



UNITED NATIONS APPEALS TRIBUNAL TRIBUNAL D'APPEL DES NATIONS UNIES

Case No. 2020-1492

Andrea Barbato

(Appellant)

v.

**Secretary-General of the
International Maritime Organization
(Respondent)**

ORDER No. 394 (2020)

1. On 8 August 2019, Mr. Andrea Barbato, a staff member of the International Maritime Organization (IMO), filed an appeal with the Staff Appeals Board (SAB) of the IMO, against a decision taken by Mr. Sung-Jin Kim, Head, Internal Oversight and Ethics Office (IOEO), dated 30 May 2019 to close the case brought by Mr. Barbato on the basis that the investigation report, submitted by OSACO Group Limited (OSACO), concluded that no prohibited conduct by the subject of the complaint, Ms. Linda Ryan (the Subject), had taken place.

2. On 10 July 2020, the SAB, following a review of the evidence and merits of the case, issued a decision that the appeal should be partially granted and some remedies provided, based on the conclusions detailed in its decision. Further, on 8 September 2020, following a Joint Request for Reconsideration received from the parties by e-mail on 28 July 2020, in which they requested reconsideration of the requests for relief, that the SAB had not addressed in its report, as contained in Mr. Barbato's Statement of Appeal of 8 August 2019, the SAB found that it was "not possible nor advisable for the SAB to consider the remaining remedies requested by [Mr. Barbato]". Mr. Barbato has 90 calendar days within which to appeal the SAB decision, i.e., by 7 December 2020.

3. On 23 November 2020, Mr. Alex P. Haines, Mr. Barbato's representative, filed on Mr. Barbato's behalf a request for suspension, waiver or extension of the time limit to appeal. He puts forward, *inter alia*, that some seven days ago Mr. Barbato had been

diagnosed with Covid-19. A day later, his wife also tested positive. Unfortunately, the symptoms are not mild, thereby exasperating Mr. Barbato's already existing conditions. He has so far showed no signs of improvement and has gotten worse. He has been advised by his doctors that his priority is to rest in order to shorten the recovery time. And last but not least, Mr. Alex P. Haines is unable to take instructions at present because his client has difficulty speaking. Therefore, he requests that the Appeals Tribunal waive the time limit and grant him an extension of the deadline to file until Friday, 22 January 2021.

4. Article 7(3) of the Statute of this Tribunal provides that "[t]he Appeals Tribunal may decide in writing, upon written request by the applicant, to suspend or waive the deadlines for a limited period of time and only in exceptional cases". Article 30 of our Rules of Procedure allows this Tribunal to shorten or extend a time limit "when the interests of justice so require".

5. On the basis of Mr. Barbato's submissions regarding the circumstances that prevent him from filing a timely appeal, this Tribunal finds that the principles of exceptional circumstances and interests of justice justify granting Mr. Barbato's request for an extension of time.

IT IS HEREBY ORDERED that Mr. Barbato's request is **GRANTED**. He is to file his appeal no later than Friday, 22 January 2021.

Original and Authoritative Version: English

Dated this 27th day of November 2020
in Athens, Greece.

(Signed)
Judge Dimitrios Raikos,
Duty Judge

Entered in the Register on this 30th day
of November 2020 in New York, United States.

(Signed)
Weicheng Lin, Registrar