Before: J !ge Te)esa B)a-o

Registry: Ge#e-a

Registrar: Re#. / . Va)gas / .

SIDDI0I

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Introduction

1. B9 a''+*:a$*o# f*+e! o# 1 3e() a)9 2018 5 $,e A''+*:a#$5 a fo)"e) E! :a$*o# Off*:e) ;NO21< 6o)=*#g *# $,e Bag!,*s O $'os$ Off*:e of $,e U#*$e! Na$*o#s I#$e)#a$*o#a+ C,*+!)e#>s 3 #! ;?UNICE3@< *# Afg,a#*s$a#5 :,a++e#ges $,e !e:*s*o# $o s ""a)*+9 !*s"*ss ,*" fo)"*s:o#! :$.

2. T,e a''+*:a$*o# 6as se)-e! o# $,e Res'o#!e#$ o# 2 3e() a)9 2018 a#! ,e s ("*$$e! ,*s)e'+9 o# A /a):, 2018.

&. O# 2& /a):, 2018 5 $,e Res'o#!e#$ f*+e! a!!*$*o#a+ !o: "e#$s a#! f*-e a !*o2)e:o)!*#gs of *#$e)-*e6s of 6*$#esses :o#! :$e! !)*#g $,e *#-es$*ga$*o# as)eB *)e! (9 $,e T)*(#a+ *# *$s O)!e) No. %0 ;GVA/2018< of 1A /a):, 2018.

C. A ,ea)*#g $oo= '+a:e f)o" 2& $,)o g, 2A /a9 2018.

A. Bo$, 'a)$*es s ("*$$e! a!!*$*o#a+ !o: "e#$s o# 2A a#! 28 /a9 2018 5 as o)!e)e! (9 $,e T)*(#a+ a$ $,e ,ea)*#g.

acts

%. O# 18 A')*+ 2010 5 $,e A''+*:a#$ Do*#e! UNICE3 o# a f*Ee!2$e)" a''o*#$"e#$ as a P)oDe:$ Off*:e) ;NO22< *# F #! 7 P)o-*#:e5 Afg,a#*s$a#.

G. I# Ja# a)9 201&5 $,e A''+*:a#$ se'a)a$e! f)o" $,e O)ga#*7a$*o# fo++o6*#g $,e a(o+*$*o# of ,*s 'os$. O# 1C A')*+ 201&5 ,e 6as)e2a''o*#$e! o# a f*Ee!2$e)" a''o*#$"e#$ as a# E! :a$*o# Off*:e) ;NO21< *# $,e UNICE3 Bag!,*s Off*:e5 s$*++ *# Afg,a#*s$a#.

8. O# 2& A')*+ 201G5 a "a#!a$e! 4a)"o#*7e! A'')oa:, $o Cas, T)a#sfe)s ;?4ACT@<s'o$:,e:=$oo='+a:e a#! :e)$a*#*))eg +a)*$*es :o#:e)#*#g $,e 'o$e#$*a+ "*s se of UNICE3 f #!s 6e)e)a*se! aga*#s$ se-e)a+ s$aff "e"(e)s *# Bag!,*s ')o-*#:e.

H. O# 1G / a9 201G5 /). A.E.5 $,e A''+*:a#$>s f*)s$)e'o)$*#g off*:e) ;?3RO@<5)e'o)$e! $o / s. A.F.5 Re')ese#$a$*-e5 UNICE3 Afg,a#*s$a# Co #$)9 Off*:e5 a#! /). D.4.5 fo)"e) C,*ef of O'e)a$*o#s5 $,a$?o# T es!a9 1% / a9 201G 6,*+e I,eJ 6as o# $,e 6a9 $o 0a+a*2Na6 I$,e A''+*:a#$J $o+! *# f)o#$ of / s. L. / . 6,o 6as :o"*#g fo) a "*ss*o# fo) s'o$:,e:= a#! o$,e) Bag!,*s :o++eag es $,a$ K*f ,*s :o#$)a:$ (e $e)"*#a$e! ,e 6*++ ()*#g a '*s$o+ a#! =*++ /). I / .1.J5 I /). A.E.J a#! so"e o$,e)s>@. /). A.E. a!!e! $,a$,e :o#s*!e)e! $,*s as a 'o$e#$*a+ $,)ea$ $o ,*s +*fe.

10. O# 11 J +9 201G5 $,e A''+*:a#$ 6as '+a:e! o# a!"*#*s$)a$*-e +ea-e 6*$, f ++ 'a9 'e#!*#g $,e *#-es$*ga$*o# (9 $,e Off*:e of I#$e)#a+ A !*$ a#! I#-es$*ga$*o#s ;?OIAI@< :o#:e)#*#g a++ega$*o#s of $,)ea$s $o =*++ ?fo) a# *#*$*a+ 'e)*o! of I$,)eeJ "o#$,s o) 'o# OIAI>s :o"'+e$*o# of *$s *#-es$*ga$*o# a#! a#9 s (seB e#$!*s:*'+*#a)9 ')o:ess5 6,*:,e-e) :o"es f*)s$@.

11. Be$6ee# J #e a#! A g s$ 201G5 OIAI *#-es$*ga$o)s *#$e)-*e6e! $,e A''+*:a#$ as 6e++ as se-e)a+ s$aff "e"(e)s. T,e s$aff "e"(e)s *#$e)-*e6e! 6e)e /). A.E. L $,e :o"'+a*#a#$ a#! $,e A''+*:a#$>s 3RO L /). / .1.5 4ea! of UNICE3 4e)a$ Mo#e Off*:e5 / s. E.F.5 C,*ef 3*e+! Off*:e5 4e)a$5 a#! $,)ee s$aff "e"(e)s 6,o a$$e#!e! $,e :o#-e)sa$*o# *# 6,*:, $,e a++ege! $,)ea$s 6e)e "a!e5 #a"e+9 /). E. / .5 P)og)a""e Ass*s$a#$5 /). / .R.5 C,*+! S)-*-a+ a#! De-e+o'"e#$ Off*:e)5 a#! / s. L. / .5 Se#*o) 3*#a#:e/A::o #$s Asso:*a$e.

12. I# A g s$ 201G5 $,e OIAI *ss e! *$s *#-es$*ga$*o#)e'o)$ e#$*$+e! ?A++ega$*o# of $,)ea$s $o =*++@5 f*#!*#g $,a$ $,e A''+*:a#$ "a!e a ?ge# *#e $,)ea$@ $o ?()*#g a g # $o $,e off*:e $o =*++ s$aff *f ,*s :o#$)a:$ 6as e#!e! 6*$, $,e IOJ)ga#*I7Ja$*o#@.

1&. O# A Se'$e"(e) 201G5 $,e A''+*:a#$ 6as #o$*f*e! of $,e :,a)ges aga*#s$,*"5 #a"e+9 ?*ss *#g $,)ea$ $o =*++ o$,e) s$aff "e"(e)s *# $,e Afg,a#*s$a# Co #$)9 Off*:e *# -*o+a$*o# of IsJ$aff I)Jeg +a$*o# 1.2 ;(< a#! IsJ$aff I)J +es 1.2 ;g< a#! 10.1 ;a< a#! :o#s$*$ $*#g "*s:o#! :$ #!e) C3/END/2012200A ID*s:*'+*#a)9 ')o:ess a#! "eas)esJ5 sIe:sJ. 1.C ;a<5 ;:< a! ;"<@.

1C. O# 2& O:$o(e) 201G5 $,e A''+*:a#$ f*+e! ,*s)es'o#se $o $,e :,a)ges !e#9*#g a++ a++ega$*o#s of "*s:o#! :$. 4e a+so 'o*#$e! $o # "e)o s *#:o#s*s$e#:*es *# $,e e-*!e#:e ga$,e)e! (9 $,e *#-es$*ga$o)s a#!)a*se! "*$*ga$*#g fa:$o)s.

1A. O# % No-e"(e) 201G5 $,e De' $9 EEe: $*-e D*)e:$o)5 / a#age"e#$5 UNICE35 *ss e! $,e :o#$es$e! !*s:*'+*#a)9 "eas)e5 f*#!*#g $,a$:

a. ?T,e)e *s :+ea) a#! :o#-*#:*#g e-*!e#:e $,a$ I$,e A''+*:a#$J $,)ea$e#e! $o =*++ o$,e) s$aff "e"(e)s *# $,e Afg,a#*s$a# Co #$)9 Off*:e *# -*o+a$*o# of IsJ$aff I)Jeg +a$*o# 1.2;(< a#! IsJ$aff I)J +es 1.2;g< a#! 10.1;a<@0

(. ?T,*s :o#s$*$ $es "*s:o#! :$ #!e) C3/END/2012200A5 sIe:sJ. 1.C;a<5 ;:< a#! ;"<@0 a#!

:. ?ITJ,e a'')o')*a$e sa#:$*o# *s !*s"*ssa+@.

!arties" su#$issions

1%. T,e A''+*:a#$>s ')*#:*'a+ :o#$e#$*o#s a)e:

Failure to properly establish the alleged statement or threat

a. T,e *#-es$*ga$*o# !*! #o$ es$a(+*s, $,e eEa:$ $,)ea$ a++ege!+9 "a!e (9 $,e A''+*:a#$ #o) *$s se)*o s#ess a#! #eB *-o:a+ :,a)a:$e)0

(. T,e e-*!e#:e :o++e:$e! :o#$a*#s *#:o#s*s$e#:*es (e$6ee# 6*$#ess s$a$e"e#$s)ega)!*#g :) :*a+ as'e:$s of $,e *#-es$*ga$*o#. T,)ee 6*$#esses 6,o $oo= 'a)$ *# $,e :o#-e)sa$*o#)e'o)$e! $,)ee !*ffe)e#$ -e)s*o#s. T,e9 a+so :,a#ge! $,e*) s$a$e"e#$s $,)o g,o $$*"es *#)es'e:$ of $,e se)*o s#ess of $,e $,)ea$0

:. T,e A!"*#*s$)a$*o# fa*+e! $o "a=e a :+ea) f*#!*#g as $o 6,e$,e) $,e A''+*:a#$,a! "e#$*o#e! a#9 s'e:*f*: #a"es0

Manipulation of evidence

!. T,e 6*$#ess s$a$e"e#$s !o #o$)ef+e:$ $,e es*"o#*es ')o-*!e! (9 $,e 6*$#esses a#! $,e9 6e)e e!*$e! (9 $,e *#-es$*ga$o)s0

e. T,e :o" '+a*#a#$5 6,o 6as #o$ ')ese#$!)*#g $,e :o#-e)sa$*o#5 !*! #o$

+. No -e)(a$*" s$a$e"e#$s 6e)e $a=e# f)o" $,e 6*$#esses e-e# *#)e+a$*o# $o $,e a++ege! $,)ea$0

". T,e 6*$#esses 6e)e B es$*o#e! *# 6)*$*#g (9 $,e *#-es$*ga$o) ')*o) $o $,e*) *#$e)-*e60

#. T,e !e:*s*o#2"a=e) 6as ')o-*!e! 6*$, a# *#:o"'+e$e *#-es$*ga$*o#)e:o)!0

Failure to consider mitigating and/or exonerating factors

o. T,e A!"*#*s$)a$*o# fa*+e! $o :o#s*!e) $,e A''+*:a#$>s 'oo) ,ea+$, a$ $,e $*"e of $,e *#:*!e#$ a#! $,e fa:$ $,a$,e ,a! D s$)e$)#e! f)o" s*:= +ea-e $,e !a9 (efo)e $,e *#:*!e#$0

Remedies

'. T,e A''+*:a#$)eB es$s $,e T)*(#a+ $o:

. Res:#! $,e :o#$es$e! !e:*s*o# a#! se$ as*!e $,e !*s:*'+*#a)9 sa#:$*o#0

**. Re*#sae ,*" o)5 *# $,e a+$e)#a$*-e5 $o (e 'a*! a s "eB *-a+e#$ $o $6o 9ea)s #e$ sa+a)95 (ase! o# ,*s sa+a)9 of No-e"(e) 201G0 a#!

***. A6a)! ,*" "o)a+ !a"ages fo) se)*o s -*o+a$*o#s of ! e ')o:ess.

1G. T,e Res'o#!e#$>s "a*# s ("*ss*o#s :a# (e s ""a)*7e! as fo++o6s:

a. T,e A''+*:a#$:o""*$$e! $,e a:$a++ege! s*#:e "+$*'+e 6*$#esses sae! $,a$,e $,)ea$e#e! $o =*++ o$,e) s$aff "e"(e)s 6*$, a g #0

(. T,e 6*$#esses s*g#e! $,e*) s$a$e"e#$s a$$es$*#g $o $,e f ++a#! :o"'+e$e $) $, of $,e*) :o#$e#$s0

:.

!. T,e A''+*:a#$>s a:$s !e"o#s$)a$e a# *#$e#$ $o *#$e)fe)e 6*$, $,e a(*+*$9 of s$aff "e"(e)s $o !*s:,a)ge $,e*) off*:*a+ f #:$*o#s a#! " s$ (e $a=e# se)*o s+9 *# $,e :o#$eE$ of $,e se:)*$9 s*$ a$*o# *# Afg,a#*s$a#. T,e9 $,e)efo)e a"o #$ $o "*s:o#! :$ as 'e) s$aff) +e 1.2;g<0

e. T,e sa#:$*o# 6as ')o'o)$*o#a$e $o $,e se)*o s#ess of $,e A''+*:a#$>s :o#! :$0

f. T,e ( )!e# $o ')o-*!e "e!*:a+ e-*!e#:e a(o $,*s ,ea+$, +a9s o# $,e A''+*:a#$ a#! ,e !*! #o$s ("*$s :, e-*!e#:e *# a $*"e+9 fas,*o#0

g. T,e a++ega$*o#s of ')o:e!)a+ f+a6s a)e 6*$,o $ "e)*$ s*#:e5 inter alia5 $,e A''+*:a#$,as #o$*!e#$*f*e! a +ega+ o(+*ga$*o# UNICE3 ,as #o$:o"'+*e! 6*$,0 a#!

,. T,e a''+*:a$*o# s,o +! (e !*s"*sse! *# *$s e#$*)e$9.

Consideration

Scope of judicial review

18. I# !*s:*'+*#a)9 :ases5 $,e A''ea+s T)*(#a+ ,as :o#s*s$e#$+9 ,e+! $,a$ 6,e#)e-*e6*#g a !*s:*'+*#a)9 sa#:$*o# *"'ose! (9 $,e A!"*#*s$)a$*o#5 $,e)o+e of $,e T)*(#a+ *s $o eEa"*#e $,e fo++o6*#g e+e"e#$s:

a. 8,e$,e) $,e fa:$s o# 6,*:, $,e sa#:$*o# *s (ase! ,a-e (ee# es$a(+*s,e!0

(. 8,e$,e) $,e es$a(+*s,e! fa:$s B a+*f9 as "*s:o#! :$0 a#!

:. 8,e$,e) $,e sa#:$*o# *s ')o'o)$*o#a$e $o $,e offe#:e ;see alden 201C2UNAT2C&% a#! *!* iabagate 201C2UNAT2C0&<.

1H. I$ *s a+so *#:"(e#$ o# $,e T)*(#a+ $o !e$e)"*#e *f a#9 s (s$a#$*-e o) ')o:e!)a+ *))eg +a)*$9 o::))e! ;see Maslamani 20102UNAT2028 a#! "allal 20122UNAT220G<5 e*$,e) !)*#g $,e :o#! :$ of $,e *#-es$*ga$*o# o) *# $,e s (seB e#$ ')o:e!)e.

hether the investigation was vitiated by procedural flaws

22. T,e A''+*:a#$)a*ses se-e)a+ *ss es)ega)!*#g $,e a'')o')*a$e#ess of $,e

2%. 3*)s$+95 $,e *#-es$*ga$o) as=e! !e$a*+e! B es$*o#s *# 6)*$*#g a(o $ $,e ?a++ega$*o#s of $,)ea$s "a!e (9 a UNICE3 s$aff "e" (e) *# $,e 4e)a$ f*e+! off*:e@ $o $,e !*)e:$ 6*$#esses ')*o) $o fo) "a++9 *#$e)-*e6*#g $,e ". T,e B es$*o#s 6e)e a+so

2H. 3o) eEa"'+e5 $,e 6*$#ess sae"e#$ of /s. L./. s$a$es $,a$ $,e A''+*:a#$ sa*! $,a$?,e 6o +! ge$ a g #a#! =*++ (e$6ee# s*E $o $e# 'eo'+e@. T,e a !*o2)e:o)!*#g of $,*s *#$e)-*e6 s,o6s $,a$ $,e 6*$#ess #e-e) "e#$*o#e! $,e 6o)! ?g #@. /o)eo-e)5 *# ,e) 6)*$$e# a#s6e) $o $,e *#-es$*ga$o)>s B es$*o#s5 !a$e! 2& /a9 201G5 /s. L./. !*! #o$ "e#$*o# a g #5)e'o)$*#g $,e A''+*:a#$>s sae"e#$ as fo++o6s: ?I 6*++ =*++ s*E $o se-e# 'e)so#s o) e*$,e)s *$ 6o +! (e I/). A.E.J5 I/). /.1.J5 1o o) a#9 o$,e)s.@

&0. A$ $,e ,ea)*#g5 $,e *#-es$*ga$o) a!"*$$e! $,a$ s,e *#:+ !e! $,e 6o)! ?g #@ *# $,e 6)*$$e# sae"e#$ of /s. L./. o# ,e) o6# *#*$*a$*-e5 (ase! o# a se:)*$9)e'o)$ $,a$ s,e ,a! o# f*+e.

&1. T,*s "a$$e) *s of se)*o s:o#:e)#. I$ *s $)*$e +a6 $,a$ a 6*$#ess s$a$e"e#$ " s$ (e a# a::)a$e a#! fa*$,f +)e:o)! of 6,a$ $,e 6*$#ess sa*! !)*#g $,e *#$e)-*e6. No o$,e) so):e of *#fo)"a$*o# "a9 (e se! $o :o"'+e$e $,e s$a$e"e#$5 6,a$e-e) *$ *s. T,e *#-es$*ga$o) " s$,a-e (ee# a6a)e of $,*s (as*: ')*#:*'+e of *#-es$*ga$*o#5 6,*:, :as$s !o ($s as $o ,e) *"'a)$*a+*$9 o)5 a$ $,e -e)9 +eas$5 ,e) :o"'e$e#:e $o a:$ as a# *#-es$*ga$o). No$ o#+9 $,e *#-es$*ga$o) *#a''o')*a$e+9 se! o $s*!e so):e of *#fo)"a$*o# $o ')e'a)e $,e 6*$#ess sae"e#$5 6,*:, *s *# *$se+f e#$*)e+9 #a::e'$a(+e5 ($$,e 6o)! ?g #@ $,a$ s,e a!!e! 6as of s*g#*f*:a#$*"'o)$ fo) $,*s *#-es$*ga$*o#5 as s,e a:=#o6+e!ge! ,e)se+f. 3)$,e)"o)e5 $,e se:)*$9)e'o)$$,a$ $,e *#-es$*ga$o) a++ege!+9 se! as a so):e $o *#:+ !e $,e 6o)! ?g #@ *# /s. L./.>s sae"e#$5 6,*:, 6*++ (e "o)e a"'+9 !*s: sse! +a$e)5 !oes #o$ e-e#)e'o)$ /s. L./.>s sae"e#$. T,*s "*s)e')ese#$a$*o# of $,e 6*$#ess es*"o#9 o# a f #!a"e#$a+ as'e:$ of $,e :ase)e#!e)s $,e 6)*$$e# sae"e#$ of /s. L./. e#$*)e+9 #)e+*a(+e a#! a+so affe:$s $,e)e+*a(*+*$9 of $,e o$,e) sae"e#$s :o++e:$e! *# s*"*+a) :*): "s$a#:es (9 $,e sa"e *#-es$*ga$o).

&2. T,*)!+95 $,e 6*$#ess sae"e#$s 6e)e #o$ $a=e# #!e) oa$,. A+$,o g, $,e)e *s #o fo)"a+)eB *)e"e#$ *# C3/END/2012200A $,a$ 6*$#ess s$a$e"e#$s (e :o++e:$e! !)*#g $,e *#-es$*ga$*o#5 $,*s *s a# *"'o)$a#$ e+e"e#$ $,a$ affe:$s $,e*))e+*a(*+*$9 s*#:e $,e oa$, "ea#s $,a$ $,e 6*$#ess *s a6a)e of $,e fa:$$,a$,e o) s,e *s #!e) $,e ! $9 $o $e++ $,e $) $, a#! $,e9 :a# (e ,e+!)es'o#s*(+e fo) $,e :o#$e#$ of $,e*) s$a$e"e#$s. T,e A''ea+s T)*(#a+)e'ea$e!+9 *#s*s$e! o# $,e *"'o)$a#:e $,a$

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)e'o)$ e#$*$+e! ?a++ega$*o#@. T,e)efe)e#:e $o $,ese a++ega$*o#s5 6,*:, ,a! #o$ (ee# *#-es$*ga$e!5 6as *))e+e-a#$ a#! e#$*)e+9 *#a''')o')*a$e as *$,a! $,e 'o$e#$*a+ $o #ega$*-e+9 *#f+ e#:e $,e !e:*s*o#2"a=e). I# $,*s :o##e:$*o#5 $,e T)*(#a+ #o$es $,a$ $,e I#-es$*ga$o) es*f*e! a$ $,e ,ea)*#g $,a$ $,e *#-es$*ga$*o# *#$o $,ese a++ega$*o#s of f)a ! a#! seE a+ eE'+o*a*o# 6as ?' $ o# ,o+!@ fo++o6*#g $,e A''+*:a#$>s !*s"*ssa+. T,*s "ea#s $,a$!es'*$e $,e fa:$ $,a$ $,ese se)*o s a++ega$*o#s 6e)e "e#$*o#e! *# $,e *#-es$*ga$*o#)e'o)$ aga*#s$ $,e A''+*:a#$5 $,e*) $) $,f +#ess 6as #e-e) es$a(+*s,e!.

&G. T,e A''+*:a#$ a+so $a=es *ss e 6*$, $,e fa:$$,a$$,e 6*$#ess *#$e)-*e6s5 eE:e'$ $,a$ of $,e A''+*:a#$5 6e)e !o#e)e"o$e+95 $,)o g, S=9'e f)o" Ne6 1o)=. T,e T)*(#a+ f*#!s $,a$ $,*s fa:$ per se !oes #o$:o#s$*$ $e a ')o:e!)a+ f+a6 s*#:e #o e-*!e#:e 6as a!! :e! $o !e"o#s$)a$e $,a$ $,*s 6a9 of :o"" #*:a$*#g 6*$, $,e 6*$#esses ,a! a)ea+ *"'a:$ o# $,e*) es*"o#*es. Pa)$*: +a)+95 6,*+e $,e A''+*:a#$ a++eges $,a$ *$ *s 'oss*(+e $,a$ /). E./. a#! /). F.R. 6e)e oge,e) 6,e# $,e9 6e)e *#$e)-*e6e! -*a S=9'e s*#:e $,e9 s*$ *# $,e sa"e off*:e5 $,*s 6as #o$ es$a(+*s,e! $,)o g, a#9 e-*!e#:e.

&8. T,e T)*(#a+ *s of $,e -*e6 $,a$ S=9'e 6as se! fo) $,e ')'ose of ')o:e!)a+ e:o#o"9 a#!5 "os$+*=e+95 ! e $o $,e s:a):*$9 of)eso):es a#!5 e-e# $,o g, *$ *s #o$ $,e *!ea+ 6a9 of B es$*o#*#g 6*$#esses5 *$!oes #o$ a"o #$ $o a#9 ')o:e!)a+ *))eg +a)*$9 #o) !oes *$:o#s$*$ $e a ()ea:, of $,e A''+*:a#$>s ! e ')o:ess)*g,$s.

&H. I# -*e6 of $,e a(o-e5 $,e T)*(#a+ f*#!s $,a$ $,e 6*$#ess sae"e#$s of $,e $,)ee !*)e:$ 6*$#esses of $,e *#:*!e#$5 6,*:, fo)" $,e (as*s of $,e :o#$es$e! !e:*s*o#5 a)e #o$ s ff*:*e#$+9)e+*a(+e a#! :)e!*(+e $o es$a(+*s, $,e a++ege! fa:$s *# a::o)!a#:e 6*$, $,e)eB *)e! s$a#!a)!.

AG. D)*#g $,e *#$e)-*e 6 5 $,e *#-es$*ga$o) $o+! $,e A' '+*:a#$ $,a$?$,e)e a)e $,)ee 'eo'+e 6,o sa*! $,a$ I,eJ $,)ea$e#e! $o =*++ ; P < a$

%1. / os$ *" 'o)$a#$+95 *$ a''ea)s f)o" $,e es*"o#9 of a++ $,e !*)e:$ 6*$#esses $,a$ $,e A''+*:a#$!*! #o$ "a=e a#9 s'e:*f*: a#! se)*o s $,)ea$ $o =*++ ($)a$,e) "a!e a s'o#$a#eo s a#! :o#f se! sae"e#$ 6,e)e ,e)efe))e! $o $,e =*++*#g of ?so"e@ s$aff "e"(e)s 6,*+e "e#$*o#*#g $,e #a"es of -a)*o s s$aff "e"(e)s *# $,e :o)se of $,e !*s: ss*o# a(o $$,e s'o$:,e:=eEe):*se. A+$,o g, $,e A''+*:a#$ se! $,e 6o)! ?=*++@5 ,*s s$a$e"e#$ 6as #o$:o,e)e#$ a#! s'e:*f*: e#o g, $o !e#o$e a# *#$e#$ $o eEe: $e a $,)ea$ $o =*++ a# *!e#$*f*e! *#!*-*! a+. T,e 6*$#esses :o#f*)"e! $,a$ $,e9 !*! #o$ $a=e $,e ?$,)ea$@ se)*o s+9 a#! !*! #o$)e'o)$ *$ $o $,e)e+e-a#$ a $,o)*$*es. P+a:e! *# *$s :o#$eE$5 $,e A''+*:a#$>s sae"e#$)a$,e) a''ea)s $o (e a# o $( )s$ $)*gge)e! (9 $,e A''+*:a#$>s fea) $,a$,*s e"'+o9"e#$ "a9 ,a-e (ee# a$ Deo'a)!9.

%2. T,e T)*(#a+ #o$es $,a$ $,e De' $9 EEe: $*-e D*)e:$o)5 / a#age"e#$5 UNICE35 a+so)e+*e! 'o# $,e 6*$#ess sae"e#$ of /). A.E. a#! $6o 'e)so#a+ se:)*$9)*s= assess"e#$s :o#! :$e! *#)es'e:$ of /). A.E. a#! /.1. $o :o#:+ !e $,a$ $,e $,)ea$ 6as se)*o s. T,e T)*(#a+ :o#s*!e)s $,a$ $,*s :o#s$*$ $es *))e+e-a#$ a#! #)e+*a(+e e-*!e#:e5 6,*:, s,o +! #o$,a-e (ee# $a=e# *#$o :o#s*!e)a$*o#.

%&. 3*)s$+95 $,e 'e):e'$*o# eE')esse! (9 /). A.E. a(o $ $,e se)*o s#ess of $,e $,)ea$,as #o ')o(a$*-e -a+ e as ,e 6as #o$ ')ese#$ 6,e# $,e A''+*:a#$ "a!e ,*s sae"e#$.

%C. Se:o#!+95 $,e 'e)so#a+ se:)*$9)*s= assess"e#$s a)e #o$ s ff*:*e#$+9)e+*a(+e $o (e se! as e-*!e#:e fo) a # "(e) of)easo#s. T,e

)es +$ of $,e s'o$:,e:= eEe):*se. T,e T)*(#a+ $,e)efo)e f*#!s $,a$ $,e A' '+*:a#$>s sae " e#$!e#o$es a# *#$e#$ $o *#$e)fe)e 6*$, $,e s'o$:,e:= eEe):*se :o#! :$e! (9 / s. L. / . a#! /). E. / .

%G. T,e T)*(#a+ 6*++ #o6 $)# $o :o#s*!e) 6,e$,e) $,ese fa:$s5 6,*:, *$ f*#!s

Proportionality of sanction

G2. P)s a#$ $o se:. C.& of C3/END/2012200A5 !*s:*'+*#a)9 "eas)es ?s,a++ (e ')o'o)$*o#a$e $o $,e #a$)e a#! g)a-*$9 of $,e s$aff "e"(e)>s "*s:o#! :$@.

G&. T,e A''ea+s T)*(#a+ ,as :o#s*s$e#$+9)e:a++e! $,a$?$,e !eg)ee of $,e sa#:$*o# *s s a++9)ese)-e! fo) $,e A!"*#*s$)a$*o#

a' ')o ')*a$e sa#:$*o# s,a++ (e ')efe))e! $o)e "a#!*#g $,e :ase $o $,e De' $9 EEe: $*-e D*)e:$o)5 / a#age "e#$5 UNICE35 $o $a=e a #e6 !e:*s*o# (ase! o# $,e fa:$s es$a(+*s,e! (9 $,e T)*(#a+. T,*s *s a+so *# $,e *#$e)es$ of a++ $,e 'a)$*es5 6,o a)e e#$*$+e! $o a# eE'e!*$*o s)eso+ $*o# of $,ese ')o:ee!*#gs. I$ *s a+so *# $,e *#$e)es$ of D !*:*a+ e:o#o "9 $o)eso+-e $,e "a$$e) *# a !ef*#*$*-e "a$$e)5 s (De:$ $o $,e 'oss*(*+*$9 of a# a' 'ea+.

GG.

8H. I# $,e *#s$a#$:ase5 $,e A''+*:a#$!*! #o$ ')ese#$ e-*!e#:e of a#9 s'e:*f*: !a"age5 "o)a+ o) "a$e)*a+5 fo) 6,*:, ,e)eB es$s :o"'e#sa$*o#. 8,e# B es$*o#e! (9 $,e Res'o#!e#$ a(o $ a#9 'oss*(+e +oss of *#:o"e fo++o6*#g $,e $e)"*#a$*o# of ,*s a''o*#$"e#$5 $,e A''+*:a#$)e+ :$a#$+9 a!"*$$e! $,a$,e ,as (ee# 6o)=*#g as a :o#$)a:$o) fo) a#o$,e) I#$e)#a$*o#a+ O)ga#*7a$*o# s*#:e 2G 3e() a)9 20185 ea)#*#g USD25G00 'e)"o#$,. T,e A''+*:a#$ 6as o)!e)e! $o ')o! :e,*s :o#$)a:$ ($,e !*! #o$:o"'+9. T,e T)*(#a+ $, s :o#:+ !es $,a$ #o f*#a#:*a+ +oss ,as (ee# es$a(+*s,e! fo) $,e 'e)*o! af$e) 2G 3e() a)9 2018 a#! $,a$ $,e A''+*:a#$>s +oss of *#:o"e 6o +! (e +*"*$e! $o $,e 'e)*o! (e$6ee# G $o 2G 3e() a)9 2018 $a=*#g *#$o a::o #$ $,e $,)ee2"o#$, s s'e#s*o# o)!e)e! (9 $,*s T)*(#a+.

H0. I# $,*s)es'e:$5 $,e T)*(#a+ s$)esses $,a$ *$s !e:*s*o# a(o-e $o)es:*#! $,e :o#$es$e! !e:*s*o# f ++9 :o"'e#sa$es $,e A''+*:a#$>s +oss of sa+a)9 as *$ e*$,e) e#$a*+s $,a$ $,e A''+*:a#$ 6*++ (e 'a*! ,*s sa+a)9)e$)oa:$*-e+9 $o G 3e() a)9 2018 #$*+ ,*s)e*#$eg)a$*o# o)5 *f $,e Res'o#!e#$ e+e:$s $o 'a9 $,e a"o #$ of :o"'e#sa$*o# *# +*e of)es:*ss*o#5 $,a$,e 6*++ (e 'a*! $,e eB *-a+e#$ of o#e29ea) #e$ (ase sa+a)9.

H1. A(se#$ a#9 a++ega$*o# a#! e-*!e#:e of a#9 a!!*$*o#a+ ,a)"$,a$ $,e A''+*:a#$ "a9 ,a-e s ffe)e! as a)es +$ of $,e :o#$es$e! !e:*s*o#5 ,*s)eB es$ fo) :o"'e#sa$*o# #!e) a)$. 10.A;(< of $,e T)*(#a+>s S$a$ $e " s$ (e)eDe:$e!.

Conclusion

H2. I# -*e6 of $,e fo)ego*#g5 $,e T)*(#a+ DECIDES:

a. T,e :o#ese! !e:*s*o# !*s"*ss*#g $,e A''+*:a#$ f)o" ,*s 'os*$*o# of E! :a$*o# Off*:e) *s ,e)e(9)es:*#!e! a#!)e'+a:e! (9 a s s'e#s*o# 6*$,o $ 'a9 fo) a $,)ee2"o#$, 'e)*o!0

(. S,o +! $,e Res'o#!e#$ e+e:$ $o 'a9 f*#a#:*a+ :o"'e#sa$*o# *#s$ea! of effe:$*-e+9)es:*#!*#g $,e !e:*s*o#5 $,e A''+*:a#$ s,a++ (e 'a*! a s "eB *-a+e#$ $o o#e29ea) #e$ (ase sa+a)95 (ase! o# ,*s sa+a)9 o# % No-e"(e) 201G0

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