



Before: Judge Teresa Bravo

Registry: Geneva

Registrar: René M. Vargas M.

RAIKOW

v.

SECRETARY-GENERAL
OF THE UNITED NATIONS

**ORDER ON AN APPLICATION FOR
SUSPENSION OF ACTION PENDING
MANAGEMENT EVALUATION**

Counsel for Applicant:

Shubha Naik, OSLA

Counsel for Respondent:

Nicole Wynn, AAS/ALD/OHRM, UN Secretariat

Rosangela Adamo, AAS/ALD/OHRM, UN Secretariat

Introduction

1. By application filed on 15 March 2021, the Applicant, a staff member of the United Nations Assistance Mission in Afghanistan (“UNAMA” or “Mission”), requests suspension of action, pending management evaluation, of the decision to end his telecommuting status and recall him to his duty station in Bamyan by 18 March 2021 despite his high-risk status for severe COVID-19.
2. On 16 March 2021, the application for suspension of action was served on the Respondent, who filed his reply on 18 March 2021.
3. On 19 March 2021, the Applicant filed a motion seeking leave to respond to the Respondent’s reply and advising that he would particularly like to inform the Tribunal on his vaccination status, and comment on his request for consideration by the Division of Healthcare Management and Occupational Safety and Health (“DHMOSH”), to which he received a response only after he filed the instant application. The motion was granted on the same day.
4. On 22 March 2021, the Applicant filed his rejoinder to the Respondent’s reply.

Facts

5. On 13 July 2015, the Applicant joined UNAMA as Political Affairs Officer, P-3, in Bamyan, situated around 200 kilometres from Kabul, the capital of Afghanistan. He is a Team Leader and the only international staff member of the Political Affairs Unit in the Bamyan Field Office.
6. On 11 March 2020, the World Health Organization (“WHO”) declared the COVID-19 outbreak a global pandemic.
7. The Applicant was scheduled for rest and recuperation and annual leave, and had left Bamyan for Kabul on 16 March 2020.
8. On 17 March 2020, the Chief Medical Officer (“CMO”), Joint Medical Services (“JMS”) & Medical Emergency Response Team, UNAMA, informed the

Applicant that after reviewing his COVID-19 questionnaire, he had been identified as a person with higher risk of developing the severe form of COVID-19. Accordingly, he requested the Applicant to initiate formalities for telecommuting in consultation with his First Reporting Officer (“FRO”). Considering the limited medical facilities in Afghanistan, the Applicant was advised not to return to the duty station in case he was outside the country.

9. By email dated 22 March 2020, the Applicant’s FRO informed him that as per the CMO’s instruction, he should not return to his duty station, and should begin telecommuting at the conclusion of his leave. Accordingly, the Applicant started telecommuting on 31 March 2020.

10. On 28 September 2020, UNAMA decided to slightly increase staff footprint in Kabul and the field offices considering, *inter alia*, the reduction in COVID-19 infection rates among UN staff and dependents in Afghanistan, the availability of additional medical capacity, as well as overall improved testing and response capacities vis-a-vis the threat as assessed at that time compared to six months earlier. As a result, each office was expected to have one political affairs officer and one human rights officer present at all times.

11. On 29 September 2020, the Applicant sent an email to the CMO to ascertain his high-risk status after having learned that UNAMA was planning to increase its staff footprint. In his reply of 30 September 2020, the CMO emphasized that many things had evolved since when the recommendation was made for colleagues with pre-existing conditions to telecommute, and that better medical facilities were available including an intensive care unit (“ICU”) that is capable of stabilizing international staff before medical evacuation.

12. By email dated 5 November 2020, the Applicant’s FRO informed the Applicant that as advised by JMS, his medical conditions could be managed locally, and requested him to initiate arrangements for his return to the duty station in accordance with the Human Resources Policy Guidance of 23 September 2020 on “[r]eturn to the duty station and/or workplace in the context of the COVID-19 pandemic” (“Human Resources Policy Guidance of 23 September 2020”).

13. During a Microsoft Teams meeting on 8 November 2020, the Applicant and his FRO agreed that it would be feasible, reasonable, and appropriate for him to continue working remotely under the then circumstances. However, as per the instruction of the Senior Mission Management team, his FRO instructed him to send his request for “reasonable accommodation” under para. 4.3.5 of the Human Resources Policy Guidance of 23 September 2020.

14. Accordingly, on 9 November 2020, the Applicant formally requested reasonable accommodation due to his multiple medical co-morbidities for COVID-19. He requested some time to submit the supporting documentation from his physician due to practicalities of the healthcare system in his home country and COVID-19 situation.

15. On 20 November 2020, the Applicant met with his personal physician for a scheduled appointment. According to the Applicant, the physician indicated that he had several underlying conditions that put him in a high COVID-19 risk category; she advised him to do everything possible to minimize his risk of exposure and believed that it would be irresponsible for him to travel long distance or spend time anywhere without easy access to ventilators and other emergency medical services.

16. On 23 November 2020, in response to the Applicant’s inquiry on whether alternative working arrangements (“AWA”) were still in place for Bamyan, the Chief, Legal Affairs Section, UNAMA, replied that indeed AWA were still in place for Afghanistan, but that where it was determined that a staff member was required to return to the Mission area to perform functions, he or she should do so absent a reasonable justification.

17. By letter dated 27 November 2020, the Applicant’s physician explained her medical assessment of his case and requested reasonable accommodation for him.

18. By email of 30 November 2020 to the CMO, the Applicant submitted the letter from his physician and requested that JMS reconsider accordingly its medical assessment of his fitness to return to Bamyan.

19. On 4 January 2021, the CMO asked the Applicant to upload his test results and medical records to his EarthMed profile.

20. On 9 January 2021, the Applicant sent all available test results to the CMO by email.

21. By email dated 5 February 2021, the CMO informed the Applicant that based on the submitted documents and upon consultation with DHMOSH, they did not find any medical justification to advise further extension of working away from the duty station.

22. By email dated 7 February 2021, the Chief of Staff asked the Applicant to liaise with his Supervisor on the most suitable time for his return. On the same day, the Applicant replied that he had contacted his Supervisor, and that since the CMO's assessment directly contradicted that of his own physician, he had approached the Ombudsman's Office about the process of initiating a formal medical review. In her reply, the Chief of Staff encouraged the Applicant to request a second opinion from the CMO.

23. On 8 February 2021, the Chief of Staff informed the Applicant by email that she had further discussed his case with the CMO, who had advised that 'additional justification' would be needed if he wanted DHMOSH to review his case. The Applicant had accordingly approached DHMOSH for potential reconsideration of the medical determination.

24. On 10 February 2021, the Applicant emailed the Chief of Staff to inform her that the Ombudsman's Office had advised him to contact the Office of Staff Legal Assistance ("OSLA") for further guidance, and that he had done so to arrange a consultation. The Chief of Staff responded that she looked forward to hearing from the Applicant after he had consulted with OSLA.

25. By email dated 22 February 2021, the Applicant informed the Chief of Staff that he had consulted with OSLA and requested that the administration reconsider his case before he pursued legal options further.

26. By email dated 24 February 2021, the Chief of Staff formally notified the Applicant of the Mission’s decision that he shall return to the duty station no later than 21 days from the date of that message, i.e. by 18 March 2021.

27. On 15 March 2021, the Applicant filed a request for management evaluation of the 24 February 2021 decision since he has not heard back from DHMOSH on the reconsideration of his medical assessment.

28. On the same day, DHMOSH advised that the Applicant might be able to negotiate with the CMO and his management about extending his flexible working arrangements (“FWA”) until his vaccination sequence is completed if this is just a matter of weeks.

29. On 18 March 2021, the Applicant informed DHMOSH that he had just received his first dose of vaccination and would receive the second dose in the middle of April 2021.

Parties’ contentions

30. The Applicant’s primary contentions may be summarized as follows:

Prima facie unlawfulness

- a. The decision is *prima facie* unlawful. By recalling the Applicant who suffers from co-morbidities to a duty station with inadequate medical facilities to treat severe COVID-19 cases, the Administration is in contravention of its duty of care enshrined in staff regulation 1.2(c);

Urgency

- b. The matter is urgent because the Applicant is required to report to Bamyan by 18 March 2021 before the Management Evaluation Unit (“MEU”) decides upon the matter;
- c. This is not a case of self-created urgency; and

Irreparable damage

d. The decision will cause the Applicant irreparable harm. His physician has advised that any travel during the pandemic would be a risk to his health and given the pandemic, if he is required to serve in Bamyán, and were to contract COVID-19, it could possibly have disastrous consequences.

31. The Respondent's primary contentions may be summarized as follows:

Prima facie unlawfulness

a. The contested decision is lawful; in this respect, the Respondent argues that (i) there are no medical grounds to grant the Applicant's request for accommodation for medical reasons; (ii) the Organization has met its duty of care; and (iii) the Applicant's physical presence is necessary;

Urgency

b. The Applicant has not demonstrated that suspension of the contested decision is urgent;

c. Any urgency is self-created because he waited for more than three weeks to file the application for suspension of action; and

Irreparable damage

d. The Applicant has not demonstrated any irreparable harm.

Consideration

32. Art. 2.2 of its Statute provides that the Tribunal shall be competent to suspend the implementation of a contested administrative decision during the pendency of management evaluation where the decision appears *prima facie* to be unlawful, in case of particular urgency, and where its implementation would cause irreparable damage. These three requirements are cumulative; in other words, they must all be met in order for a suspension of action to be granted. Furthermore, the burden of proof rests on the Applicant.

Prima facie unlawfulness

33. The Tribunal recalls that the threshold required in assessing this condition is that of “serious and reasonable doubts” about the lawfulness of the impugned decision (see *Hepworth* UNDT/2009/003, *Corna* Order No. 90 (GVA/2010), *Chattopadhyay* UNDT/2011/198, *Kompass* Order No. 99 (GVA/2015)).

34. The Tribunal also underlines that its role when examining the exercise of discretion is to assess if the decision is legal, rational, procedurally correct and that it is not arbitrary. It is not to consider the correctness of the choice made by the decision-maker exercising discretion nor to substitute its judgment for that of the decision-maker (see *Kule Kongba* 2018-UNAT-849, para. 27 and *Kellie* 2018-UNAT-875, para. 43).

35. In the present case, the Applicant claims that the contested decision is *prima facie* unlawful. He specifically argues that by recalling him to a duty station with inadequate medical facilities to care for his medical conditions and treat severe COVID-19 cases, the Administration is contravening its duty of care enshrined in staff regulation 1.2(c).

36. The Respondent contends that the contested decision is lawful. In this respect, he argues that (i) the Organization has met its duty of care under staff regulation 1.2 by providing adequate medical facilities and treatment and providing staff access to vaccination for COVID-19 to prevent severe cases; (ii) there are no medical grounds to grant the Applicant’s request for accommodation due to medical reasons; and (iii) the Applicant’s physical presence at the duty station is necessary. The Tribunal will examine these issues below.

The Organization’s duty of care under staff regulation 1.2 (c)

37. The Tribunal recalls that the duty of care on the part of the Organization has been codified and incorporated into the Staff Regulations and Rules, thus ensuring such protection to all staff members as a term of their employment (UN Administrative Tribunal Judgment No. 1204, *Durand* (2005), para. XVI). Staff regulation 1.2(c) provides that:

Staff members are subject to the authority of the Secretary-General and to assignment by him or her to any of the activities or offices of the United Nations. In exercising this authority the Secretary-General shall seek to ensure, having regard to the circumstances, that all necessary safety and security arrangements are made for staff carrying out the responsibilities entrusted to them.

38. This provision establishes the general principle of the duty to exercise reasonable care to ensure the safety of staff members (see UN Administrative Tribunal Judgment No. 1204, *Durand* (2005), para. XVII). In the *Grasshoff* case, the Administrative Tribunal of the International Labour Organization (“ILOAT”) stated that:

It is a fundamental principle of every contract of employment that the employer will not require the employee to work in a place which he knows or ought to know to be unsafe. If there is doubt about the safety of a place of work, it is the duty of the employer to make the necessary inquiries and to arrive at a reasonable and careful judgment, and the employee is entitled to rely upon his judgment.

39. The Tribunal notes that since March 2020 when WHO declared COVID-19 as a global pandemic, the Organization has sought to ensure that all necessary measures are in place to support the safety and health of all UN personnel for carrying out the functions and responsibilities entrusted to them (see the Human Resources Policy Guidance of 23 September 2020, para. 1.3).

40. In an effort to contain the spread of COVID-19, the Secretary-General and respective heads of entities in duty stations around the world have decided to restrict physical access to UN premises while keeping offices open virtually in the first few months. In all entities at all duty stations where such decisions have been made, UN personnel are required to work remotely, unless their physical presence on the premises is necessary to carry out essential work (see The Policy Guidance on Alternate Working Arrangements (AWA) and Flexible Working Arrangements (FWA) in the context of COVID-19, Version 2-12 October 2020 (“Policy Guidance of 12 October 2020”)).

41. Given the changing circumstances, the Organization provides a general set of measures to be implemented prior to and during the return of UN personnel to the duty station and/or to the workplace.

42. In the Tribunal's view, the evidence on record shows that the Organization has made necessary safety and security arrangements to allow for the Applicant's return to the duty station. Since the beginning of the pandemic, the Organization has significantly improved its capacity to deal with moderate to severe COVID-19 cases in Afghanistan. Sufficient testing, treatment and stability capacity has been put into place. A second ICU facility began operations at the main compound in Kabul on 1 March 2021 and adds to a total of seven high dependency and eight medium care ICU beds for UNAMA, none of which are currently occupied. Although these facilities are in Kabul, it is only 200 kilometres away from Bamyan and dedicated international and internal Medevac arrangements for COVID-19 patients have been implemented.

43. The Tribunal further recalls that the principle of the duty to exercise reasonable care is to be applied with regard to the nature of the employment considering that there are unavoidable risks in some employments and that "[t]he question in each case is whether the risk is abnormal having regard to the nature of the employment" (see ILOAT Judgment No. 402, *In re Grasshoff* (Nos. 1 and 2) (1980), para. 2). The potential impediments to transport from Bamyan to Kabul alleged by the Applicant do not constitute an abnormal risk in view of the nature of his role as Political Affairs Officer in Bamyan. In any event, such allegations are speculative because UNAMA has not reported any incidents of delay in transport of patients since the onset of the pandemic.

44. In addition, vaccination that could significantly lower the Applicant's risk is available to him because he is currently based in a country that has partnered with the UN to vaccinate UN staff members serving there. The Applicant is also eligible for priority consideration for COVID-19 vaccine in his home country given his health conditions. The UN will be offering vaccinations to staff members in Afghanistan in the next two weeks as well.

45. Accordingly, the Tribunal finds that the Applicant's assertion that the duty station has inadequate medical facilities to take care of severe COVID-19 cases is unsupported.

46. In light of the foregoing and, having regard to the circumstances that the safety conditions in UNAMA have improved with virtually no current active COVID cases among UN staff members in Afghanistan, the Tribunal finds that the Organization has met its duty of care under staff regulation 1.2 (c).

The Applicant's obligation to be physically present at the duty station

47. The Tribunal is of the view that staff members' physical presence at the workplace is a norm whereas working from an alternative work site may be implemented on an exceptional basis. This is confirmed by sec. 1.3 of the Secretary-General's Bulletin on Flexible Working Arrangements (ST/SGB/2019/3), which specifies that "in order to facilitate business continuity during crises, staff members may be requested to work from an alternative work site. Such situations are exceptional and shall not be considered as flexible working arrangements".

48. In the present case, the General Assembly approved the post that the Applicant encumbers to perform functions in Afghanistan. The Applicant agreed to take up functions in Afghanistan by accepting the appointment. He is responsible for personally engaging with senior interlocutors to maintain comprehensive, reliable and timely situational awareness, to maintain relationships, and to engage in outreach initiatives and local peace initiatives. The Tribunal thus considers that absent official authorization and a reasonable justification, the Applicant is obliged to perform his functions at the duty station.

49. The Tribunal notes that in an effort to contain the spread of COVID-19, the Applicant was authorized to discharge his functions away from the duty station under the following conditions (emphasis added):

During AWA, personnel may be authorized by their managers to discharge their functions away from the duty station, for **as long as their presence at the duty station or on UN premises is not required**. AWA outside the duty station should normally not exceed

six months. Heads of entities may however decide, based on **specific conditions at the duty station** that AWA outside the duty station should continue beyond six months. (see the Policy Guidance of 12 October 2020, para. 4; see also the Human Resources Policy Guidance of 23 September 2020, para. 2.1)

50. It follows that AWA outside the duty station are subject to the condition that “the presence at the duty station or on UN premises is not required”. It should normally not exceed six months and the decision to extend the duration of AWA beyond six months should be based on specific conditions at the duty station and is within the authority of the Head of Entity.

51. In the present case, the Applicant started AWA on 31 March 2020. Six months later, based on the specific conditions in Afghanistan, including the reduction in COVID-19 infection rates among UN staff and dependents and the availability of additional medical capacity, UNAMA decided to partially discontinue AWA, *inter alia*, by requiring the presence of at least one international staff member for each substantive team and to identify an alternate for rotation purposes. As a result, each office was expected to have one political affairs officer and one human rights officer present at all times, with the option for members of these teams to rotate where current staffing and post incumbency permit.

52. Considering that the Applicant is a Team Leader and the only international staff member of the Political Affairs Unit in the Bamyán Field Office, his physical presence at the duty station or on UN premises became necessary in accordance with UNAMA’s decision of 28 September 2020. Moreover, the evidence on record shows that the Applicant is responsible for personally engaging with senior interlocutors to maintain comprehensive, reliable and timely situational awareness, to maintain relationships, and to engage in outreach initiatives and local peace initiatives, all of which were resumed in September 2020.

53. The Tribunal further wishes to point out that the Organization’s duty of care is owed to all staff members rather than one staff member only. When determining which personnel will be required to report on-site, the Organization should ensure “equity, consistency and fairness in the treatment of all personnel” and may

consider on-site rotation amongst team members (see the Human Resources Policy Guidance of 23 September 2020, para. 4.3.3). In the present case, the Applicant's physical presence was also required to serve as Officer-in-Charge in the absence of the Head of Office, who was due to travel out on rotation following several months of continuous physical presence at the duty station.

54. In addition, the Tribunal recalls that telecommuting should not result in additional demands on other colleagues (see Section 3.5 of the ST/SGB/2019/3). The Applicant's prolonged absence from the Mission has placed undue burden on the work unit. It is observed that reports were delayed and there was a reduction in outreach and other key activities compared to other offices and to its own previous performance. This also impedes the implementation of UNAMA's mandate.

55. Accordingly, the Tribunal considers that the conditions underlying the Applicant's AWA outside the duty station ceased to exist since September 2020 and thus finds that the Applicant is obliged to be physically present at the duty station, absent a reasonable justification.

The Applicant's request for accommodation for medical reasons

56. In the present case, the Applicant's FRO informed him on 5 November 2020 that, as advised by JMS, his medical conditions could be managed locally, and requested him to initiate arrangements for his return to the duty station. However, the Applicant sought to justify the delay of his physical return to the premises on medical grounds. In this respect, the Human Resources Policy Guidance of 23 September 2020 provides in its relevant part that:

4. Physical return of UN personnel to the workplace

...

4.3 On-site reporting for initial phases

...

4.3.5 Personnel may request managers to delay their physical return to the premises, including when they reside in a UN compound, due to:

- Medical reasons:

When UN personnel considered most vulnerable if exposed to COVID-19 cannot reach an agreement with their managers regarding their on-site attendance, the following process is to be followed:

- The discussion and outcome should be clearly documented.

- The UN personnel should request in writing a 'reasonable accommodation' from their manager and outline what the accommodation is – in this case, to continue to work remotely full time and state the reason - in this case 'medical reasons' or 'medical reasons relating to a household member'. No confidential information needs to be provided.

- The UN personnel should then send their request to their supporting medical service:

Heading: "Request for reasonable accommodation – (Name), (Index number), (Entity)

Body: A brief description of the situation, the actual diagnosis that prevents return to the premises, whether it is for themselves or a household dependent, recent medical report from a Doctor for the diagnosis, and what accommodation is being requested (for instance to continue telecommuting full time or work from a specific location).

A full signature block is always required with their contact details and the email address of their manager.

The supporting medical service will assess the case using the 'Reasonable Accommodation' questionnaire in EarthMed and advise the manager accordingly, without releasing confidential medical information. Based on the information, the manager will decide if the accommodation can be granted. Where the accommodation is not granted the manager is required to document for the staff member why the request represents an undue burden on the operational needs.

57. In accordance with the above-mentioned provisions, the Applicant formally requested reasonable accommodation due to his multiple medical co-morbidities for COVID-19 on 9 November 2020. The Applicant submitted the letter from his

physician to the CMO on 30 November 2020 and requested that JMS reconsider its medical assessment of his fitness to return to Bamyan accordingly.

58. JMS reviewed the Applicant's case in consultation with DHMOSH and advised on 5 February 2021 that on the basis of the updated medical information he provided, it did not see a medically justifiable reason for him not to return to the Mission area. Accordingly, on 7 February 2021, the Chief of Staff asked the Applicant to liaise with his supervisor on the most suitable time for his return. On 24 February 2021, UNAMA decided that the Applicant shall return to the duty station within 21 days, i.e., by 18 March 2021, in accordance with para. 2.2 of the Human Resources Policy Guidance of 23 September 2020.

59. The Tribunal further wishes to highlight that "if there is doubt about the safety of a place of work, it is the duty of the employer to make the necessary inquiries and to arrive at a reasonable and careful judgment" (see ILOAT Judgment No. 402, *In re Grasshoff* (Nos. 1 and 2) (1980), para. 1). The internal JMS and DHMOSH are thus better placed to assess whether the medical capacities at the workplace are sufficient to meet staff members' medical needs. Following consultations with the Applicant, after careful review of his personal circumstances and the local conditions, JMS and DHMOSH have concluded that there are no actual medical grounds to justify his physical absence from Bamyan. In the Tribunal's view, the Applicant is not only entitled to rely on this assessment but also *prima facie* obliged to rely on it. Otherwise, the mandate and interests of the Organization would be compromised if adequate safety measures are put in place to ensure staff members can perform their functions in their respective duty stations, but the staff simply refuse to be physically present for self-perceived security concerns.

60. Therefore, the Tribunal finds that it is not unlawful to reject the Applicant's request for accommodation.

New compelling personal circumstances alleged by the Applicant

61. The evidence on record shows that on 18 March 2021, the Applicant informed DHMOSH that he had just received his first dose of vaccination and would receive the second dose in the middle of April 2021. Under such circumstances, if the

Applicant were made to travel to Afghanistan now, he would miss out on the second dose. In the alternative, he would have to risk travelling again from Afghanistan to his home country for the second dose.

62. The Tribunal is of the view that such compelling personal circumstances, which emerged almost one month after the contested decision was made, have no bearing on the lawfulness of the contested decision. Indeed, the contested decision was made on 24 February 2021 on the grounds that (a) almost one year had passed since the Applicant adopted telecommuting followed by AWA, and almost six months had elapsed since he was requested to return to his duty station; and (b) based on the advice of JMS and DHMOSH, there were no compelling medical reasons to prevent his return to his duty station at that time. The evidence on record shows that the Applicant did not provide any information regarding his vaccination plan prior to the contested decision's date. The Organization thus could not have considered such information in making its decision.

63. The Tribunal recalls that in determining the lawfulness of an administrative decision, it "can consider whether relevant matters have been ignored and irrelevant matters considered" (see *Sanwidi* 2010-UNAT-084, para. 40) at the time the decision was made. Therefore, the circumstances that emerged after the decision was taken should not have any bearing on its lawfulness. To hold otherwise would significantly curtail the Organization's discretion and contradict the Tribunal's mandate.

64. Moreover, the Organization has provided FWA to accommodate staff members' compelling personal circumstances, which is consistent with its duty of care under staff regulation 1.2(c). In this respect, the Human Resources Policy Guidance of 23 September 2020 provides that:

2. Return of UN personnel to their official duty station

...

2.3 When a decision is made to discontinue AWA outside the duty station as of a specific date, staff members who would like to exceptionally delay their return due to **compelling personal circumstances** may request their manager to telecommute from

outside the duty station for an appropriate duration **not exceeding six months on Flexible Working Arrangements (FWA)** in accordance with the provisions of ST/SGB/2019/3 and ST/IC/2019/15. (emphasis added)

65. Accordingly, the Applicant may seek to request FWA to postpone his return to the duty station until his vaccination sequence is completed.

66. In light of the foregoing, the Tribunal finds that the Organization has met its duty to exercise reasonable care under staff regulation 1.2(c) and that the Applicant's case does not meet the requirement of *prima facie* unlawfulness. Consequently, given the cumulative nature of the requirements to grant an application for suspension of action, it does not consider necessary to examine the other two conditions, namely urgency and irreparable damage.

Conclusion

67. In view of the foregoing, the application for suspension of action pending management evaluation is rejected.

(Signed)

Judge Teresa Bravo

Dated this 23rd day of March 2021

Entered in the Register on this 23rd day of March 2021

(Signed)

René M. Vargas M., Registrar, Geneva