

**114th Session**

**Judgment No. 3166**

THE ADMINISTRATIVE TRIBUNAL,

Considering the complaint filed by Mr H. S. against the International Federation of Red Cross and Red Crescent Societies (hereinafter “the Federation”) on 2 August 2010 and corrected on 6 December 2010, the Federation’s reply of 23 March 2011, corrected on 30 March, the complainant’s rejoinder of 4 July and the Federation’s surrejoinder of 5 October 2011;

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

Having examined the written submissions and disallowed the complainant’s application for hearings;

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

A. The complainant, a Swedish citizen born in 1943, was recruited in 1994 by the Federation’s Secretariat in Geneva. In 2000 he was appointed Senior Officer for Health in Emergencies within the Health and Care Department. On 1 January 2004 Mr E.-C. was appointed Head of that Department, becoming the complainant’s direct supervisor. During the course of 2005 tensions developed between the complainant and Mr E.-C. on a number of issues,

including management style and the strategy for the Public Health in Emergencies (PHE) Unit. In September 2006 the complainant was transferred out of the Health and Care Department and appointed Senior Adviser on PHE, reporting directly to the Director of the Policy and Communications Division.

On 29 April 2007 the complainant sent a letter to his line manager expressing concerns about Mr E.-C.'s management of the PHE Unit and alleging harassment by him. The complainant sent another letter voicing similar concerns and allegations to the Secretary General on 4 September 2007.

Meanwhile, in June 2007 Mr C.-P. was appointed "transition manager" of the Health and Care Department, and later in 2007 Mr G. became Division Director and the complainant's new supervisor. On 20 November 2007 the complainant wrote to Mr G. reiterating his concerns over Mr E.-C.'s management as well as his allegations of harassment.

In early 2008 a consultant was engaged to conduct an investigation into allegations of harassment and defamation by Mr E.-C. which had been brought by another member of the PHE Unit. In his final report, dated 1 April 2008, the consultant concluded that there was "no evidence of harassment, defamation or other acts, or of any motivation, that could be considered as incompatible with the Federation's Code of Conduct".

Between June 2008 and July 2009 Mr E.-C., Mr C.-P. and Mr G. all separated from service, and the complainant himself retired from the Federation on 31 August 2008 on reaching the mandatory retirement age of 65. Prior to his retirement he wrote to his supervisor (Mr G.) proposing that he continue working for the Federation at least on a part-time basis after his official retirement in order to complete or contribute to a number of ongoing projects. Upon his retirement, he reiterated his proposal to the new Head of the Health and Care Department. From February until August 2009 the complainant was engaged by the Federation under a consultancy contract.

By a letter of 11 May 2008 the complainant submitted a “formal complaint” against Mr E.-C. to the Head of the Human Resources Department (HRD), and on 20 August he wrote again, lodging a “formal complaint to initiate [a] grievance procedure” and alleging harassment and mobbing over a period of more than two years by Mr E.-C., supported by Mr C.-P. and Mr G. He asked that disciplinary procedures be initiated against these three officials on account of their misconduct, and he claimed moral and material damages, including for loss of future employment possibilities. He also asked for the publication of a document entitled *Public Health in Emergencies, Epidemic Control and Disaster Response: a Review of Past Experiences and Future Challenges*, which he had drafted at the request of his supervisor, but which had never been released. He also requested a review of the function and development of the PHE Unit, which he asserted had been seriously and deliberately damaged by the actions of Mr E.-C. and Mr C.-P.

The Head of HRD replied to the complainant on 13 October 2008, underlining that his allegations had been brought to her attention for the first time in his letter of 20 August. She also noted that the information presented in his letter was “not properly a grievance, but rather a report of a possible breach of the Code of Conduct”, which she would assess. She added that his claim for compensation for loss of future employment could not be entertained, since his retirement at the age of 65 had been fully in accordance with the Staff Regulations of the Federation, and that she would convey his other requests to the new Head of the Health and Care Department, as these were “managerial issues”. The complainant responded on 24 October 2008, reiterating his claims and recalling that he had on six occasions since 2006 shared in writing his concerns with his line managers and that on at least one occasion she – the Head of HRD – had been copied directly.

The Head of HRD replied to the complainant in a letter of 31 October 2008, stating that his allegations had already been substantially reviewed in the context of an internal investigation

initiated following similar accusations by another member of the Health and Care Department, and that she had found no new elements giving rise to a legitimate concern of misconduct by Mr E.-C. under the Code of Conduct, nor any evidence of misconduct by Mr C.-P. or Mr G.

On 13 February 2009 the complainant wrote to the Secretary General informing him that new evidence had emerged concerning his grievance and stating his intention to lodge an appeal before the Joint Appeals Commission (JAC). He also complained that he was still suffering from “blockages” to his attempts to continue working with the Federation. The Secretary General responded on 19 March 2009, recommending that the complainant meet with the Head of HRD in order to review any new information. This meeting took place on 25 May.

By a letter dated 1 July 2009 the Head of HRD notified the complainant of the closure of the grievance process, stating that she had not found any new elements supporting his allegations. With respect to his allegation that he was being prevented from obtaining consultancies with the Federation, she noted that he had been working since 20 February 2009 under a consultancy contract with the Federation.

In the meantime, the complainant lodged an appeal with the JAC on 18 June 2009, in which he claimed damages for harassment, defamation of character and mobbing by Mr E.-C., Mr C.-P. and Mr G., as well as for loss of professional opportunities. He requested that disciplinary sanctions be implemented against the three alleged perpetrators and that the functioning and development of the PHE Unit be reviewed and that his review document be published. On 31 March 2010 the JAC concluded that his allegations of harassment were not substantiated and, pointing out that “the Federation ha[d] already acted in [his] favour as [the three officials accused of harassment] ha[d] all subsequently had their contracts terminated”, it stated that it did not see the need for administrative relief for moral injuries. With respect to the review document, it noted that any work carried out by a member of staff or a consultant remained the property

of the Federation, which could use such document, or not, as it saw fit. The JAC recommended that the Secretary General dismiss the complainant's claims but acknowledge both his contribution to the work of the Federation and that his working environment during the last few years of his service had not afforded him "the consideration and respect that he had earned". The complainant impugns the Secretary General's decision of 6 May 2010 accepting those recommendations.

B. The complainant asserts that during his last three years of service he suffered harassment, mobbing and defamation, instigated mainly by Mr E.-C., who was supported at times by Mr C.-P. At a higher management level, Mr G. failed to deal with the deteriorating situation in the Health and Care Department and at times fuelled the harassment. The complainant points out that, under Guideline 3.1.1 of the Federation's Anti-Harassment Guidelines, "[m]anagers have a special responsibility to take early and swift action on potential and actual harassment". Despite frequent communications with management concerning the actions of Mr E.-C., no effective action was taken and the situation was allowed to deteriorate. He attributes his difficulties in obtaining consultancies with the Federation following his retirement to the damage done to his reputation by Mr E.-C. and the other two officials.

The complainant notes that the statement of the Head of HRD in her communication of 13 October 2008 that this was the first time his allegations had come to her attention is surprising in the light of his previous communications with his supervisors on the matter and his letter to her of 11 May 2008, which remained unanswered. The complainant also takes issue with her statements in her letters of 31 October 2008 and 1 July 2009 that the allegations which he had raised against Mr E.-C. had already been substantially reviewed in an independent investigation, since the investigation in question pertained to claims which were different from his claims.

The complainant contends that the JAC's deliberations were tainted by factual and procedural errors. In particular, the JAC failed

to assemble the requisite body of facts required for its deliberations. Moreover, it based its recommendations in part on the report drawn up by the consultant who reviewed the allegations against Mr E.-C. by another member of the PHE Unit. The complainant objects that he has never had access to this report, nor any opportunity to comment on its contents. Although he was informed by the Federation's Legal Counsel in September 2010 that the report in question "did not figure in the [JAC's] deliberations", the complainant submits that the Head of HRD had considered the report material to his formal complaints, as is clear from her letters of 31 October 2008 and 1 July 2009, and she might have disclosed information contained in that report during her interview by the JAC. In his view, this represents a significant breach of due process.

The complainant emphasises that the JAC's conclusion that relief had already been granted to him by the "termination" of the contracts of the three managers in question implicitly acknowledges the injuries he suffered. He submits that the Secretary General's decision, which relies on the review carried out by the JAC, is tainted with the same procedural and factual flaws, and represents in addition a mistaken conclusion drawn from the evidence. Furthermore, the procedural shortcomings of the investigations undertaken by the Federation regarding the allegations of harassment reflect not only incompetence on the part of management, but also a "strategy of self protection and self preservation"; as a result, the impugned decision is tainted with malice, prejudice, bias and ill will.

The complainant claims moral damages in the amount of 150,000 Swiss francs, material damages, including for lost future employment possibilities, of 110,000 francs, costs and interest of 10 per cent per annum on all amounts awarded, from 20 August 2008 until the date on which the Tribunal's judgment is fully executed. In addition, he requests that the Tribunal's judgment be circulated amongst all Federation staff members, and that the Federation expressly acknowledge that he is eligible and should be seriously considered for consultancies. He also requests the disclosure of a number of documents and oral hearings of witnesses, as well as such

other relief as the Tribunal determines to be just, necessary and equitable.

C. In its reply the Federation submits that the complaint is void of merit. It asserts that the complainant's allegations of harassment were duly assessed but were not found to merit the opening of a disciplinary process against the persons accused. It also asserts that there was no breach of its obligation vis-à-vis the complainant. In particular, it took measures in an effort to improve the situation and to create a more harmonious working environment for him, including his transfer out of the Health and Care Department, to which he agreed. Thereafter he no longer reported directly to Mr E.-C.

The Federation contends that the complainant's claim that it be ordered to acknowledge his eligibility for consultancies is outside the scope of jurisdiction of the Tribunal. In any case, his eligibility for potential future employment by the Federation has never been disputed. Indeed, following his retirement he was engaged under a consultancy contract in support of the Somali Red Crescent Society in 2009, which clearly shows that there is no malice or bias against the complainant in this regard.

Relying on the Tribunal's case law, the Federation submits that the circulation amongst its staff members of the Tribunal's judgment on this case would not be justified since there have been "no damaging communications which would warrant" such a measure.

D. In his rejoinder the complainant presses his pleas, emphasising that, despite the Federation's submissions to the contrary, there were indeed numerous breaches of the Code of Conduct, and the Federation's lack of action with respect to those breaches was to his detriment. In particular, the harassment was not stopped, and in addition he was subjected to retaliation.

The complainant insists that his transfer out of the Health and Care Department was not a result of the Federation's efforts to create a more harmonious working environment, but was rather a promotion which had been planned for several years.

The complainant contends that the fact that he obtained a consultancy contract in 2009 is not an indication that he is not being blocked from working with the Federation, since his engagement under that contract was initiated directly from the field.

He asserts that the non-extension of Mr E.-C.'s appointment "was a direct result of his breaches of the Code of Conduct", and that the latter's removal in this manner represented a failure on the part of the Federation to deal directly with the accusations against him, in particular the allegations of harassment. He adds that the appointments of the other two officials involved were also terminated for similar reasons, as was that of the Head of HRD.

E. In its surrejoinder the Federation maintains its position in full and rejects as unsubstantiated the various inferences of the complainant that certain colleagues, including the Head of HRD, were dismissed for misconduct or unsatisfactory service. The Federation underlines that, despite the continuing problems between the complainant and certain colleagues, in particular Mr E.-C., even after the complainant's transfer out of Mr E.-C.'s Department, no disciplinary measures were taken against the complainant, in part because of his long service and the fact that he was near retirement. It submits that the complainant has produced no evidence of any retaliatory acts against him. As for the consultancy contract which he obtained subsequent to his retirement, it was signed under the authority of the Secretary General, on behalf of the Federation.

#### CONSIDERATIONS

1. A feature of the complainant's last few years of employment was working in an environment of institutional discord. On 11 May 2008, shortly before his retirement, which took place on 31 August 2008 at the age of 65, the complainant lodged a "formal complaint" about the conduct of the Head of the Health and Care Department, Mr E.-C., with the Head of HRD. This complaint contained three elements. The first was that Mr E.-C. had intentionally, repeatedly and



irreparably tarnished the complainant's professional reputation and had defamed and harassed him. Mr E.-C. had, so the complainant alleged, done whatever he could to limit the use of the complainant's capacity at the Secretariat. The second element was that Mr E.-C. was destroying the Public Health in Emergencies (PHE) Unit's status and capacity. The third element was that Mr E.-C. was perpetuating in his work in the Federation a deficient management style. For present purposes, the first element of the formal complaint concerned an allegation of conduct adverse, in a direct way, to the complainant. However, the second and third elements concerned allegations of institutional damage arising from the conduct of Mr E.-C. that potentially only indirectly impacted on the complainant, as he perceived the situation within the Federation.

2. On 20 August 2008, i.e. a little over a week before his retirement, the complainant wrote a letter to the Head of HRD. This was said to be a "formal complaint to initiate grievance procedure against [Mr E.-C.] and [Mr G.] as set out in Staff Regulations". The essence of the complaint was encapsulated in its second paragraph:

"[Mr E.-C.]'s actions tarnished and continue tarnishing my reputation as a professional. He harmed and defamed me as a person, harassed me and blocked my work [...] [He] has maliciously and intentionally influenced [Health and Care Department] staff, some senior managers, especially [Mr G.] and [HRD], to corroborate. [...] I have suffered from serious collaborate targeting, not only during the past two years and at present, but this also seriously affects my future possibilities to work inside the Federation and with other humanitarian aid organisations. I am simply treated as the culprit, despite clear evidence of that I am a victim."  
(Underlining in original.)

In this letter the complainant sought compensation for the reputational and other damage caused by Mr E.-C.'s conduct and compensation for lost job opportunities in the future. The complainant also sought the release of a review he had undertaken of PHE so that it could be openly circulated, discussed and valued by its contents. He also demanded that the demise of the PHE Unit be carefully examined and that the Unit be "reconstructed and appropriately repositioned organisationally in order to function effectively".

3. It is unnecessary to detail how this letter of formal complaint was dealt with by HRD though it was not to the complainant's satisfaction. Importantly, when the complainant ultimately appealed to the Joint Appeals Commission (JAC) almost a year later in a letter addressed to the Secretary General dated 18 June 2009, he relied on the contents of this letter of 20 August 2008 as outlining, in part, the grievances he sought to have the JAC review by way of appeal. The other document identified by the complainant in his letter to the Secretary General as setting out his grievances was a letter dated 24 September 2008 (*recte* 24 October 2008) to the Head of HRD. In this letter the complainant expressed surprise that the latter was not aware of his grievances. The complainant, in substance, repeated much of what he had said in the earlier letter by way of grievance.

4. The JAC dealt with the complainant's appeal in the latter part of 2009 and early 2010. Its recommendations were made on 31 March 2010 and given to the Secretary General on 1 April 2010. The JAC noted the names of the individuals it had heard in oral hearings and explained why the professional demands on panel members in late 2009 and early 2010, together with one resignation of a panel member and extended sick leave of another, had resulted in the consideration of the appeal taking a long time.

5. The JAC noted, in its introductory remarks, two related aspects of the material it had available to evaluate the complainant's grievances. The first was that:

"The claims and proof that the appellant wished the panel to study have been repeated in many documents and emails written before and subsequent to the official appeal, which tends to add confusion to the appeal."

and the second was that:

"It is not easy to statute [sic] on harassment claims. In this instance, the panel has found it extremely difficult to make a judgement based on hearsay and claims, when few proven facts have been presented as evidence."

6. The JAC set out in point form the history of events central to the complainant's grievances. It summarised the complainant's claims, briefly referred to its methodology and then set out two aspects of the circumstances it had taken into consideration in making its findings. The first was that the complainant had an outstanding professional reputation, had had a long career both in the field and at the Secretariat, was respected by his peers and the National Societies and had had no conflict with previous line managers. The second was the major problems surrounding the Health and Care Department under the management of Mr E.-C. The JAC then identified four factors that "contributed to the irreconcilable differences that developed between [the complainant] and [Mr E.-C.]", namely divergent philosophies and work style, team dysfunction, poor or inappropriate communication and inadequate intervention by management. It then discussed in detail each of those factors.

7. After this discussion, the JAC set out various observations or conclusions under the heading "Conclusions". It first noted the complainant's allegations of misconduct involving harassment, defamation of character, mobbing, or serious collaborative targeting and sidelining by Mr E.-C., Mr C.-P. and Mr G. It also noted his allegation concerning loss of job opportunities and blockages as a result of this misconduct. It quoted the Federation's definition of harassment, which described conduct which could constitute harassment, and noted that the definition contained two elements. The first element was that the harassing conduct was unwelcome conduct. The second element was that the behaviour must "reasonably be expected or be perceived" to have the effect of creating an offensive working environment. Accordingly, so the definition continued, the behaviour must be considered as unreasonable by a person having access to all the circumstances of the harassment complaint.

8. The JAC then set out in ten numbered paragraphs its findings or observations. The first appears to be a finding that there was intimidation by Mr E.-C. and his behaviour was considered

offensive by the complainant. The second was a conclusion that Mr E.-C.'s actions interfered with the efficacy of the complainant's work and created an intimidating, hostile and offensive environment. The third addressed a question the panel posed for itself: "was there a reasonable explanation for [Mr E.-C.]'s conduct?". It should be noted that in July and August 2006 a Mr W. investigated and reported on the "dysfunctionality" of the Health and Care Department. Returning to the question the JAC posed, it noted that Mr W.'s review revealed that both "[Mr E.-C.] and [the complainant] were contributors to the problem and [the complainant's] attitude can be construed as 'a reasonable explanation for the conduct in question'".

9. The fourth paragraph contained a conclusion that there was no factual evidence presented to bear out the claim of personal harassment of the complainant by Mr E.-C. In the fifth, the JAC said there was no written correspondence proving the complainant's allegations that he was barred from meetings of the Health and Care Department. Similarly, in the sixth, the JAC expressed the general conclusion that it did have evidence that the complainant was sidelined by Mr E.-C. and Mr C.-P. though observed that the complainant's own attitude and criticism of Mr E.-C. had contributed to the situation. It noted the position at various points in time. In the seventh paragraph, the JAC effectively said that because of the complainant's self-identification as the Federation's champion of PHE, decisions taken by Mr E.-C. around PHE "were taken as personal decisions against [the complainant]".

10. In the eighth paragraph, the JAC observed that a staff member was obliged to respect management decisions however experienced and long-serving the staff member was. It further observed the complainant did not do so. In the ninth, the JAC expressed the view that the Federation had not blocked the complainant from working as a consultant. In the tenth paragraph, it observed that it was a matter for the Federation to determine how it would use a report on PHE prepared by the complainant.

11. After this discussion, the JAC expressed its conclusions on “due process” in two further numbered paragraphs. In paragraph 11, it noted that: “While there is no direct evidence to substantiate [the complainant’s] claims, there is clear evidence of a lack of management at all levels of a deteriorating situation between [the complainant] and [Mr E.-C.]” It went on to observe that the complainant’s first official complaint (in a letter of 29 April 2007 to his then line manager) carried serious allegations of misconduct which were never taken beyond discussion between the complainant and that line manager and were not followed up on by HRD. In the 12th paragraph, the JAC noted that there was a dispute about whether a copy of that letter had been sent to HRD. However, it observed that the complainant’s line manager should have ensured that his official complaint was examined by HRD because there were clear claims from the complainant that Mr E.-C. was trying to damage him as a person and a professional and to sideline him from his function.

12. The JAC then set out its recommendations. Of central importance was its recommendation in the following terms:

“The panel considers that the Federation has already acted in the [complainant’s] favour as [Mr E.-C., Mr C.-P. and Mr G.] have all subsequently had their contracts terminated, whereas the [complainant’s] contract was maintained until retirement despite the conflict. Therefore, the panel does not see the need for further disciplinary sanctions nor does it see the need for administrative relief for moral injuries.”

13. It made two other recommendations. It stated that it did not support the complainant’s demand that his review of PHE be published. However, it recommended that the Secretary General acknowledge to the complainant his contributions to the Federation’s strong profile in PHE and recognise the fact that:

“sadly, the working environment of the [complainant] during the last few years did not afford him the consideration and respect that he had earned through his auspicious career with the Federation.”

14. In a letter dated 6 May 2010 the Secretary General indicated to the complainant that he would follow the recommendations of the JAC. He concluded his letter by saying:

“It is regrettable that the climate that prevailed in the Health Department at the time of your retirement was not ideal. However, I would like to take this opportunity to reiterate that the Federation does value very much your long-standing contributions, and I’m convinced that there will be opportunities for the Federation to make use of your great expertise, as we already have surely done so.”

The decision of the Secretary General to accept the JAC’s recommendations is the decision impugned in this complaint to the Tribunal.

15. It is appropriate, at this stage, to set out the grounds of appeal identified by the complainant to provide some structure for the consideration of his case. They are:

- (a) He contends that he was harassed, mainly by Mr E.-C., which caused him serious injury, and which warrants the vitiation of the impugned decision and an appropriate award of actual and moral damages.
- (b) The decision reached by the Secretary General was procedurally flawed, being based almost entirely on a JAC report replete with mistakes of fact, and is therefore invalid.
- (c) The decision not to grant him administrative relief was based on mistaken conclusions drawn from the evidence available.
- (d) The Secretary General’s decision was tainted by malice, prejudice, bias, and ill will and is therefore invalid.

16. One obvious difficulty in this matter is that the JAC’s findings on the question of whether the complainant had been harassed as he alleged, are a little obscure. On one view, and probably the better view, in the first and second of the ten numbered paragraphs summarised earlier, it made a finding that Mr E.-C.’s conduct created an intimidating, hostile and offensive environment which was considered offensive by the complainant. That is a significant

step towards a finding that Mr E.-C. harassed the complainant and otherwise dealt with him inappropriately. It has been accepted by this Tribunal that ultimately the question of whether conduct constitutes harassment is a matter of fact involving consideration of all the circumstances (see Judgment 2553).

17. However, the JAC appears to have retreated from making the ultimate finding of harassment because the complainant's own attitude "can be construed as 'a reasonable explanation for the conduct in question'". The unexpressed assumption in this conclusion is that it is a legitimate response from a senior manager for the latter to intimidate a staff member who challenges, perhaps even inappropriately, his decisions. The test the JAC posed for itself by adopting the Federation's definition of harassment was to ask whether Mr E.-C.'s conduct was unreasonable from the perspective of a person aware of all the facts. It cannot be that intimidation by a senior manager is a reasonable response to a subordinate (including a senior subordinate), even if the latter exceeds his or her role by challenging decisions of the manager. In this respect, the JAC erred in its consideration of the complainant's grievances. There can, of course, be situations where a subordinate's refusal to accept the authority of his supervisor provides a complete explanation for the conduct of the supervisor. An example is found in the Tribunal's Judgment 2468. However, in this case the JAC's findings in paragraphs one and two are of conduct that cannot be explained away on this basis.

18. Moreover, the JAC made a finding of procedural irregularities in relation to the consideration of the complainant's grievances. It recognised, as this Tribunal has stated, that an organisation has a duty to its staff members to investigate claims of harassment (see Judgment 3071). This conclusion would have warranted consideration of a remedy. However, the JAC adopted the approach, accepted by the Secretary General, that the Federation had "acted in the [complainant's] favour" because the contract of Mr E.-C., amongst others, had not been renewed.

19. The non-renewal of Mr E.-C.'s contract did not involve a vindication of the complainant's rights. Ordinarily, the mechanism for addressing the violation of a person's rights is to award compensation to the aggrieved person or to make an order restoring the person to the position he or she would have been in but for the violation. The non-renewal of the contract of a person who had violated a complainant's rights may, of course, provide moral comfort to the complainant. However, the task of the Secretary General is to determine a response in relation to a grievance formally raised and established which remedies the effect of the proven violation of rights. The non-renewal of a contract, such as occurred in the present case, does not serve this purpose.

20. Apart from these matters, the wide-ranging allegations in the grounds of appeal are not made out on the material before the Tribunal. In particular, there is no evidence to support the serious allegation that the Secretary General's decision was tainted by malice, prejudice, bias, and ill will.

21. In adopting the JAC's reasoning, the Secretary General adopted a process of reasoning which was flawed and contradictory and which, as to remedy, was also legally flawed. In the circumstances, his decision of 6 May 2010 cannot stand. The appropriate remedy is to remit the matter to the Federation to consider whether the complainant had been harassed and, if so, whether compensation should be awarded for any violation of the complainant's rights. In addition, the Federation should consider whether compensation should be awarded for the failure of the Administration to investigate the complainant's grievances. This should occur unless a settlement is reached between the complainant and the Federation. The Tribunal notes the complainant is presently claiming 150,000 Swiss francs as damages. On the facts revealed in the material before the Tribunal, this amount is out of all proportion to any injury which may have been done to the complainant.



22. The complainant should be awarded his costs in the sum of 5,000 Swiss francs.

#### DECISION

For the above reasons,

1. The decision of the Secretary General of the Federation of 6 May 2010 is set aside.
2. The case is remitted to the Federation for a new decision in accordance with consideration 21 above.
3. The Federation shall pay the complainant 5,000 Swiss francs in costs.
4. All other claims are dismissed.

In witness of this judgment, adopted on 9 November 2012, Mr Giuseppe Barbagallo, Presiding Judge of the Tribunal for this case, Ms Dolores M. Hansen, Judge, and Mr Michael F. Moore, Judge, sign below, as do I, Catherine Comtet, Registrar.

Delivered in public in Geneva on 6 February 2013.

Giuseppe Barbagallo  
Dolores M. Hansen  
Michael F. Moore  
Catherine Comtet