



Case No. UNDT/GVA/2019/014

! "g# e\$% No. UNDT/2020/101



, o&o88o Co!\$%&1 Off'8e. T)e 7a\$e( 8o\$8(!"e" %)a% %)e , o&o88o Co!\$%&1 Off'8e s)o!( " &e7(a8e %)e 7os% e\$8! #9e&e" 91 %)e A77('8a\$% 3 %) a P.@ 7os%.

1B. O\$ 1 , a&8) 20164 %)e A77('8a\$% 3 as '\$fo&#e" of %)e "e8's'o\$ %o a9o('s) )e& 7os% effe8%'\*e 1 ! \$e 2016.

1C. O\$ 14 , a&8) 20164 %)e A77('8a\$% &e?!es%e" #a\$age#e\$% e\*a(!a%'o\$ of sa'" "e8's'o\$.

19. O\$ @0 , a&8) 20164 %)e A77('8a\$% f('e" a se8o\$" 8o#7(a'\$% 3 %) )e E%)'8s Off'8e! UNICE /4 8o\$8e&\$' \$g &e%a('a%'o\$ '\$ &e(a%'o\$ %o %)e #os% &e8e\$% "e8's'o\$ %o a9o('s) )e& 7os%. T)e E%)'8s Off'8e "e%e&# '\$e" %)a a prima facie 8ase of &e%a('a%'o\$ )a" \$o% 9ee\$ es%a9('s)e".

20. B1 (e%&e& "a%e" 6 A7&(' 20164 %)e De7!%1 EEe8!%'\*e D'&e8%o&4 , a\$age#e\$%4 UNICE /4 &e7('e" %o %)e A77('8a\$%:s &e?!es% fo& #a\$age#e\$% e\*a(!a%'o\$. Leg%' #a%e &easo\$s 3 e&e fo!\$" fo& %)e <' \$%e&\$a%'o\$a('Aa%'o\$= of )e& 7os%. Oo3e\*e&4 s)e \$o%e" %)a% %)e 7a\$e( "" " \$o% a""&ess %)e fa8% %)a% %)e ge\$e&'8 Fo9 "es8&'7%'o\$ fo& %)e P.@ 7os% )a" \$o% 9ee\$ 8)a\$ge" f&o# %)e A77('8a\$%:s Fo9 "es8&'7%'o\$. T)e&efo&e4 '% 3as fo!\$" %)a% %)e 7a\$e( fa('e" %o a""&ess 3 )e%)e& %)e A77('8a\$% #'g%) )a\*e 9ee\$ a9(e %o f!(f( %)e &e?!'e#e\$%s of %)e P.@ 7os%. Co\$se?!e\$(14 %)e A77('8a\$% 3as g&a\$%e" 8o#7e\$sa%'o\$ '\$ %)e a#o!\$% of 12 #o\$%): \$e% 9ase sa(a&1 fo& (oss of 8)a\$8e of 8o\$%&a8% &e\$e3a(.

21. O\$ @1 , a1 20164 %)e A77('8a\$% 3 as se7a&a%e" f&o# se&\*'8e.

Consideration

Contested decision and scope of judicial review

22. T)e T&'9!\$a( f'\$"s %)a% %)e 8o\$%es%e" "e8's'o\$ '\$ %)e 7&ese\$% 8ase 's %)e "e8's'o\$ 8o# #!\$'8a%e" %o %)e A77('8a\$% o\$ 1 , a&8) 2016 %o a9o('s) )e& 7os% a\$"4 8o\$se?!e\$(14 \$o% %o &e\$e3 )e& 8o\$%&a8% 9e1o\$" @1 , a1 2016.

20. I\$ "ee"4 af%e& a 8a&ef!( a\$a(1s's of %)e A77('8a\$%:s #a\$aage#e\$% e\*a(!a%'o\$  
&e?!es% a\$" %)e s!9se?!e\$% "e8's'o\$4 o\$e # !s% 8o\$8(!"e %)a% 3)a% 's a% s%aDe 's %)e  
"e8's'o\$ %)a% fo((o3e" %)e Pa\$e(:s &e\*'e3 of %)e \$ee"s of %)e , o&o88o Co!.\$%&1  
Off'8e.

24. T)e A77('8a\$ 's's's %)a% %)e "e8's'o\$ %o a9o('s) )e& 7os% '\$ 2016 3as a(so

29.

GTI)e e(e#e\$%s 3)'8) 8a\$ 9e 8o\$%"e&e" a&e4 a#o\$g o%)e&s4 %)e \$a%!&e a\$" %)e (e\*(e( of %)e 7os% fo&#e&(1 o88!7'e" 91 %)e s%aff #e#9e& ;'.e.4 8o\$%'\$!o!s4 7&o\*'s'o\$a(4 f'Ee".%e&#>4 %)e &e#a'\$'Sg %'#e4 8)a\$8es of &e\$e 3a(4 e%8. I% # !s% a(so 9e %aDe\$ '\$%o a88o!\$%)a% %)e %3o.1ea& ('#%' '#7ose" 91 %)e S%a%!%e of %)e D's7!%e T&'9!\$a( 8o\$%!'!%es a #aE' # !#4 as a ge\$e&a( &!(e 3'%) eE8e7'o\$\$. As s!8)4 '% 8a\$%\$o 9e %)e a\*e&age <'\$ ('e! 8o#7e\$sa%'o\$= es%a9('s)e" 91 %)e 8o!&%.

@4. /!&%)e&#o&e4 s'\$8e %)e assess#e\$% of 8o#7e\$sa%'o\$ #!s% 9e "o\$e o\$ a 8ase.91.8ase 9as's4 '% 8a&&'es a 8e&%a'\$ "eg&ee of e#7'&'8's#.

@5. I\$ %)e 8ase a% )a\$"4 %)e A77('8a\$% 3o&De" as a\$ O7e&a%'o\$s , a\$age&4 a% %)e NO.C (e\*(e(4 '\$ %)e UNICE/ , o&o88o Co!\$%&1 Off'8e. S)e 3o&De" o\$a f'Ee".%e&# a77o'\$%#e\$ s'\$8e /e9&!a&1 2010 a\$" %)e "e8's'o\$ \$o%o &e\$e3 )e& 8o\$%&a8% 9e1o\$" @1 , a1 2016 3as 9ase" o\$ %)e &e8o# #e\$"a%'o\$s #a"e 91 a\$ '\$"e7e\$"e\$ 7a\$e( %o a9o('s) )e& 7os%. A(%)o!g) %)e&e 3e&e 7&o8e" !&a( '&&eg!(a&'%'es4 as 8o\$8e"e" 91 %)e Res7o\$"e\$%4 %)e&e 3e&e4 a77a&e\$(14 so('" &easo\$s %o F!s%'f1 %)e <'\$%e&Sa%'o\$a('Aa%'o\$= of %)e A77('8a\$%:s fo&#e& 7os%.

@6. I\$ Warren 2010.UNAT.0594 %)e A77ea(s T&'9!\$a( aff'&#e" %)a% %)e 7!&7ose

)e& 8o\$%&a8% \$o% &e\$e3e" fo& aSo%)e& 1ea&. T)e&efo&e4 \$o a""%'o\$a( 8o#7e\$Sa'o\$ 's a3a&"e".

Moral damages

@9. I\$ &e(a%'o\$ %o #o&a( "a#ages4%)e T&'9!\$a( \$o%es%)a%%)e%)&es)o(" of e\*"e\$8e &e?!'&e" f&o# %)e A77('8a\$% fo((o3'\$g %)e a#e\$" #e\$% of a&%. 10.5;9> of %)e T&'9!\$a(:s S%a%!"e )as 9e8o#e #o&e &es%&'8%'\*e.

40. A&%.10.5;9> \$o3 s%'7!(a%es%)a%%)e D's7!"e T&'9!\$a( #a1 a3a&" 8o#7e\$Sa'o\$ fo& )a&# 'f s!8) )a&# 's <s!77o&!"e" 91 e\*"e\$8e=. T)'s 's %)e 8!&&e\$% (a3 o\$ 8o#7e\$Sa'o\$ fo& )a&# a\$" '% 's %)e (a3 %)a% %)s T&'9!\$a( #!s! a77(1 3)e\$ 8o\$%e#7(a%\$g s!8) a f'\$""\$g. T)'s 's '\$ ('\$e 3'%)%)e F!&'s7&!"e\$8e of %)e A77ea(s T&'9!\$a( o\$ 8o#7e\$Sa'o\$ fo& )a&# ;see Kebede 201C.UNAT.CB4J Kallon 201B.UNAT.B42>.

41. T)e A77('8a\$% 8(a'#s %)a% %)e 8o\$%es!"e" "e8's'o\$ 8a!se" )e& )a&# %o )e& 8a&ee& a\$" )ea(%). S)e a&g!es inter alia %)a% s)e )as s!ffe&e" #e\$a( ("s%&ess4 3)'8) '#7a8!"e" )e& )ea(% )8o\$""%'o\$.

42. No%'\$g %)e A77('8a\$%:s 8(a'# fo& #o&a( "a#ages4 %)e T&'9!\$a( eE7&ess(1 &e?!es!"e" e\*"e\$8e f&o# %)e A77('8a\$% '\$ %)s &es7e8%4 3)'8) s)e f'(e" o\$ 6 A7&'( 20204 \$a#e(14 a #e""8a( 8e&%'f'8a!e f&o# )e& g1\$ae8o(og'8a( s!&geo\$ "a!e" 2@ , a&8) 2020 a\$" a\$ e#a'( "a!e" 2B A!g!s% 2014 '\$ 3)'8) s)e #e\$%'o\$e" %)a% s)s)e \*'s!"e" a 8a&""o(og's% af!e& fee(''\$g 7a'\$ '\$ )e& 8)es%.

4@. T)e T&'9!\$a( f'\$"s %)e #e""8a( 8e&%'f'8a!e 7&ese\$!"e" 91 %)e A77('8a\$% eSo!g) e\*"e\$8e of %)e )a&# s)e s!ffe&e" %o )e& )ea(% ) 91 %)e 'ss!es s)e 3as )a\*\$'g a% 3o&D. K)'(e %)e #e""8a( 8e&%'f'8a!e "oes \$o% s7e8'f'8a((1 &efe& %o %)e A77('8a\$%:s s!'!a%'o\$ '\$ 20164 %)e&e 's \$o "o!9% %)a% )e& )ea(% ) 8o\$""%'o\$ 3as agg&a\*a!e" as of 2015 91 %)e "'ff'8!(% s!'!a%'o\$ %)a% s)e 3as fa8'\$g a% 3o&D4 a\$" 3)'8) s)e s)a&e" 3'%) )e& "o8%o& as '\$""8a!e" '\$ %)e #e""8a( 8e&%'f'8a!e. 0o3e\*e&4%)e T&'9!\$a( 's \$o% 7e&s!a"e" of %)e &e(e\*a\$8e of %)e e#a'( "a!e" 2B A!g!s% 20144 s'\$8e '% 's \$o% a #e""8a( 8e&%'f'8a!e 9!%4 &a%)e&4 %)e A77('8a\$%:s o3\$ a88o!\$% of e\*\$e\$%s.





