the Court, probity, impartiality, fairness, honesty and truthfulness in all matters affecting their work and status".

Similarly, Staff Rule 101.9 stipulates that staff members of the Court are "required to uphold the highest standards of efficiency, competence and integrity in the discharge of their functions". Lastly, with regard to confidentiality and, more particularly, confidential information, Staff Rule 101.4(a) and (c) provide as follows:

> "**Rule 101.4: Confidentiality**
>
> (a) As required by the letter of appointment, staff members shall not, unless specifically authorized, at any time, directly or indirectly, use, disclose, furnish, or make accessible to any third party confidential information of the Court of which they have become aware during the course of their employment.
>
> [...]
>
> (c) Without prejudice to the operation of paragraphs (a) and (b), staff members shall keep confidential any information regarding the Court's operations, including but not limited to evidence and information relating to victims and witnesses as well as to staff members of the Court, where, by the very nature of that information, a staff member knows or ought reasonably to know that it should be kept confidential.
>
> [...]"

10. In Judgment 4749, consideration 5, the Tribunal recalled the following with regard to the burden of proof, which rests on the organisation in relation to disciplinary sanctions, and also with regard

to the Tribunal's role in the assessment of the relevant standard of proof:

> "In disciplinary matters, the Tribunal has consistently found that the burden of proof rests on an organisation to prove the allegations of misconduct beyond reasonable doubt before a disciplinary sanction can be imposed. In respect of the standard of proof, the Tribunal relevantly stated the following in Judgment 4362, considerations 7, 8 and 10:
>
> '7. [...] The relevant legal standard is beyond reasonable doubt. The role of the Tribunal in a case such as the present is not to assess the evidence itself and determine whether the charge of misconduct has been established beyond reasonable doubt but rather to assess whether there was evidence available to the relevant decision-maker to reach that conclusion (see, for example, Judgment 3863, consideration 11). Part of the Tribunal's role is to assess whether the decision-maker properly applied the standard when evaluating the evidence (see Judgment 3863, consideration 8).
>
> 8. The standard of proof of beyond reasonable doubt does not exist to create an insuperable barrier for organisations to successfully prosecute disciplinary proceedings against staff members. Indeed, it should not have that effect. What is required is discussed in many judgments of the Tribunal. Rather the standard involves the recognition that often disciplinary proceedings can have severe consequences for the affected staff member, including dismissal and potentially serious adverse consequences on the reputation of the staff member and her or his career as an international civil servant, and in these circumstances it is appropriate to require a high level of satisfaction on the part of the organisation that the disciplinary measure is justified because the misconduct has been proved. The likelihood of misconduct having occurred is insufficient and does not afford appropriate protection to international civil servants. It is fundamentally unproductive to say, critically, this standard is the "'criminal'" standard in some domestic legal systems and a more appropriate standard is the "'civil'" standard in the same systems involving the assessment of evidence and proof on the balance of probabilities. The standard of beyond reasonable doubt derived from the Tribunal's case law as it has evolved over the decades, serves a purpose peculiar to the law of the international civil service.
>
> [...]
>
> 10. [...] The standard of beyond reasonable doubt concerns both the finding of specific facts and the overall level of satisfaction that the case against the staff member has been made out. In relation to the proof of any essential relevant fact, the person or body charged with the task of assessing the evidence and making a decision in the context of

> determining disciplinary proceedings must be satisfied beyond reasonable doubt that a particular fact exists.'"

(See also, on this subject, Judgments 4832, consideration 36, 4764, consideration 13, 4362, consideration 10, and 4360, consideration 11.)

11. Among the various pleas put forward by the complainant in support of his complaint, there are two that are decisive for the outcome of this dispute. The first of these pleas is based on a lack of proof beyond reasonable doubt of the allegations which, according to the organisation, constitute serious misconduct in the circumstances of the case, and the second is based on the disproportionate nature of the sanction of summary dismissal imposed on the complainant.

12. As regards the first plea put forward by the complainant, the Tribunal's role is to determine whether there was evidence available to the Prosecutor that allowed him to conclude beyond reasonable doubt that the four wrongdoings of which the complainant was accused were each constitutive of a case of "serious misconduct" and that they were so, *a fortiori*, when considered as a whole.

The Tribunal notes that the ICC has not pointed to any provision in the rules or regulations containing a definition of the concept of serious misconduct on the basis of which it seeks to justify the summary dismissal of the complainant pursuant to Staff Rule 110.6(a)(viii). As the Tribunal has already underlined, the concept of serious misconduct is very different from that of misconduct (see, for example, Judgment 4832, considerations 38 and 39). In Judgment 4457, consideration 11, the Tribunal recalled that, in Judgment 63, consideration 1, it had observed the following, in respect of a similar provision in the staff regulations of another international organisation:

> "As this is the heaviest penalty which can be inflicted, and can be applied without prior consultation with a joint body, this provision must not be given a broad interpretation. It applies to an official who, in the first place, fails in his duty and, in the second place, thereby commits serious misconduct."

In Judgment 1661, consideration 6, the Tribunal also had occasion to state, in respect of another similar provision, that:

> "Misconduct so serious as to warrant dismissal is such that letting the appointment continue would be intolerable."

13. For the reasons which will be set out in considerations 14 to 17, the Tribunal considers that:

– Firstly, the Prosecutor made an error in his legal classification of the facts by concluding that a failure to adhere to his instructions could constitute serious misconduct, when in reality, even supposing that this was a disciplinary matter rather than a performance management issue, it could at most be classed as misconduct.

– Secondly, the Prosecutor could not conclude that a breach of the obligation of confidentiality had been proven beyond reasonable doubt when it had not been shown that the complainant had knowledge of or had communicated any confidential information. As for the alleged breach of the duty of discretion, in view of the contradictory accounts supplied and the lack of clear corroboration of the remarks attributed to the complainant by Mr D., the complainant should have been given the benefit of the doubt arising therefrom.

– Lastly, in the absence of any evidence of malicious intent on the part of the complainant, the Prosecutor could not assert, as he purported to do, that the complainant had shared views and opinions on his working relationship with the Prosecutor that "appear[ed] to have been designed to undermine the confidence of State Party representatives in the Office of the Prosecutor".

14. In the first place, the Tribunal notes from the written submissions and the evidence on file that the alleged breach by the complainant of the Prosecutor's instructions on the need to obtain authorisation and approval before meeting the two representatives of the delegation from the State Party in question towards the end of the morning on 11 October was central to the ICC's arguments concerning the breaches of which the complainant was accused. This can be seen from the manner in which the four charges laid against the complainant

and the three sections of the Prosecutor's assessment in the impugned decision are presented.

First of all, it is clear, in the light of the evidence assessed, that the organisation could not conclude beyond reasonable doubt that the meeting in question had been consciously planned by the complainant. According to the documents on file, the meeting would be best described as impromptu.

The Tribunal goes on to note that, even supposing that the Prosecutor actually regarded the holding of that meeting, in itself, as a key element of the unsatisfactory conduct of which the complainant was accused, the fact remains that, in his letter of 12 October 2021 giving the complainant written notice of his suspension, the Prosecutor made no mention of the fact that the meeting had been held in contravention of his instructions, even though he was aware this was the case.

Lastly, the Tribunal observes that, in the impugned decision, the Prosecutor's assessment of this, the first of the four alleged breaches which he had grouped into three numbered sections, accounts for twelve out of the thirty pages devoted to evidence of the conduct of which the complainant was accused. This assessment led the Prosecutor to conclude that the supposed breach of the obligation not to hold such a meeting without prior authorisation or approval amounted to "unsatisfactory conduct", yet not once did he describe it as serious misconduct. When assessing the other alleged breaches in the two subsequent numbered sections of the impugned decision, however, the Prosecutor had no hesitation in categorising the conduct not as unsatisfactory but as "serious misconduct", his choice of wording indicating that he understood perfectly well the important distinction between those two concepts.

15. In the light of the case law referred to in consideration 12 above, the Tribunal considers that, in the circumstances of the case, even if the breach could be established beyond reasonable doubt, it could not in itself constitute serious misconduct, but simply misconduct. The Tribunal finds that an error was made in the legal classification of the facts when this supposed breach of the obligation

to follow the Prosecutor's instructions on the need for authorisation and approval before holding a meeting with the two State Party representatives was found to constitute misconduct which could be classed as serious.

16. In the second place, with regard to the alleged breach of the obligation of confidentiality, which is what the organisation initially relied on when verbally notifying the complainant of his suspension on 11 October 2021, the Tribunal notes that the ICC has not been able to establish the confidential nature of the information which was supposedly known to the complainant and the content of which he is alleged to have communicated to the two external representatives of the delegation from a State Party by saying, according to Mr D., that "the case against [the secret service agency of a major power] is ready, all the evidence is there".

Establishing a breach of an obligation of confidentiality involves establishing that protected confidential information was known and also that it was unlawfully communicated. First of all, once the information has entered the public domain, it is, by its nature, no longer confidential. Next, in its arguments on this point, the organisation confuses the breach of what would otherwise be an obligation of confidentiality with the breach of what it also sometimes refers to as a staff member's duty of discretion.

In this case, with regard to the assertions allegedly made by the complainant about the situation in [country X], the written submissions and the evidence on file establish that, on more than one occasion – the first being at the meeting with the Prosecutor on 15 October 2021 – the complaint denied having used the words attributed to him by Mr D. In addition, one of the two representatives of the delegation from the State Party in question provided a statement which appeared to corroborate the complainant's account of the matter. However, despite this, in his assessment of this evidence, the Prosecutor emphasised the weight and the probative value to be given to the conflicting evidence submitted, thus turning it into an assessment based on the preponderance of evidence, rather than considering whether the contradictions could give

rise to reasonable doubt as to the complainant's culpability for such a breach. In so doing, the Prosecutor disregarded the Tribunal's settled case law according to which, in disciplinary matters, the benefit of the doubt must always lie with the staff member. Thus, in Judgment 4697, consideration 22, the Tribunal underlined the following in this regard:

> "In Judgment 4491, consideration 19, the Tribunal recalled that '[a] staff member accused of wrongdoing is presumed to be innocent and is to be given the benefit of the doubt'. Similarly, in Judgment 3969, consideration 16, the Tribunal reiterated that, when the executive head of an organisation seeks to motivate his conclusions and decision for departing from the conclusions of a Disciplinary Committee, she or he must establish beyond a reasonable doubt the conduct or behaviour of which a complainant is accused."

The Tribunal considers that, in this case, the Prosecutor needed to explain why, in the face of this conflicting evidence and the content of the Disciplinary Advisory Board's report, he took the view that the differing accounts given by the individuals present at the discussion of 11 October 2021 did not raise reasonable doubts as to proof of this breach; however, he provided no such explanation in his assessment. As the Tribunal recalled in Judgment 4360, consideration 14, an international organisation must examine the exculpatory evidence pointing to the innocence of the staff member accused of misconduct. This necessarily involves explaining, where applicable, why reasonable doubts are not raised by the evidence in a situation where this runs counter to the findings of the internal disciplinary board, as was the situation in the present case.

17. In the third place, the Tribunal notes that, in reality, the substance of the breach of which the complainant was accused in this regard fell under a breach of his duty of discretion about the internal functioning of Court business, rather than a breach of an obligation of confidentiality in respect of information which had not been shown to be confidential. As regards a failure to employ discretion, the wording of Staff Rule 110.7(b), which uses the term "may", recognises that a breach of this obligation does not necessarily, in itself, constitute misconduct capable of being categorised as serious. In certain situations, such a breach could be categorised, for instance, as an

unfortunate blunder, which was how the complainant in this case described it, according to the statements of Mr B. and Mr D. Indeed, in his assessment, the Prosecutor illustrates this exact point when, presupposing that the complainant did indeed make the remarks attributed to him, he asserts that this exhibited both poor judgment and unsatisfactory conduct which, here, amounted to serious misconduct; however, he fails to provide any justification or explanation of why this should be so, despite the case law referred to in consideration 12 above on the concept of serious misconduct. In other words, beyond asserting that this was an instance of serious misconduct, the Prosecutor did not shed any light on why he categorised it as such.

18. Lastly, in the fourth place, the Tribunal notes that the Prosecutor's final accusation against the complainant concerned inappropriate remarks he had allegedly made to external persons in which he criticised his working conditions at the organisation and, more specifically, expressed his frustration about being sidelined within the new structure established by the Prosecutor.

Firstly, however, the Tribunal notes that the way in which this allegation was worded by the Prosecutor either in the notification to the complainant of 11 January 2022 or in the decision of 11 March 2022 to refer the matter to the Disciplinary Advisory Board emphasised that the complainant's conduct appeared to have been adopted to undermine the confidence of a State Party in the Office and the Prosecutor, something which clearly implied malicious intent on the complainant's part. In the impugned decision, the Prosecutor also stated that, through his actions, the complainant had known and accepted that he could undermine the delegates' confidence in the organisation by sharing his frustrations in this regard.

Yet the evidence assessed did not support the assertion, or even the inference, that the complainant could have had any such intention, so it was impossible in the present case for the Prosecutor to find the contrary without distorting the substance of the evidence. Neither the accounts provided by the two representatives of the delegation from the State Party in question of the discussion of 11 October 2021 nor the

complainant's own version of events allows for a finding that such an intention existed or had been demonstrated beyond reasonable doubt. At most, the Prosecutor could have concluded that the complainant had shown poor judgment or made a blunder by expressing his frustrations to external parties, but, even so, that in itself was clearly insufficient to constitute misconduct which could be classed as serious in the absence of any intent to undermine the State Party's confidence in the organisation.

Secondly, the alternative manner in which the Prosecutor worded this same accusation in the impugned decision, asserting that, in sharing his frustration with persons external to the ICC, the complainant had shown either an inability to separate his personal and professional views or an unwillingness to avail himself of the opportunity to raise his concerns with the Prosecutor, who favoured an open door policy with his staff, was hardly sufficient reason for the behaviour to be categorised as misconduct of a "serious" nature either.

From this perspective, the Tribunal considers that the Prosecutor misconstrued the content of the Court's Staff Rules when he asserted in the impugned decision that the complainant had, in this regard, acted in breach, inter alia, of paragraphs (a) and (i) of Staff Rule 101.3, which deal with the need to prioritise the interests of the Court over those of the staff member, the importance of the independence of those interests and the requirement not to share views and convictions, including political and religious ones, which could adversely affect the Court. Those provisions were not applicable to a situation such as this where the complainant had made remarks which might have been taken as expression of frustration about his working conditions. Such a situation did not raise any issues of integrity, conflicts of interest or independence, nor of any potential engagement in an activity incompatible with the proper discharge of a staff member's duties. The Tribunal considers that the conclusion that this conduct could be analysed as constituting a breach of those provisions in the circumstances revealed by the evidence was an error in the legal classification of the facts.

19. It follows from the foregoing considerations that, in view of the written submissions and evidence on file, the Prosecutor did not have sufficient evidence to conclude beyond reasonable doubt that the wrongdoings identified constituted a case of misconduct that could be classed as serious. The first and last charges of misconduct laid against the complainant, relating to his failure to adhere to the Prosecutor's instructions and the inappropriate sharing of work-related frustrations with external parties, cannot be classified as serious misconduct in the present case. As for the other charges, relating to a breach of the obligation of confidentiality or duty of discretion, the evidence raised a reasonable doubt, the benefit of which should have been given to the complainant, and which was not taken into account. Lastly, these wrongdoings, even when taken as a whole, were not of the level required to classify them as serious misconduct in accordance with the case law mentioned in consideration 12 above.

It follows that the first plea is well founded.

20. As regards the second plea put forward by the complainant, that the sanction imposed was disproportionate, the Tribunal recalls first of all that, in Judgment 4749, consideration 10, it underlined the need for a disciplinary measure to be proportionate and the consequences of a lack of proportionality, in the following terms:

> "In Judgment 4478, considerations 11 and 12, the Tribunal recalled that '[t]he case law confirms that the decision on the type of disciplinary action taken remains in the discretion of the disciplinary authority, as long as the measure is not disproportionate' (see also Judgment 3640, consideration 29), and that 'the Tribunal cannot substitute its evaluation for that of the disciplinary authority, [as] the Tribunal limits itself to assessing whether the decision falls within the range of acceptability' (see also on this point Judgment 3971, consideration 17). In Judgment 4478, the Tribunal further observed that, although a lack of proportionality must be seen as an error of law warranting the setting aside of a disciplinary measure, '[i]n determining whether disciplinary action is disproportionate to the offence, both objective and subjective features are to be taken into account and, in the case of dismissal, the closest scrutiny is necessary'. [...]"

(See also, in this regard, Judgments 4859, consideration 28, 4858, consideration 28, 4745, consideration 11, 4697, consideration 24, 4660, considerations 16 to 19, and 4504, consideration 11.)

21. Thus, it is well established in the Tribunal's case law that, while a disciplinary authority within an international organisation has a discretion to choose the disciplinary measure imposed on a staff member for misconduct, the decision must always respect the principle of proportionality which applies in this area (see, for example, Judgments 4832, consideration 47, 4504, consideration 11, 4457, consideration 20, 3971, consideration 17, 3944, consideration 12, and 3640, consideration 29).

In this regard, the Tribunal notes that the ICC mistakenly asserted in its written submissions that it was for the complainant alone to show that the sanction imposed was disproportionate. In fact, whether the principle of proportionality – which must guide any organisation in determining the sanction to be imposed in a disciplinary matter – has been observed is a matter for the Tribunal to determine in the light of both parties' arguments on the subject, meaning that the burden of proof does not specifically fall on either of them.

22. In the present situation, the Tribunal considers that the dismissal sanction imposed on the complainant – which, moreover, was aggravated by the fact that it was summary and had no termination indemnities attached – was excessively harsh and infringed the principle of proportionality. The Tribunal notes that the sanction imposed on the complainant was the harshest disciplinary measure provided for in the ICC's Staff Rules and far exceeded the limits of what was acceptable in the circumstances, as will be shown in the following considerations.

23. In this regard, the Tribunal observes, in the first place, that, in the case of all the allegations made against the complainant other than those concerning a breach of the obligation of confidentiality or duty of discretion, the sanction of summary dismissal for serious misconduct was not open to the organisation under Staff Rule 110.6(a)(viii), on which it relied in this case. The charges relating to the complainant's supposed failure to follow the Prosecutor's instructions on meetings with persons external to the organisation or his apparent expression of dissatisfaction to those persons about his work situation at the ICC,

whether assessed individually or as a whole, could in no way constitute serious misconduct but, at most, misconduct.

24. In the second place, the Tribunal observes that paragraph (b) of Staff Rule 110.7 dealing with summary dismissal for serious misconduct provides that a staff member's failure to observe standards of confidentiality may warrant his or her summary dismissal, but this does not mean that this sanction must be automatically applied in all situations. Furthermore, as the Tribunal recalled in Judgment 4362, consideration 18, "[a]ny breach of confidentiality by staff of an international court is an extremely serious matter. But there will be cases where the breach is grave and undoubtedly warrants summary dismissal and others where that outcome is not so obviously justified." In addition, although unsatisfactory conduct may lead to the institution of disciplinary proceedings pursuant to Staff Rule 110.1, that in itself is not sufficient to justify the organisation imposing the sanction of summary dismissal for serious misconduct as a consequence.

In the present case, as has been stated, the breach of which the complainant was accused in this regard could not be a breach of his confidentiality obligation without proof beyond reasonable doubt that confidential information had been disclosed. It was instead a question of a breach of his duty of discretion. However, the Tribunal considers that the breach was not severe enough to be categorised as serious misconduct, meaning that, to this extent, the sanction of summary dismissal for serious misconduct was not applicable.

The Tribunal recalls that the complainant's meeting of 11 October 2021 with the delegates from the State Party in question was shown, on the evidence, to have been impromptu rather than planned. Furthermore, while the complainant acknowledged having made what he described as a blunder and inappropriate remarks during the discussion about the investigation into [country X], he has always clearly maintained – without having ever been successfully challenged on this point – that his intention was not to disclose anything that had not already been made public, still less to act with the deliberate aim of harming the image or reputation of the ICC or the Prosecutor.

25. In the third place, the evidence shows that there were significant mitigating factors in the complainant's favour which needed to be duly taken into account under the general principles applicable to disciplinary matters. However, in the impugned decision, the analysis of the mitigating factors that might be applicable to the complainant's situation was extremely brief, while that relating to the supposedly aggravating factors was noticeably more detailed.

In this regard, the Tribunal notes, in particular, that the mitigating factors undoubtedly included the complainant's length of service within the organisation, his impeccable disciplinary record, his excellent contribution to the Court, which was manifested in particular by his performance appraisals, and the recommendations, support and commendations of many of his colleagues who attested to his integrity and his professionalism. To these could be added, in the light of the submissions and evidence on file, the complainant's cooperation in the investigation process and the lack of any evidence that the ICC had suffered harm as a result of the conduct of which he was accused in terms of the two contentious topics broached during the incident of 11 October 2021.

By contrast, the aggravating factors identified by the Prosecutor in the impugned decision consisted, as regards the length of the complainant's appointment, of his position within the organisation and his responsibilities, these being matters that could equally be regarded as mitigating factors. Meanwhile, the fact that the complainant had apparently received previous warnings about the need to follow the Prosecutor's instructions on obtaining authorisation prior to meetings with parties external to the organisation cannot be regarded as a factor sufficiently aggravating as to warrant a sanction of summary dismissal for serious misconduct, given that a lapse of this kind could only be classed as misconduct, and also since it had not led to any sort of sanction at the time.

Furthermore, while the complainant is said to have deliberately downplayed the seriousness of the matters alleged and this is regarded as a further aggravating factor, it must be noted, first, that the matters in question were certainly not as serious as the Prosecutor made them

out to be and, secondly, although the complainant did deny some of the words attributed to him by his colleague, Mr D., thus giving rise to conflicting versions of events, no malicious intent on the complainant's part can be inferred therefrom. Lastly, the fact that the complainant acknowledged that he had committed a blunder or made inappropriate remarks about the status of the investigation into [country X] cannot turn something that in reality could only be classified as misconduct into serious misconduct.

26. The Tribunal observes that the severity of the sanction imposed on the complainant appeared all the more disproportionate in view of the fact that, as already stated, the complainant had at the time been employed by the ICC for 18 years without the organisation ever having had reason to criticise his conduct (see for example, on this subject, Judgment 4457, consideration 20).

27. It follows that the second plea is also well founded.

28. As a result of the preceding analysis, the decision of the Prosecutor of the ICC of 8 July 2022 must be set aside, without there being any need to examine the other pleas raised in the complaint.

29. In his written submissions, the complainant, who held a fixed term contract due to expire on 7 March 2024 and who acknowledges that his division and his section have now been abolished, does not request to be reinstated in the organisation.

30. However, as a result of the impugned decision being set aside, the complainant is entitled to be compensated for all the material and moral injury caused to him by his unlawful summary dismissal.

31. As regards material injury, the Tribunal observes that the complainant was deprived, from 8 July 2022 onwards, of the remuneration which he would ordinarily have received until the end of the contract in force at the time of his summary dismissal. His claim under this head of damage for an amount equivalent to 20 months of the

salary, allowances and other financial benefits which he was receiving at the time of his summary dismissal is therefore well founded.

The complainant also claims an amount equivalent to six months' net salary, allowances and other financial benefits for the loss of the opportunity to continue in employment beyond the end of his contract. However, the merits of this claim for lost opportunity are substantially weakened by the fact that, as he himself recognises, his division and his section were abolished well before the end of his contract.

Lastly, the complainant claims the reimbursement of various school and medical fees for his dependent children, which he restricts in his written submissions to the period from 8 July 2022 to 7 March 2024, together with what he describes as a payment under Staff Rule 109.2(m)(vi), which in all likelihood corresponds to the termination indemnity equivalent to 12 months' basic salary to which he would have been entitled pursuant to Staff Rule 109.2(g) had it not been for his summary dismissal. However, the exact quantification of the sums claimed by the complainant under these heads is not clear from the wording of his requests nor from the evidence on file.

In respect of the complainant's claims for material injury, the ICC's written submissions do not include any argument that might assist the Tribunal in fixing an appropriate amount in the circumstances.

Therefore, the Tribunal considers that the whole of the material injury will be fairly redressed by awarding the complainant a sum equivalent to three years' remuneration, to be calculated on the basis of his last net salary and any kind of entitlement he was receiving when he left the organisation on 8 July 2022, without there being any need to deduct any earnings he may have received since then.

As this lump sum is to be regarded as compensation for the whole of the material injury suffered by the complainant, there is no need to add any amount for pension contributions associated with the remuneration in question, nor any interest for late payment.

32. The sanction of summary dismissal imposed on the complainant also caused him obvious moral injury in that, in itself, it seriously harmed his honour and his reputation. However, while the

complainant submits that this injury was aggravated by other factors, he has not established this in a meaningful way in the Tribunal's view. Furthermore, the complainant has also failed to establish that the length of the internal appeal procedure was unreasonable or excessive in the present case.

In the circumstances, the Tribunal considers that the moral injury suffered by the complainant will be fairly redressed by awarding him an indemnity of 30,000 euros.

33. The complainant also asks the Tribunal to order that all mention of the impugned decision, the investigation procedure and the disciplinary proceedings be removed from his official status file. It is appropriate to grant this request as far as the removal of the impugned decision of 8 July 2022 and all subsequent documents referring thereto is concerned. However, it is not appropriate to grant it as far as other documents are concerned, since they themselves do not reveal the existence of that decision as such.

34. As the complainant succeeds, he is entitled to the award of costs, which the Tribunal sets at 7,000 euros, being the sum claimed.

The organisation's request for the complainant to be ordered to pay the costs of the proceedings and all expenses incurred for the case, due to the allegedly vexatious and abusive nature of his complaint, is therefore dismissed. As stated in Judgments 4947 and 4948, also delivered in public this day, with regard to similar requests which the ICC has made mechanically in the context of all five complaints that the complainant filed in response to the measures taken following the incident of 11 October 2021, this request is clearly unjustified and unfounded, all the more so in this case given that the complaint relates to a challenge of a summary dismissal for serious misconduct.

DECISION

For the above reasons,

1. The decision of the Prosecutor of the ICC of 8 July 2022 is set aside.
2. The ICC shall remove from the complainant's official status file the impugned decision of 8 July 2022 together with all subsequent documents referring thereto.
3. The ICC shall pay the complainant material damages calculated as set out in consideration 31 above.
4. It shall pay the complainant moral damages in the amount of 30,000 euros.
5. It shall also pay him 7,000 euros in costs.
6. All other claims are dismissed.

In witness of this judgment, adopted on 5 November 2024, Mr Patrick Frydman, President of the Tribunal, Mr Jacques Jaumotte, Judge, and Mr Clément Gascon, Judge, sign below, as do I, Mirka Dreger, Registrar.

Delivered on 6 February 2025 by video recording posted on the Tribunal's Internet page.

(Signed)

PATRICK FRYDMAN JACQUES JAUMOTTE CLEMENT GASCON

MIRKA DREGER