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TRIBUNAL ADMINISTRATIF
ADMINISTRATIVE TRIBUNAL

Appeal No. 645/2020
(Riccardo PRIORE (II) v. Secretary General of the Council of Europe)

The Administrative Tribunal, composed of:

Ms Nina VAJIĆ, Chair,
Ms Françoise TULKENS,
Mr Christos VASSILOPOULOS, Judges,

assisted by:

Ms Christina OLSEN, Registrar,
Ms Eva HUBALKOVA, Deputy Registrar,

has delivered the following decision after due deliberation.

PROCEEDINGS

1. The appellant, Mr Riccardo Priore, lodged his appeal on 6 April 2020. It was registered the same day under No. 645/2020.

2. On 11 May 2020, the Secretary General forwarded her observations on the appeal.

3. On 8 June 2020, the appellant filed submissions in reply.

4. The hearing on this appeal was held by videoconference on 30 October 2020. The appellant was represented by Maître Bernard Alexandre, barrister at the Strasbourg Bar, while the Secretary General was represented by Mr Jörg Polakiewicz, Director of Legal Advice and Public International Law (Jurisconsult), assisted by Ms Sania Ivedi, legal adviser in the Legal Advice and Litigation Department.

THE FACTS

I. THE CIRCUMSTANCES OF THE CASE

5. The appellant is a permanent staff member of the Council of Europe.

6. He had previously lodged a first appeal to contest a decision by the Deputy Secretary General on the measures to be taken in respect of the appellant in the light of the conclusions and recommendations of the Commission against Harassment following a complaint of harassment against him.

7. The Tribunal set aside the impugned decision in a decision of 17 May 2018 (ATCE, Appeals Nos. 582/2017 and 583/2017 – Régis BRILLAT (III) and Riccardo PRIORE v. Secretary General of the Council of Europe). The Tribunal refers to its aforementioned decision of 17 May 2018 for further details regarding the facts that gave rise to this first dispute.

8. In its decision (paragraph 51), the Tribunal summarised the appellant's claims as follows, it being noted that the passage quoted below from the decision refers to the two joint appeals Nos. 582/2017 and 583/2017 in response to which the decision was issued:

> "51. The two appellants asked the Tribunal to annul the Deputy Secretary General's decision of 13 April 2017 and consequently any measures that had been taken or might be taken on the basis of that decision, including the decisions *ad personam* already taken by the Deputy Secretary General on 27 June 2017, namely:
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> a) annulment of the written warnings;
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> b) removal of the warnings from the appellants' personal files;
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> c) removal of the Commission's opinion from the appellants' personal files;
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> d) reinstatement of the second appellant in his post in the Department of the Social Charter (should the Deputy Secretary General have decided to remove him in the interim)."

9. With regard to the said acts relating to the annulled decision, the Tribunal ruled as follows (paragraphs 125 and 126), distinguishing between the first and second appellant, the latter being the appellant in the present case:

> "125. The Tribunal notes that any measure taken after the annulled act from which that measure stems ceases to be lawful by the mere fact of the Tribunal's decision. It is clear, therefore, that the four measures referred to in the previous paragraph cease to be lawful and must be set aside following the annulment of the decision of 13 April 2017.
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> 126. While, however, it is within the Tribunal's power to declare these four documents invalid in the case of the first appellant, it cannot strictly do so in the case of the second appellant, as unlike the first appellant, the second appellant did not ask for them to be annulled at the time of submitting his administrative complaint. And the legal framework for the proceedings is determined by the challenge raised in the administrative complaint. There being no public-policy grounds for the Tribunal to rule of its own motion, it is not necessary for it to adjudicate *ultra petita*. It will, however, be for the second appellant and the Organisation to draw the appropriate conclusions in this regard from the present decision."

10. Having declared the impugned act null and void, the Tribunal considered (paragraph 117 of the decision) that there was no need for it to rule on the numerous complaints concerning irregularities in the proceedings before the Commission against Harassment or on the merits of the Commission's opinion. It did find it necessary, however, to rule on the complaint concerning the irregularity in the composition of the Commission against Harassment which, in the Tribunal's view, was the most important of the complaints concerning procedure. In this respect, the Tribunal (paragraph 122) observed that at the time when it adopted its opinion, the Commission against Harassment had not been constituted in a manner consistent with Rule No. 1292 of 3 September 2010 on the protection of human dignity at the Council of Europe. However, since the opinion of the Commission against Harassment had not been challenged via the disputes procedure, the Tribunal ruled as follows (paragraph 128):

> "128. Here again, there being no public-policy grounds for the Tribunal to rule of its own motion, it is not necessary for it to adjudicate *ultra petita*. It will, however, be for the appellants and the Organisation to draw the appropriate conclusions in this regard from the present decision."

11. In executing this decision (Article 60, paragraph 6, of the Staff Regulations), the then Secretary General notified the Tribunal on 18 June 2018 of the implementing measures which he had taken pursuant to the decision. The letter sent to that effect stated, with regard to the appellant, that the opinion and recommendations of the Commission against Harassment of 7 March 2017, as well as the decision of the Deputy Secretary General of 13 April 2017, had not been entered in the appellant's personal administrative file.

12. After being invited by the Tribunal to submit comments on the observations made by the appellants concerning these measures implementing its decision, the Secretary General sent a letter dated 2 July 2018 in which he stated, on the one hand, that "the execution of the decision in no way requires the written warning issued [to Mr Priore] to be revoked" and that "as the opinion and recommendations of the Commission against Harassment have not been set aside by the Tribunal, there is no need to remove them".

13. On 4 November 2019, the appellant submitted an administrative request to the Secretary General (under Article 59, paragraph 1, of the Staff Regulations) in which he complained that he had not received effective protection against psychological harassment which he claimed to have suffered as a result of the actions of several persons in the Organisation. In his request, the appellant asked for a series of decisions and measures to be taken by the Secretary General, in particular pursuant to the aforementioned decision of the Tribunal:

> "- removal of the opinion that the Commission against Harassment had wrongfully adopted on 7 March 2017 (...) from all the Organisation's files and removal of any references thereto. (…)
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> - annulment *ab initio* of the disciplinary measure in the form of a 'written warning' issued against him by Decision No. 17180, adopted by the Deputy Secretary General on 27 June 2017 (...).
>
> - formal acknowledgement that the only valid assessments of [his] professional conduct for the years 2015, 2016 and 2017 are the official appraisal reports drawn up for the aforementioned years, as validated by the hierarchical superiors concerned (...).
>
> - consideration of the serious and substantial damage incurred (...) as a result of the harassment endured, with a view to compensation to be determined (...).

- in view of its substance, the guarantee that this request will be dealt with by the relevant offices of the Administration – in the first instance, the office of the Director of Human Resources which formally received it – with due impartiality and in compliance with the established rules, including (...) the Policy Statement by the Secretary General and the Deputy Secretary General on harassment [dated] 28 September 2010 (...)".

14. The appellant concluded his administrative request by asking for a meeting with the Secretary General on the grounds of the harassment he had allegedly suffered.

15. On 20 December 2019, acting on behalf of the Secretary General and in accordance with her instructions, the Director of Human Resources rejected the appellant's requests, citing the following reasons:

> "Regarding your request for the removal of the opinion adopted by the Commission against Harassment from all the Organisation's files and the removal of any references thereto, (...) as the Administrative Tribunal did not set aside [the] opinion and recommendations of the Commission against Harassment, (...) there is no ground for removing them.
>
> In any event, the Secretary General points out that she does not have the power to 'remove' an opinion issued by the Commission against Harassment. (…)
>
> As regards your request for the 'annulment' of the disciplinary measure issued against you, (...) this is not in any way required for the execution of [the Tribunal's decision] (...).
>
> You also seek formal acknowledgement that 'the only valid assessments' of your professional conduct for the years 2015 to 2017 are those contained in your official appraisal reports. In this connection, I would point out that the substance of these reports (...) did [not] call into question the professional qualities described therein. Your request in this respect is devoid of purpose, therefore.
>
> As for your assertion that you have been the victim of harassment, (...) you may wish, in accordance with Rule No. 1292, to refer the matter to the Commission against Harassment (...).
>
> You have requested compensation for the non-pecuniary damage suffered due to the time and resources you have had to devote to your defence, to the detriment of your personal and family life and with an adverse effect on your health. (...) The Tribunal ruled against awarding financial compensation for the non-pecuniary damage you claim to have suffered. Having carefully examined your administrative request (...), the Secretary General can find no evidence that would lead her to conclude otherwise."

16. The Director of Human Resources replied as follows to the appellant's request to be heard by the Secretary General:

> "You will be aware that, as Director of Human Resources, I am not responsible for managing the Secretary General's schedule. I would advise you to contact the Private Office of the Secretary General and the Deputy Secretary General to mutually agree on a suitable date for a meeting with the Secretary General".

17. On 16 January 2020, the appellant lodged an administrative complaint seeking annulment of the decision to reject his administrative request for lack of authority within the meaning of Article 59, paragraph 2, of the Staff Regulations, and on grounds relating to the psychological harassment which he claimed to have suffered since 2016 and in connection with which he likewise sought effective protection and appropriate compensation.

18. On 17 February 2020, the Secretary General rejected the administrative complaint, deeming it inadmissible and ill-founded. With regard to the appellant's claim that the Director of

Human Resources did not have the authority to respond to his administrative request, the Secretary General noted that:

> "It should be pointed out (...) that the Director of Human Resources is instructed by the Secretary General to respond to any administrative requests submitted under Article 59, paragraph 1, of the Staff Regulations. This is an established practice based on the mandate and responsibilities of the Directorate of Human Resources. (...) In any event, even assuming that the Director of Human Resources did not have the authority to respond to your administrative request – which is denied – it should be considered that the absence of a response from a person with the requisite authority to act was to have been deemed an implicit decision rejecting the request pursuant to Article 59, paragraph 1, of the Staff Regulations (...)".

19. With regard to the merits of the appellant's administrative complaint, the Secretary General stated that:

> "It should be noted that the facts and grievances described in the document submitted with your complaint – and which you present as relating to the harassment you allegedly suffered – are the same as the facts and grievances which you invoked during the contentious proceedings relating to Appeal No. 583/2017 to challenge the regularity of the entire proceedings before the Commission against Harassment and the action taken as a result of those proceedings. The Tribunal, however, has already ruled on this in full, in its decision of 14 May 2018.
>
> (…)
>
> The res judicata authority of decisions prevents you from requesting again, via the disputes procedure, the annulment of the same acts previously challenged in Appeal No. 583/2017. (…)
>
> It is not possible to circumvent the res judicata authority of decisions simply by reclassifying as harassment the substantive and procedural irregularities which you alleged before, in your previous appeal (...).
>
> For the rest, the essence of the present complaint is to challenge the execution of the Tribunal's decision of 14 May 2018, of which you were duly informed by the letters of 18 June 2018 and 2 July 2018.
>
> (…)
>
> Lastly, (...) it should be noted that pursuant to Article 58 of the Staff Regulations, written warnings only remain in staff members' personal administrative files for a period of two years. As this sanction was imposed on you by a decision of 27 June 2017, no record of it has appeared in your administrative file since 27 June 2019. As you are seeking the annulment of a sanction which no longer exists from an administrative point of view, your request is devoid of purpose and you have no existing interest that would allow you to lodge a complaint pursuant to Article 59, paragraph 2, of the Staff Regulations. Your complaint is therefore inadmissible on this ground as well.
>
> (…)
>
> Accordingly, the two requests for annulment made in your complaint are not only inadmissible and unfounded on the grounds that the Secretary General's predecessor respected the import of the Tribunal's decision, but also on those of lack of standing and late submission.
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> With regard to your request seeking formal acknowledgement that only official appraisal reports validated in accordance with Rule No. 1356 on Appraisal should be considered as official and valid assessments of your professional conduct, (...) the positive appraisals of your work still stand, regardless of any past proceedings against you, and the appraisal reports in question are still included, verbatim, in your personal administrative file. Your request in this respect is devoid of purpose, therefore.

> As regards your claims for compensation for the damage you allege to have suffered, the Secretary General notes that the alleged damage has not been established and that there is no reason to pay such compensation. Your claims for compensation, moreover, match, in part at any rate, the ones you submitted to the Tribunal before, in Appeal No. 583/2017 (...). And the Tribunal dismissed your claims on that score as well (...). This decision also constitutes res judicata."

20. The Secretary General also responded to the appellant's request to return to work, it being noted that the appellant was on sick leave at that time. She told him that he could apply for internal vacancies according to his preferences as to the post in question and the duty station, and that otherwise, appropriate measures would be taken in due course when his sick leave ended to assign him to a post matching his profile, in accordance with the needs of the Organisation.

21. On 6 April 2020, the appellant lodged the present appeal.

II. RELEVANT LAW

22. Article 59, paragraph 2, of the Staff Regulations concerns the lodging of administrative complaints and reads as follows:

> "2. Staff members who have a direct and existing interest in so doing may submit to the Secretary General a complaint against an administrative act adversely affecting them, other than a matter relating to an external recruitment procedure. The expression 'administrative act' shall mean any individual or general decision or measure taken by the Secretary General or any official acting by delegation from the Secretary General."

23. The lodging of an administrative complaint is provided for as a means of redress for any victim of sexual or psychological harassment who considers that effective protection has not been provided, in accordance with Article 14 of Rule No. 1292 of 3 September 2010 on the protection of human dignity at the Council of Europe, which reads as follows:

> "Persons who complain of being victims of sexual or psychological harassment and who consider that they did not receive effective protection may lodge an administrative complaint with the Secretary General under Article 59 of the Staff Regulations".

24. The actual meaning of the term "psychological harassment" is that which is given in Article 1, paragraph 3, of the aforementioned Rule No 1292, namely:

> " (...) any sustained, repetitive and/or systematic abusive conduct in the workplace or in connection with work in the form of behaviour, actions, gestures, spoken or written words, threats or working organisation methods which, intentionally or unintentionally, is prejudicial to a person's personality, dignity or physical or psychological integrity or causes a deterioration in the working environment or endangers that person's employment or creates a hostile, intimidating, degrading, humiliating or offensive environment. Psychological harassment may be the result of the behaviour of one or several persons".

25. The authority of the Tribunal's decisions and the rules of procedure regarding their enforcement which apply before the Tribunal are laid down in Article 60, paragraph 6, of the Staff Regulations, which reads as follows:

> "6. Decisions of the Administrative Tribunal shall be binding on the parties as soon as they are delivered. The Secretary General shall inform the Tribunal of the execution of its decisions within thirty days from the date on which they were delivered."

THE LAW

26. In his appeal, the appellant stands by the claims made in his administrative complaint of 16 January 2020. He asks the Tribunal to set aside the Secretary General's decision of 17 February 2020 and the earlier decision of 20 December 2019 dismissing the administrative request that the appellant had previously filed.

27. He also asks the Tribunal to order, or at least call upon, the Organisation to draw the appropriate conclusions from those decisions being invalid, by:

> a) setting aside the opinion issued by the Commission against Harassment on 7 March 2017 and any related documents;
> b) annulling *ab initio* the disciplinary measure taken against him on 27 June 2017;
> c) acknowledging that the only official assessments of his professional conduct are those contained in his appraisal reports validated in accordance with Rule No. 1356;
> d) acknowledging that he has been the victim of psychological harassment and granting him adequate effective protection on that account;
> (e) taking appropriate measures to facilitate a smooth and dignified return to work, at a level commensurate with his official appraisals, providing his doctor has deemed him fit for work.

28. The Secretary General invites the Tribunal to declare the appeal inadmissible and, in the alternative, ill-founded and to dismiss it.

I. SUBMISSIONS OF THE PARTIES

A. Admissibility of the appeal

The Secretary General

29. The Secretary General argues that the appeal is inadmissible on several grounds: the general principle of res judicata has been ignored, the requests the appellant made in his administrative complaint were out of time and he did not have standing.

30. The Secretary General first contends that the Tribunal, in its decision of 17 May 2018 in Appeal No. 583/201, has already ruled on the facts and grievances set out by the appellant regarding the proceedings before the Commission against Harassment and the disciplinary procedure against him.

31. The Secretary General refers here to international administrative case law according to which:

> "[T]he principle of 'res judicata operates to bar a subsequent proceeding if the issue submitted for decision in that proceeding has already been the subject of a final and binding decision as to the rights and liabilities of the parties in that regard'. The principle applies when the parties, the purpose of the suit and the cause of action are the same as in the earlier case (see Judgments 1216, under 3, and 1263, under 4)" (Judgment No. 2993 of the ILO Administrative Tribunal of 2 February 2011).

32. The parties to Appeal No. 583/2017 and the present appeal are the same. The purpose of the appeals is also identical (see paragraphs 8, 26 and 27 above and paragraph 51 of the decision of 17 May 2018), it being noted that when submitting the administrative complaint, the appellant requested *"[the] removal of the opinion (...) [of] the Commission against Harassment (...) from all the Organisation's files and removal of any references thereto*", whereas in his appeal, he is now requesting the annulment of that opinion and of any related documents. In the Secretary General's view, the only difference between the requests made in the present proceedings and those made in Appeal No. 583/2017 is the fact that the appellant is now asking to be assigned to a post according to any preferences he may express regarding the job, place of work and arrangements for returning to work, rather than to be reinstated in the Department of the European Social Charter. And lastly, the cause of action is the same, insofar as the purpose of both appeals is basically to establish the unlawful nature of both the opinion of the Commission against Harassment and the disciplinary measure taken against the appellant.

33. At the same time, the res judicata authority attached to the Tribunal's decision of 17 May 2018 cannot be circumvented simply by reclassifying as harassment the substantive and procedural irregularities which the appellant alleged in his previous appeal, thus enabling acts and procedures which have been submitted to the Tribunal before and definitively ruled upon to be constantly challenged. To support this argument, the Secretary General notes that none of the 21 incidents referred to by the appellant (pages 38 to 42 of his further pleadings) when seeking to establish that he had suffered harassment fits the definition of psychological harassment set out in Article 1, paragraph 3, of Rule No. 1292 on the protection of human dignity at the Council of Europe (see paragraph 24 above).

34. Consequently, the Tribunal having already definitively settled the dispute between the appellant and the Organisation, and as the present appeal does not concern new facts or new grievances, the principle of res judicata prevents the appellant from re-submitting the same claims as those made in Appeal No. 583/2017.

35. The Secretary General adds that, in accordance with Article 12 of the Statute of the Tribunal (Appendix XI to the Staff Regulations), no appeal lies from the Tribunal's decisions.

36. Furthermore, even supposing the present appeal did not conflict with the res judicata principle, the Secretary General maintains that the appellant's request to revoke the disciplinary measure in the form of a written warning that was issued on 27 June 2017 and to set aside the opinion of the Commission against Harassment of 7 March 2017 and any related documents was out of time.

37. In order to sustain her objection, the Secretary General refers to the thirty-day time limit set out in Article 59, paragraph 3, of the Staff Regulations, the need for stability in legal situations and the case law of the Tribunal (Appeal No. 312/2003 David Schmidt v. Secretary General,

decision of 5 December 2003, paragraph 33), the ILO Administrative Tribunal (Judgments No. 1106 of 3 July 1991, No. 955 of 27 June 1989, No. 752 of 12 June 1986 and No. 612 of 5 June 1983), the European Court of Human Rights with regard to compliance with the time limit of six months from the final domestic decision, and the Community judicature (Order of the Court of First Instance of the European Communities of 7 June 1991, Georges Weyrich v. Commission of European Communities).

38. With regard to the instant case, the Secretary General notes that in the letters of 18 June 2018 and 2 July 2018, the then Secretary General informed the Tribunal of the measures taken to execute the decision of 17 May 2018 pursuant to Article 60, paragraph 6, of the Staff Regulations, and that these letters were also sent to the appellant by the Registry of the Tribunal, in compliance with the principle of adversarial proceedings and in line with the Tribunal's practice in such matters. The appellant had thus been informed by virtue of those letters that, in accordance with the Tribunal's decision of 17 May 2018, the disciplinary sanction issued on 27 June 2017 would be upheld and that the opinion of the Commission against Harassment of 7 March 2017 would not be annulled or removed. Although the aforementioned letters were addressed to the Registry of the Tribunal and not to the appellant directly, the latter, as a party to the proceedings, was personally and directly concerned by the information regarding the execution of the decision. The appellant was therefore bound by the thirty-day time limit provided for in Article 59 of the Staff Regulations and that time limit commenced on the date on which the appellant was informed of the letters of 18 June 2018 and 2 July 2018. Consequently, the administrative complaint lodged by the appellant on 16 January 2020 seeking the annulment of those measures was manifestly out of time.

39. Lastly, with regard to the appellant's request to revoke the disciplinary measure in the form of a written warning that was issued to him on 27 June 2017, the Secretary General further contends that the appeal is also inadmissible for lack of standing. She notes in this respect that the sanction in question had already ceased to appear in the appellant's administrative file as of 27 June 2019, pursuant to Article 58 of the Staff Regulations, which provides that written warnings only remain in staff members' personal administrative files for a period of two years. As the sanction which the appellant is seeking to have annulled no longer exists from an administrative point of view, the appellant's request in that regard is devoid of purpose.

40. The Secretary General likewise contends that the appellant's request that the Organisation take appropriate measures for his return to work is inadmissible as he does not have a direct and existing interest. She notes that the interest to which the appellant lays claim here is a hypothetical future interest, since he was on sick leave from 25 August 2017 to 17 June 2018, and then from 3 September 2018 onwards, without any decision regarding assignment or any administrative act being taken in connection with his future return to work.

41. The Secretary General likewise contends that the appellant's request that only his appraisal reports be considered as official and valid assessments of his professional conduct is inadmissible because devoid of purpose, since no one has ever disputed the substance of those reports or the appellant's professional qualities and performance as described therein.

42. In the view of the Secretary General, therefore, the present appeal is inadmissible on those grounds.

The appellant

43. In his submissions in reply, the appellant contests the res judicata argument raised by the Secretary General. He points out that only the parties to the present appeal are the same as those in the appeal settled by the Tribunal in its decision of 17 May 2018, and submits that the purpose of the suit and the cause of action are not the same in the said appeals. The facts and grievances dealt with in Appeal No. 583/2017 concerned decisions taken by the Deputy Secretary General on the measures to be adopted in respect of the appellant on the basis of the conclusions and recommendations of the Commission against Harassment following a complaint of harassment lodged against him. The legal basis for the present appeal, however, is Article 14 of Rule No. 1292, as a result of the psychological harassment which the appellant claims to have suffered because of abusive conduct directed against him before, during and after the proceedings before the Commission against Harassment, between 2016 and the present. Similarly, the purpose of the present appeal differs from the purpose of Appeal No. 583/2017 in that it concerns the annulment of decisions which denied the appellant effective protection against the said harassment and the consequences, in particular in terms of compensation, arising from the harassment suffered and the denial of effective protection.

44. The appellant further notes that res judicata cannot be applied in this appeal because many of the facts referred to therein occurred after the Tribunal's decision, in particular as regards the Organisation's refusal to draw the appropriate conclusions from the Tribunal's decision of 17 May 2018 and the manner in which his administrative request, and then his administrative complaint, were dealt with in turn. As to the facts relied upon which predate the decision of 17 May 2018, the appellant contends that they were not the purpose of Appeal No. 583/2017 which gave rise to the decision: firstly, the appellant had not made a request therein for the opinion of the Commission against Harassment to be set aside; and secondly, with regard to the request for the annulment *ab initio* of the disciplinary measure of 27 June 2017, the grievance raised in the present appeal relates to the fact that the Organisation failed to draw the appropriate conclusions from the decision of 17 May 2018, despite the Tribunal formally inviting it to do so.

45. Next, the appellant challenges the relevance of the Secretary General's arguments on the alleged late submission of his complaint, on the ground that the letter of 18 July 2018 cited in support of those arguments was sent by the Jurisconsult to the Registrar of the Tribunal, at the latter's request, and not to himself. He further notes that his complaint cannot be regarded as out of time since it was based on the psychological harassment which he had suffered and which continues to this day – the letter of 18 July 2018 being but one instance in a long pattern of harassment.

46. As to the Secretary General's objection that the appellant had no interest in requesting that the disciplinary measure be declared null and void *ab initio* since it no longer appeared in his administrative file, the appellant states that the purpose of that request was to induce the Organisation to itself draw the appropriate conclusions from the Tribunal's decision of

17 May 2018 and acknowledge that the sanction imposed was null and void from the outset, something which the Organisation has refused to do. In any event, the appellant claims to have a direct and existing interest in bringing proceedings because of the psychological harassment he allegedly suffered and the lack of effective protection.

47. Lastly, the appellant reiterates his request for an acknowledgement that only validated appraisal reports may be deemed to constitute assessments of his professional integrity and challenges the Secretary General's argument that this claim is devoid of purpose as the substance of those reports has not been contested. He backs up this argument, noting that the Organisation did not solely rely on those reports as the only official assessment of his professional conduct, since it continued to refer to the Commission against Harassment's opinion despite the guidance provided in the Tribunal's decision of 17 May 2018. In this connection, he refers to the reply of 20 December 2019 to his administrative request and that of 17 February 2020 to his complaint, in which the Organisation also stated that the disciplinary measure had lapsed.

B. Merits of the appeal

The appellant

48. The appellant alleges that he has been the victim of psychological harassment within the meaning of Article 1, paragraph 3, of Rule No. 1292, which is applicable in this matter. He expands on what he means by this assertion, stating that he was exposed "in the workplace, and in connection with work, in a sustained, repetitive and systematic manner, (...) [to] behaviour, actions, gestures, spoken or written words, threats and working organisation methods which, intentionally or unintentionally, were prejudicial to his personality, dignity and physical and psychological integrity and caused a deterioration in the working environment, endangered his employment and created a hostile, intimidating, degrading, humiliating and offensive environment" (paragraph 131 of his further pleadings).

49. In support of that allegation, the appellant refers to a list of behaviours and actions (paragraph 132 of his further pleadings). That list provides the background to the facts and proceedings which led to the disciplinary measure taken against him (subparagraphs 1 to 15 of the said paragraph) and describes the various steps which the appellant took as a result, including legal action, by bringing the present appeal after his earlier administrative request and the ensuing administrative complaint were dismissed (subparagraphs 20 and 21 of the said paragraph). The other facts listed relate to the impact that the facts and behaviour in question had on the appellant's health and professional situation and to the attempts he made to escape from a situation of personal, social and professional isolation brought about by the long-term sick leave resulting from the facts in question (subparagraphs 17 to 19 of the paragraph in question). The Tribunal's decision in Appeal No. 583/2017 and the consequences of this decision are referred to in paragraph 132, subparagraph 16, of his further pleadings.

50. Firstly, the appellant contests the right of the Director of Human Resources to reply to the administrative request he lodged under Article 59, paragraph 1, of the Staff Regulations and Article 14 of the aforementioned Rule No. 1292 with a view to obtaining the effective protection to which persons claiming to be victims of psychological or sexual harassment are entitled under

that rule. He maintains that the Director of Human Resources wrote to him in her own name and notes that she only told him that she had been "instructed to respond" to his administrative request, without specifying that she was acting "on behalf of the Secretary General".

51. The appellant also contests the argument put forward by the Secretary General in the reply to his administrative complaint that, even assuming that the Director of Human Resources did not have the authority to respond to administrative requests, there would then have been an implicit decision to reject his administrative request. He describes this defence as a "legal ploy", whose only purpose was to try to circumvent the Director's manifest lack of authority to act.

52. The appellant then asserts that the Secretary General failed in her obligation to grant him the effective protection to which he was entitled as a victim of psychological harassment. He alleges that the Secretary General violated Article 14 of the aforementioned Rule No. 1292 and Article 40 of the Staff Regulations relating to the protection of staff members in their official capacity, as well as the general principles of law, which call on the Organisation to react promptly to a request to grant such protection. He notes in this regard that he was not contacted at any stage by the Secretary General or her Private Office, despite his requests for an interview and at the very least for his complaints to be heard, and that he could not even "obtain invitations to an interview of any kind from the persons who stated that they were ruling on his request and then his complaint, on behalf of the Secretary General, even though [he was claiming] psychological harassment and seeking protection under Article 14 of Rule No. 1292" (paragraph 118 of his further pleadings).

53. In his observations in reply, the appellant maintains his objection that the person responding to his administrative request had no authority to take such a decision and in this connection, repeats the arguments already set out in his further pleadings. He adds that if the Secretary General had ruled on his complaint by an implicit decision, that would have been wrong in itself, since it is contrary to the general principles of law and case law for a request for effective protection for psychological harassment to be rejected without a reasoned decision being provided.

54. The appellant further points out that, as regards evidence, the case law of this Tribunal (decision of 12 June 2019 in Appeal No. 593/2018 and decision of 11 June 2012 in Appeal No. 513/2011) requires the party accused of harassment to prove that the conduct in question does not constitute harassment, provided that the staff member claiming to be harassed has established the existence of facts which gave reason to presume that harassment had occurred. In the light of that case law and the facts alleged in support of his appeal, the appellant considers that the Secretary General has failed to comply with the burden of proof incumbent on her, so harassment must unquestionably be deemed to have occurred.

55. The appellant therefore reiterates the conclusions set out in his appeal.

The Secretary General

56. The Secretary General contends that according to well-established practice, she had instructed the Director of Human Resources to respond to any administrative requests submitted under Article 59, paragraph 1, of the Staff Regulations. She points out that this practice applies

to all staff and stems directly from the Director's mandate within the Organisation to manage staff members' employment and administrative situation. The Secretary General also stands by her position that in any event, even assuming the Director of Human Resources did not have the requisite authority to act – which she denies – the absence of a response from a person with that authority would have amounted to an implicit decision rejecting the request pursuant to Article 59, paragraph 1, of the Staff Regulations. In any event, the Secretary General considers that the question of authority is irrelevant, since the response in question was in any case a decision binding on the Organisation and provided the appellant with a reasoned decision which he could legally challenge.

57. With regard to the appellant's plea concerning the alleged failure to grant him effective protection as a victim of harassment, the Secretary General argues that this is inadmissible because the res judicata principle has been ignored (see paragraph 33 of this decision).

58. Lastly, with regard to the appellant's requests to return to work in another department of the Organisation, the Secretary General contends that the Tribunal has no power of injunction that would allow it make decisions about such requests. She notes that in the response to the appellant's administrative complaint, the appellant was informed that appropriate measures would be taken when his sick leave ended to transfer him to a post matching his profile, in accordance with the needs of the Organisation. She further notes that, when the time comes, the appellant will have an opportunity to express his views before the transfer takes effect, in accordance with Article 5 of the Regulations on appointments. Furthermore, during the oral proceedings, the representative of the Secretary General informed the Tribunal that the Directorate of Human Resources had offered the appellant a post in the Office of the Special Representative of the Secretary General on Migration and Refugees on his return to work and that he had accepted.

59. The Secretary General concludes by asking the Tribunal to declare the present appeal inadmissible and, in the alternative, ill-founded and to dismiss it.

II. THE TRIBUNAL'S ASSESSMENT

A. Admissibility of the appeal

60. The Tribunal must first of all consider the objections to admissibility. The various objections to admissibility raised by the Secretary General fall into three categories: res judicata, late submission and the lack of a direct and existing interest in bringing proceedings.

1. Res judicata

61. Insofar as the objection of res judicata raised by the Secretary General concerns the admissibility of the appeal, the Tribunal first notes that the decision of 17 May 2018 concerns the grievances raised by the appellant in Appeal No. 583/2017 and which he also submits in the present appeal. These grievances relate to the opinion of the Commission against Harassment and the disciplinary measure taken against him as a result, as well as the claims arising therefrom.

a. ***The request to set aside the opinion issued by the Commission against Harassment on 7 March 2017***

Appeal No. 583/2017

62. Accordingly, with regard to the opinion of the Commission against Harassment of 7 March 2017, of which the appellant is now seeking the annulment, the arguments he submitted in support of Appeal No. 583/2017 included "irregularities in the procedure before the Commission against Harassment" and "the erroneous assessment of the facts by the Commission" (paragraph 56 of the decision of 17 May 2018).

63. With regard to the first of these pleas – namely irregularities in the proceedings before the Commission against Harassment –the appellant alleged in Appeal No. 583/2017 that "the procedure before the Commission against Harassment failed to comply with the provisions of Rule No. 1292 of 3 September 2010 on the protection of human dignity at Council of Europe, and was substantively flawed because of the multitude of irregularities that marked it" (paragraph 60 of the decision). The claims made in this respect were based on three grounds relating to the "lack of recourse to non-contentious proceedings, the procedure before the Commission against Harassment and, lastly, failure to respect the rights of the defence" (paragraph 61 of the decision). These claims are set out in detail in paragraphs 62 to 75 of the decision.

64. With regard to the second plea in support of Appeal No. 583/2017 concerning the Commission against Harassment – namely the erroneous assessment of the facts – the appellant submitted that "inadequate reasons were given for the Commission's opinion and the Commission paid no attention to the objections raised regarding either the facts of the case or the legal aspects" (paragraph 76 of the decision).

Decision of 17 May 2018

65. In its decision of 17 May 2018, the Tribunal held that there was no need for it to rule on all of the "numerous complaints concerning irregularities in the proceedings before the Commission against Harassment or on the merits of the Commission's opinion" (paragraph 17), having upheld the plea raised by the appellant in Appeal No. 583/2017 alleging that the Deputy Secretary General lacked the authority to adopt a decision that was based on the opinion of the said Commission.

66. However, as has already been pointed out in the introduction to the present decision (paragraph 10), the Tribunal considered it "necessary [...] to rule on the complaint concerning the irregularity in the composition of the Commission against Harassment" which, in the Tribunal's view, was the most important of the complaints concerning procedure and concluded in this respect that at the time when it adopted its opinion, the Commission against Harassment had not been constituted in a manner consistent with Rule No. 1292 (paragraph 122 of decision of 17 May 2018). However, insofar as the appellant had made no request for the opinion of the Commission against Harassment to be set aside in Appeal No. 583/2017, the Tribunal concluded

that there were no grounds for it to rule of its own motion, nor for it to adjudicate *ultra petita*, while specifying that it would be for the appellant and the Organisation "to draw the appropriate conclusions in this regard from the present decision" (paragraph 128).

The present appeal

67. In the present appeal, the appellant reiterates the complaints previously raised in relation to the opinion of the Commission against Harassment and re-examines them, in similar terms, in sections II and III of his further pleadings, the first chapter being entitled "accusatory proceedings harming irreproachable Council of Europe staff members" (paragraphs 10 to 30 of the pleadings) and the second, "the adoption of a biased opinion with a view to applying unjustified sanctions" (paragraphs 31 to 40 of the pleadings). Concluding the arguments presented therein, the appellant considers that "the peremptory judgments that the [Commission against Harassment] expressed in its opinion of 7 March 2017 regarding Mr Priore (...) were not only abusive, they were expressed in a hostile and offensive manner that is at odds with the mandate of the [Commission against Harassment] as enshrined in Rule No. 1292 of 3 September 2010 on the protection of human dignity at the Council of Europe" (paragraph 46 of the further pleadings).

b. *The request for the annulment* ab initio *of the disciplinary measure taken against the appellant on 27 June 2017*

Appeal No. 583/2017

68. In Appeal No. 583/2017, the appellant requested that the decision of 27 June 2017 to issue him with a written warning be set aside and removed from his personal file, at the end of the joint further pleadings he submitted to the Tribunal in Appeal No. 583/2017, together with the appellant in Appeal No. 582/2017. This request followed indirectly from the one to set aside the Deputy Secretary General's earlier decision of 13 April 2017 on the measures to be taken in the light of the opinion of the Commission against Harassment.

Decision of 17 May 2018

69. After declaring the impugned decision null and void, the decision of 17 May 2018 noted that any measure taken after the annulled act from which that measure stemmed would cease to be lawful by the mere fact of the Tribunal's decision. It was clear, therefore, in the Tribunal's view, that the four measures relating to the impugned decision specifically referred to in the appellants' further pleadings had ceased to be lawful and must be set aside following the annulment of the decision of 13 April 2017 (paragraph 125 of the decision).

70. However, while it was within the Tribunal's power to declare these four documents invalid in the case of Appeal No. 582/2017, it ruled that it could not strictly do so in the case of the appellant, as unlike the appellant in Appeal No. 582/2017, he had not asked for them to be annulled at the time of submitting his administrative complaint (paragraphs 125 and 126 of the decision). This point was mentioned earlier in paragraph 9 of the present decision.

The present appeal

71. In the present appeal, the appellant explains that his request for the annulment *ab initio* of the disciplinary measure stems from the Organisation's refusal to act upon the decision of 14 May 2018. It will be recalled that, after having decided that the appellant's disciplinary measure should be annulled, the Tribunal had invited the Organisation to "draw the appropriate conclusions in this regard from the present decision".

Conclusion

72. In view of the above, and having compared the complaints submitted by the appellant in the present appeal with those presented in Appeal No. 583/2017, the Tribunal is compelled to note that the complaints in the two appeals were of a similar, if not identical, nature, as both sought to secure firstly the annulment of the opinion adopted by the Commission against Harassment on 7 March 2017 and secondly the annulment *ab initio* of the disciplinary measure of 27 June 2017. In both cases, the claims submitted by the appellant in his two appeals were identical in substance – both being directed at challenging the regularity of the entire proceedings before the Commission against Harassment and any action taken as a result of those proceedings – and, in any event, they were settled by the decision of 17 May 2018. That being so, the Tribunal considers that the appellant is debarred from resubmitting such claims in the present proceedings, as this conflicts with the res judicata principle.

73. The Tribunal points out that the principle of res judicata precludes a further ruling on claims identical in substance to claims on which the Tribunal has already passed judgment (Judgment No. 574 of the ILO Administrative Tribunal of 20 December 1983). Not only does this principle "[operate] to bar a subsequent proceeding if the issue submitted for decision in that proceeding has already been the subject of a final and binding decision as to the rights and liabilities of the parties in that regard", but it also "extends to bar proceedings on an issue that must necessarily have been determined in the earlier proceeding even if that precise issue was not then in dispute" (Judgment No. 2316 of the ILO Administrative Tribunal of 4 February 2004).

74. The Tribunal further notes that the principle of res judicata is also intended to prevent the parties, once judgment has been handed down, from endlessly bringing proceedings before the same court or another court in order to finally obtain a decision in their favour (Judgment No. 467 of the ILO Administrative Tribunal of 28 January 1982). In the present proceedings, the appellant acknowledges that he did not formally lodge an administrative complaint against the decision of 27 June 2017 to issue him with a written warning, either as a precautionary measure in his first administrative complaint of 12 May 2017 (which therefore predated the decision in question), or subsequently, when he became aware of that decision. Accordingly, with regard to his administrative complaint of 12 May 2017, the appellant indicates that he considered that this complaint in any event also covered the said warning (paragraph 59 of the further pleadings). He made a similar statement later when, on 25 July 2017, he sent a memorandum for the attention of the Deputy Secretary General to contest this sanction, while specifying that he did not wish to challenge it by filing an administrative complaint (Appendix 36 to the further pleadings).

In addition, the appellant cannot submit for the first time, in the present proceedings, a request which he neglected to make previously in Appeal No. 583/2017.

2. Late submission

75. The Tribunal acknowledges that the appellant's requests for the annulment of the opinion of the Commission against Harassment and of the disciplinary measure imposed on him may be regarded as requests relating to the manner in which the decision of 17 May 2018 was executed. The Tribunal refers in this respect to the appellant's statement that the facts contested by means of these applications specifically concern the action taken by the Organisation on that decision and, more precisely, "the Organisation's refusal to draw the appropriate conclusions, as expressly invited by the Administrative Tribunal, on essential aspects of the decision rendered" (paragraph 123 of the further pleadings).

76. The Tribunal notes that the relevant provisions in the applicable texts concerning the execution of the Tribunal's decisions are those set out in Article 60, paragraphs 6 and 7, of the Staff Regulations. While paragraph 7 concerns the compensation that may be paid to appellants in the event of internal difficulties within the Organisation preventing the execution of an annulment decision, paragraph 6 establishes the binding nature of the Tribunal's decisions and places an obligation on the Secretary General to inform the Tribunal of the execution of its decisions within thirty days from the date on which they were delivered.

77. It was pursuant to this provision that by letter of 18 June 2018 the Jurisconsult informed the Registry of the Tribunal of the measures taken regarding the execution of the decision of 17 May 2018. The letter sent for that purpose stated that "the opinion and recommendations of the Commission against Harassment of 7 March 2017, as well as the decision of the Deputy Secretary General of 13 April 2017, have not been entered in the [appellant's]personal administrative files". This letter made no mention of the written warning issued to the appellant.

78. In compliance with the principle of adversarial proceedings and in line with the Tribunal's practice in such matters, the appellant was informed by the Registry of the Tribunal of the content of that letter and given the opportunity to submit his observations on the matter, which he did by letter of 26 June 2018 addressed to the Registry of the Tribunal. In that letter, the appellant noted that the measures notified by the Jurisconsult did not include annulment of the disciplinary sanction concerning him and stated that "it would therefore be appropriate for the Secretary General to draw the appropriate conclusions from the Tribunal's decision and officially inform the appellants of the respective annulment of the disciplinary sanctions concerning them". Similarly, the appellant noted that, in addition to removing from his personal administrative file the opinion of the Commission against Harassment, its recommendations and the Deputy Secretary General's decision, the Organisation must "also confirm it had effectively removed these documents and all preparatory documents following the annulment ordered by the Tribunal". The appellant concluded his letter by stating that he would reserve the right to lodge a fresh appeal with the Tribunal if the decision were not implemented in good faith by the Secretary General.

79. Having been informed of this letter by the Registry of the Tribunal, the Jurisconsult replied to the appellant's comments by letter of 2 July 2018. This letter clarified that the decision of 17 May 2018 in no way required the written warning issued to the appellant to be revoked or removed from his personal administrative file. Similarly, it was made clear that as the opinion and recommendations of the Commission against Harassment had not been set aside by the Tribunal, there was no need to remove them. The appellant was again informed by the Registry of this second letter by e-mail dated 2 July 2018.

80. The Tribunal notes, in the light of the foregoing, that it cannot be gainsaid that the appellant was made aware of the arrangements whereby the Organisation intended to execute the decision of 17 May 2018, through the exchange of correspondence that took place, via the Registrar, pursuant to Article 60, paragraph 6, of the Staff Regulations.

81. The question which then arises for the Tribunal is whether, for all that, it is possible to consider that the communications from the Jurisconsult to the Registry of the Tribunal, of which the appellant was made aware as part of those proceedings, constituted an "administrative act adversely affecting the appellant" giving rise, in accordance with Article 59, paragraph 2, of the Staff Regulations, to the mandatory time-limits laid down therein for contesting it.

82. The Tribunal points out that pursuant to this provision, "[t]he expression 'administrative act' shall mean any individual or general decision or measure taken by the Secretary General or any official acting by delegation from the Secretary General". ILOAT case law on the subject specifies that a decision means "any act by the defendant organisation that has an effect on an official's rights and obligations" (Judgment No. 1203 of the ILO Administrative Tribunal of 15 July 1992) and which is binding on the organisation when it is notified to the official "in the manner prescribed by the organisation [...] [or in] some other form as long as it can be inferred from it that the organisation intended to notify the decision" (Judgment No. 2122 of the ILO Administrative Tribunal of 30 January 2002).

83. In the absence of other indications in the applicable statutory and regulatory texts, the Tribunal's view is that the exchange of correspondence carried out pursuant to Article 60, paragraph 6, of the Staff Regulations may be regarded as having served as a procedure for notifying the appellant of the decisions adopted on the basis of the decision on his appeal.

84. Accordingly, the Tribunal considers that the mandatory time-limits laid down in Article 59, paragraph 3, of the Staff Regulations for lodging an administrative complaint began on the date of that notification. The Tribunal points out that the relevant provisions of that article provide that the complaint must be lodged "within thirty days from the date of publication of the act concerned" and, in any event, "if the act has been neither published nor notified, within thirty days from the date on which the complainant learned thereof" (subparagraphs b and c of the aforementioned paragraph).

85. This conclusion is in keeping with the Tribunal's case law which allows the execution of a decision to be challenged by means of an administrative complaint, followed, where appropriate, by an appeal to the Tribunal.

86. By submitting an administrative request on 4 November 2019, the appellant was not relieved of the obligation to comply with the time-limit which applied to him from the time he was notified of the impugned decision. The same is true of the appellant's administrative complaint lodged on 16 January 2020, i.e. well after the statutory thirty-day time-limit had elapsed. In fact, through his actions since November 2019, the appellant has been attempting to secure a fresh decision by the Secretary General contrary to the letter of 18 June 2018, a letter on which the appellant also had occasion to submit observations on 26 June 2018 without formally contesting it. Through all of his claims, including the present appeal**,** the appellant is essentially complaining of a failure to fully execute the decision of 18 May 2018. The fact, is, however, that an administrative request submitted after the expiry of the time-limit for lodging a complaint is inadmissible and cannot extend that time period (see Judgment No. C-10/67 of the ECJ of 22 June 1967, Moulijn v. Commission of the EEC (ECR 1967, p. 149).

87. Consequently, the objection to admissibility on grounds of late submission raised by the Secretary General must be upheld and the appellant's requests for the setting aside of the opinion of the Commission against Harassment, and for annulment *ab initio* of the disciplinary measure imposed on him, must be declared inadmissible.

88. In reaching this conclusion, the Tribunal is aware of the appellant's plea alleging that he suffered psychological harassment and that the Organisation failed in its obligation to provide him with effective protection in that regard. For reference, this is the plea put forward by the appellant to argue that the suit and the cause of the present appeal and the previous Appeal No. 583/2017 were not the same and that, consequently, the objections to admissibility on the grounds of failure to comply with the res judicata principle and of late submission cannot be relied on against him (paragraph 43 of this decision).

89. While the Tribunal pays the utmost attention to allegations of harassment made under Rule No. 1292, it must nevertheless note that in the present case the facts and complaints relied on by the appellant in support of this allegation are essentially the same as those that gave rise to his previous appeal, to which must be added complaints arising from the responses given to the various steps taken by the appellant prior to lodging the present appeal. The Tribunal refers in that regard to the appellant's statements that the replies to the administrative request and complaint which preceded his appeal contributed to the harassment which he suffered and/or were an aggravating factor in that harassment.

3. Lack of a direct and existing interest in bringing proceedings

90. As regards the appellant's request for the annulment of the disciplinary sanction in the form of a written warning, the Tribunal is compelled to note that no record of this sanction has appeared in his administrative file since 27 June 2019. That document was removed from the appellant's administrative file pursuant to Article 58 of the Staff Regulations, which provides that written warnings only remain in staff members' personal administrative files for a period of two years.

91. The Tribunal is therefore compelled to conclude that the appellant's claim is devoid of purpose since that document has now ceased to exist, and the appeal based on that complaint is inadmissible for lack of a direct and existing interest in bringing proceedings.

92. The Tribunal arrives at the same conclusion with regard to the appellant's request for appropriate measures to be taken for his return to work. In the course of the oral proceedings, the Tribunal was informed by the representative of the Secretary General, without this information being contested by the appellant, that the latter had agreed to return to work in a post in the Office of the Special Representative of the Secretary General on Migration and Refugees. The appellant's request for appropriate measures to be taken to facilitate a smooth and dignified return to work, at a level commensurate with his official appraisals, once he has been deemed fit for work by his doctor, must therefore be considered null and void for lack of purpose, and the appeal based on this ground must be declared inadmissible.

93. Lastly, with regard to the appellant's request seeking formal acknowledgement that only official appraisal reports validated in accordance with Rule No. 1356 on Appraisal should be considered as official and valid assessments of his professional conduct, the Tribunal points out that under Article 60 of the Staff Regulations, it is empowered only to set aside the act complained of. The case law of this Tribunal is clear as to the impossibility of having a judgment aimed at obtaining such a finding (ATCE, formerly ABCE, Appeal No. 179/1994 - Fuchs v. Secretary General, decision of 12 December 1994) and/or to impose behaviour on the Secretary General (Appeals Nos. 474/2011 and 475/2011 Françoise PRINZ (I) and Alfonso ZARDI (I) v. Secretary General, decision of 8 December 2011).

94. In the Tribunal's view, it is however important to bear in mind the aim and general purpose of the appraisal exercise, as governed by Rule No. 1356 of 12 March 2014 on appraisal, which is to "clarify the work of Secretariat members by establishing clear objectives, assess the results they have obtained towards the achievement of these objectives (...). The appraisal is intended as an objective review of the past year's work; it also provides an opportunity for fixing objectives for the following year". Having clarified this point, the Tribunal notes that the substance and the import of the appellant's appraisal reports drawn up during the period concerned by the present proceedings (from 2016 to 2018) are not contested by the Secretary General, who indeed openly acknowledges that the appellant's performance in 2016 and 2017 exceeded the requirements of his duties (paragraph 59 of the Secretary General's observations).

95. Consequently, the objection raised by the Secretary General to this request by the appellant must also be accepted, and the appellant's appeal is inadmissible as regards this complaint.

96. The Tribunal does not consider it necessary to examine the appellant's complaints on the merits, the present appeal being in any case inadmissible for the various reasons set out above.

III. CONCLUSION

97. It follows that this appeal must be declared inadmissible.

IV. CLAIMS FOR DAMAGES AND COSTS

98. In his further pleadings, the appellant makes several claims for compensation for the damage suffered and for the reimbursement of all his costs and expenses. Those claims are maintained in the appellant's submissions in reply.

99. According to the established case law of the administrative courts, claims for compensation for damage must be dismissed insofar as they are closely connected with the claims for annulment which have themselves been dismissed (see, in particular, Order of the European Union Civil Service Tribunal F-144/11 of 24 June 2013, Carlos Mateo Pérez v. European Commission, paragraphs 63 and 64).

100. In the instant case, there is a close link between the claims for annulment which were dismissed as inadmissible and the claims for damages, which must therefore be dismissed on the same ground.

101. As to the costs of the proceedings, since the appellant has been unsuccessful in his appeal, the Tribunal rules that each party shall bear its own costs.

For these reasons,

The Administrative Tribunal:

Declares Appeal No. 645/2019 inadmissible;

Dismisses it;

Orders each party to bear its own costs.

Adopted by the Tribunal by videoconference on 9 December 2020 and delivered in writing in accordance with Rule 35, paragraph 1, of the Tribunal's Rules of Procedure on 15 January 2021, the French text being authentic.

The Deputy Registrar of the Administrative Tribunal	The Chair of the Administrative Tribunal
E. HUBALKOVA	N. VAJIĆ