



**27 February 2025**

**Case 6/2024**

# **FINAL DECISION**

**[ . ]**

**v**

**the Single Resolution Board**

Christopher Pleister, Chair  
Helen Louri Dendrinou, Vice-Chair  
Kaarlo Jännäri  
Marco Lamandini, Co-Rapporteur  
David Ramos Muñoz, Co-Rapporteur

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## FINAL DECISION

In Case 6/2024,

APPEAL under Article 85(3) of Regulation (EU) No 806/2014 of the European Parliament and of the Council of 15 July 2014 establishing uniform rules and a uniform procedure for the resolution of credit institutions and certain investment firms in the framework of a Single Resolution Mechanism and a Single Resolution Fund and amending Regulation (EU) No 1093/2010<sup>1</sup> (hereinafter the “**SRMR**”),

[ . ], having its seat at [ . ], represented by [ . ], (hereinafter, the “**Appellant**”)

v

the **Single Resolution Board** (hereinafter the “**Board**” or “**SRB**”), represented in these proceedings by its agents [ . ]

(the Appellant and the Board collectively referred to hereinafter as the “**parties**”),

THE APPEAL PANEL,

composed of Christopher Pleister (Chair), Helen Louri Dendrinou (Vice-Chair), Kaarlo Jännäri , Marco Lamandini (Co-Rapporteur) and David Ramos Muñoz (Co-Rapporteur)

makes the following decision:

### **Background of facts**

1. On 27 August 2024, the Appellant submitted an appeal against the SRB decision [ . ] ([ . ]) determining the minimum requirement for own funds and eligible liabilities (the “**MREL**”) for [ . ] (the “**Contested Decision**”).
2. The notice of appeal was notified by the Secretariat of the Appeal Panel to the Board on 2 September 2024 informing the parties that the Board was granted six weeks until 16 October 2024 to serve its response.
3. On 3 September 2024, the Secretariat of the Appeal Panel notified to the parties the composition of the Appeal Panel for case 6/2024 and informed that the Chair had meanwhile appointed professors Lamandini and Ramos Muñoz as co-rapporteurs of the case.
4. On 5 September 2024, the Secretariat of the Appeal Panel notified to the parties its procedural order no. 1 as follows:

Dear Parties in case 6/24,

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<sup>1</sup> OJ L 225, 30.7.2014, p.1.

further to the notice of appeal of 27 August 2024, and with no prejudice to the deadline for the Board set in accordance with the Appeal Panel's Rules of Procedure to submit its response, the Appeal Panel, for reason of procedural efficiency and good administration, requests the Appellant to submit the additional documents indicated here below.

\* \* \*

The appeal in case 6/24 concerns the determination of MREL for the Appellant by the Board. This MREL determination followed a request made by the [ . ], the National Resolution Authority (the "**NRA**") where the NRA considered that the Appellant would be likely to pose systemic risk in the event its failure and requested the Board, under Article 12d(5) SRMR, to apply Article 12d(4) SRMR to the Appellant (the "**Fishing Request**").

The Appeal Panel had the opportunity to decide on the matter of the Fishing Request in its decision of 13 February 2023, in case 3/2022. The Appeal Panel notes that the Appellant acknowledges the Appeal Panel decision in case 3/2022 and relies on the Appeal Panel's findings therein.

The Appeal Panel also notes that it results from the notice of appeal and the documents annexed thereto that the Appellant initiated a case before the [ . ] ("Regional Administrative Court") [ . ] ("[ . ]") where the Appellant seeks the annulment of the decision of the NRA to make the Fishing Request to the Board (national proceedings).

Article 11 (1) of the Appeal Panel Rules of Procedure states that:

"The Chair may give directions on behalf of the Appeal Panel by way of case management for the efficient conduct of the appeal at any stage in the appeal. This includes provision for procedural observations on a party's own notifications or on communications from other parties under Article 85(3) of Regulation 806/2014 or clarifications over any aspect of the case or the parties' positions. Such directions will be submitted to the parties through the Secretariat. The Chair may consult with the other members and alternates for such purposes".

Further to that, Article 15 (2) of the same RoP states that:

"The Appeal Panel may adopt as a measure of inquiry: (...) a) a request to a party for information or for production of any material relating to the case;"

The national proceedings described above may present relevant implications for the present proceedings.

The European Union legal order espouses the idea of a "complete system of remedies and procedures", comprising national courts, and European courts (Case 294/83 *Les Verts v Parliament* [1986] ECR 1339], paragraph 23). Administrative appeal bodies, like the Appeal Panel, though not judicial bodies, are part of this logic. The idea is to ensure completeness of the system and an effective judicial protection. Thus, a decision, including interim measures, adopted at national level in a case involving the "national leg" of a European composite procedure is a relevant development for purposes of the present case

To that effect, the Appeal Panel invites the Appellant, by submitting a written answer by the close of business of Friday 27 September 2024 to the Secretariat of the Appeal Panel, to complement the documents submitted with the notice of appeal and to provide:

(a) an update on the relevant developments, if any, in such national proceedings after the lodging of the notice appeal, including the adoption of interim measures, if any or, if such measures have been requested but not yet granted, the procedural rules governing the granting by the Regional Administrative Court [ . ] of such interim measures, and the timeline for

the adoption of such measures which can be reasonably expected in the case brought by the Appellant according to usual practice;

(b) an English translation of (i) the appeal brought by the Appellant before the Regional Administrative Court [ . ] ([ . ]), (ii) the request for interim measures, if any (document 9 refers in fact to such a request), (iii) the document presented by the [ . ] to the Court [ . ], and (iv) all subsequent decisions of the Court and (v) all briefs submitted by all parties in such pending case(including the briefs to be submitted to the Court [ . ], as indicated in the documents attached to the notice of appeal);

5. On 27 September 2024, the Appellant submitted the requested documents in accordance with procedural order no. 1.
6. On 1 October 2024, upon reasoned request of the Board filed on 20 September 2024, and with a statement of no opposition of the Appellant filed on 25 September 2024, the Appeal Panel granted the Board an extension of the deadline to submit its response by two weeks until 28 October 2024. On the same day, the Secretariat of the Appeal Panel notified the parties of the new composition of the Appeal Panel for the case.
7. On 25 October 2024, the Board submitted its response. In accordance with Article 6(8) of the Appeal Panel's RoP, the Appellant was given the opportunity to file a rejoinder to the Board's response within three weeks. The Appellant timely submitted its rejoinder.
8. On 19 November 2024, the Secretariat of the Appeal Panel served on the Board the rejoinder and requested the Board to inform, without undue delay, whether it intended to file a reply to the rejoinder, which would be due by 6 December 2024.
9. On 20 November 2024, the Board informed the Appeal Panel of its intention to file a reply and submitted, on the same date, a reasoned request for a one-week extension to file its reply, namely by 13 December 2024. The Appeal Panel granted the extension requested to the Board.
10. On 13 December 2024, the Board submitted its reply.
11. On 18 December 2024, the Appeal Panel informed the parties that it intended to hold a hearing for the oral discussion of the case on 27 January 2025 and asked the parties to confirm their attendance. Both parties confirmed.
12. On 27 January 2025, the hearing was held in Brussels. Both parties appeared and presented oral arguments, where they reiterated their respective positions, adding further considerations of fact and law. The parties also answered questions from the Appeal Panel for the clarification of facts relevant for the just determination of the appeal. At the end of the hearing, and with further notice of the Secretariat of the Appeal Panel of 28 January 2025, the parties were invited to submit an update of the pending case before the national judge and the written text of their pleadings at the hearing, without amendments, by the close of business of 31 January 2024. The parties timely proceeded with those submissions.

13. On 7 February 2025, the Appeal Panel notified the parties that the Chair considered that the evidence was complete and thus that the appeal had been lodged for the purposes of Article 85(4) of Regulation 806/2014 and 20 of the Rules of Procedure.

### **Main arguments of the parties**

14. The main arguments of the parties are briefly summarised below. However, to avoid unnecessary duplications, the description in this section of the Appeal Panel’s decision is limited to the illustration of the essential elements of the pleas of the Appellant and of the responses of the Board to such pleas, because the more detailed arguments of both parties are then thoroughly described and considered in the findings of the Appeal Panel’s decision. It is specified that the Appeal Panel considered all arguments raised by the parties, irrespective of the fact that a specific mention to each of them is not expressly reflected in this decision.

### Appellant

15. The Appellant preliminarily illustrates the facts as follows. [ . ], meetings were held with representatives of the Appellant, the Board and [ . ], the national resolution authority (the “NRA”), to discuss the progress of implementing existing MREL. During these meetings, the Appellant was informed that the NRA was considering applying Article 12d(5) SRMR and submitting a request (the “**Fishing Request**”) to the Board to impose the minimum subordination requirement set out in Article 12d(4) SRMR (the “**Subordination Requirement**”) on the Appellant.
16. [ . ], the NRA decided to exercise the rights granted by Article 12d(5) SRMR, and [ . ], it submitted the Fishing Request. The NRA did not grant the Appellant its right to be heard, nor access to the case file, or any other procedural rights and guarantees prior to adopting the Fishing Request. Furthermore, the NRA did not provide any reasoning for the Fishing Request. On the same [ . ] the NRA sent a letter to the Appellant informing that it would exercise its rights under Article 12d(5) SRMR and request the Board to implement the Subordination Requirement. The letter also indicated that the Appellant would be informed about the application of Article 12d(5) in accordance with the Board’s procedures. The Appellant submits that this communication inadvertently led the Appellant to believe that Article 12d(5) had not yet been implemented by the NRA and that the Fishing Request had not yet been sent.
17. [ . ], at the request of the Board, the NRA sent an addendum to the initial Fishing Request, providing partial reasoning for the imposition of the Subordination Requirement.
18. [ . ], the Board sent the Appellant a draft decision on the determination of MREL and granted to the Appellant the opportunity to submit written comments on the proposed MREL determination. Upon reviewing the Board’s draft decision, the Appellant concluded that the NRA had already implemented Article 12d(5) SRMR and submitted the Fishing Request to the Board [ . ]. The Appellant further submits that, after

researching previous decisions of the Appeal Panel, the Appellant determined that the Board is bound by the NRA's Fishing Request and has no discretion to amend or reject it because the Fishing Request informs the final content of the Board's decision (the Appellant refers to the Appeal Panel decision of 13 February 2023 in case 3/2022, at paragraphs 112-116), and the legality of the Subordination Requirement must be reviewed by national courts. Consequently, the Appellant immediately requested the NRA to provide information on the Fishing Request. In the Appellant's view, [ . ], the NRA finally notified the Appellant of the Fishing Request and its addendum.

19. [ . ], the Appellant submitted initial comments to the Board regarding the draft MREL decision. The Appellant noted that the lack of reasoning and justification prevented it from understanding the necessity and the legality of the Subordination Requirement, creating legal uncertainty regarding access to effective legal remedies. Furthermore, the Appellant expressed the opinion that the procedural shortcomings in adopting the Fishing Request had substantially violated its fundamental rights and that the Board should consider the Fishing Request manifestly illegal. The Appellant acknowledges that the Appellant's comments are accurately reflected in Section II of the Contested Decision.
20. [ . ], after reviewing the Fishing Request and its addendum, the Appellant submitted additional comments to the Board, arguing that the justification for the Subordination Requirement provided in the Fishing Request and its addendum was flawed and insufficient, and that the analysis was incomplete. The Appellant acknowledges that those additional comments are duly reflected in Section II of the Contested Decision.
21. [ . ], the Appellant contested the Fishing Request before the [ . ] (the "**Council**"). On 3 January 2024, the Council issued [ . ] (the "**Council's Decision**"), by which it concluded that the Fishing Request is an interim decision under national administrative law and cannot be challenged separately from Contested Decision on MREL. In the Appellant's view, the Council acknowledged that the Appellant had not been provided with the procedural safeguards required by national law during the adoption of the Fishing Request. However, in line with the principle of good administration, the Council reviewed the Fishing Request and the Appellant's objections and concluded that the Fishing Request was justified.
22. [ . ], the Appellant sent a letter to the Board informing of the Council's Decision and the Appellant's intention to file an application for annulment before the national competent court and urged the Board to suspend the Board's proceedings based upon the Fishing Request.
23. [ . ], the Appellant filed the application for annulment before the [ . ]. [ . ], the Regional Administrative Court accepted the Appellant's application and notified the commencement of the [ . ].

24. [ . ], the Board sent a letter to the NRA regarding [ . ], requesting that the letter be forwarded by the NRA to the Regional Administrative Court. In this letter, the Board briefly explained its understanding of the legal nature of the Fishing Request. The Board also emphasized the possibility to refer questions for a preliminary ruling to the Court of Justice of the European Union in accordance with Article 267 TFEU.
25. [ . ], the Regional Administrative Court sent a letter to the parties in [ . ], inviting them to express their position on whether it was necessary to refer questions for preliminary ruling to the Court of Justice concerning the legal nature and review of the Fishing Request. At the date of the hearing held on 27 January 2025 in these proceedings, the Regional Administrative Court had not yet referred any preliminary ruling request to the Court of Justice in the (still) pending case.
26. [ . ], the Board adopted the Contested Decision, applying the Subordination Requirement to the Appellant in accordance with the Fishing Request. The Contested Decision, along with the NRA's decision to implement it, was sent to the Appellant by the NRA [ . ].
27. Based on the foregoing, the Appellant argues that the Contested Decision is unlawful and therefore "should be annulled and the case of determining MREL should be remitted back to the Board". The appeal relies on three grounds.
28. First, the Appellant claims that the request made by the NRA pursuant to Article 12(5)(d) SRMR is "*manifestly illegal*" and the Board should have refused to implement it.
29. In particular, in the Appellant's view, before the Fishing Request was sent to the Board, the NRA did not grant the Appellant its procedural rights, thereby disregarding the Appellant's right to a fair defence, which is a fundamental principle of EU law and an obligation under Article 41 of the Charter of Fundamental Rights of the European Union (the "**Charter**"). This substantial violation of fundamental principles constitutes, in the Appellant's view, a manifest illegality. The Appellant further argues that the Board was aware of these violations. The Appellant further claims that if the Fishing Request is binding on the Board, it constitutes a definitive national act. Therefore, in the Appellant's view, the Board's belief that the manifest illegality of the Fishing Request could be corrected later by the Council of the NRA, eight months after the Fishing Request was sent, would be inconsistent with EU law and the case-law of European courts.
30. Second, the Appellant claims that the Board failed to observe the Appellant's right to be heard ("**RTBH**") before taking the Contested Decision.
31. The Appellant argues that the Board allowed comments on the draft MREL decision during October and November 2023. However, in 2024, the Board revised the draft to include a conclusion that the Council's Decision was a crucial part of the Fishing Request. This update was significant for the Appellant because it supported the Board's later conclusion that the



Council's Decision addressed all previous violations by the NRA. However, the Appellant claims that the Board did not share this updated draft with the Appellant nor provided a chance to comment on the new information, which was not included in the initial draft sent [ . ].

32. Third, the Appellant claims that the Board failed to comply with the principle of sincere cooperation which resulted in breach of the principle of legal certainty.
33. The Appellant argues that, given the circumstances of the case, including the pending review of the Fishing Request by the competent national court, and that the Board and the NRA have a different understanding of the Fishing Request's legal nature, the Board was required to suspend its proceedings.
34. Moreover, the Appellant argues that the violation of the principle of sincere cooperation results from the fact that no institution has taken responsibility for justifying the Subordination Requirement or providing effective procedural rights to the Appellant. The Appellant argues that the Board and NRA have shifted responsibility among themselves in response to the Appellant's requests and objections and were also unwilling to wait for the ruling of the national court and, potentially, the Court of Justice.
35. The Appellant further complemented its arguments in support of the appeal with its reply to the Board response and in the oral discussion of the case.
36. At the hearing the Appellant also submitted an update of the pending case before the Regional Administrative Court and indicated the expected timeline for the further development of the national case.

#### Board

37. The Board preliminarily submits that the appeal is, at least in part, inadmissible.
38. Furthermore, the Board argues that the appeal is unfounded.
39. The Board submits that the first ground of appeal is unfounded for three distinct arguments.
40. First, the Board contends that no "obligation" is established by the Appeal Panel in case 3/2022 that would require the Board to refuse to implement the Fishing Request made by the NRA under Article 12d(5) SRMR where it identifies a legal irregularity with that request. While the Appeal Panel does acknowledge in case 3/2022 the possibility for the SRB to reject a subordination request made by an NRA under Article 12d(5) SRMR, it does not specify the conditions under which such a rejection "could" take place. In particular, the Appeal Panel is silent on the relevance or role of the national courts in the Member State of the NRA from which the request comes.

41. Second, the Board contends that the arguments made by the Appellant are contradictory and, in any case, misconceived. In the Board's view, it is contradictory for the Appellant to accept the binding nature of the Subordination Request made by the NRA, while, at the same time, arguing that the Board was compelled to reject such request. The same applies with regard to submissions made by the Appellant on the role of the national court in this regard. More specifically, the Appellant cannot accept that the national courts have exclusive jurisdiction as ultimate arbiters of the legality of the Subordination Request made by the NRA while, at the same time, arguing that the Board has acted unlawfully by not rejecting that request on the grounds that it was (supposedly) "manifestly illegal". The Board notes that any supposition that the SRB is competent to reject the request on grounds of (supposed) "manifest illegality" necessarily assumes that the SRB is also competent to undertake a legal review of that request which, as the Appellant explicitly acknowledges, falls within the exclusive purview of the national courts.
42. In any case, the Board further contends that the arguments made by the Applicant in this regard are based on a misconception. It is a fundamental principle of the rule of law and of the separation of powers that the courts retain the exclusive competence to determine the lawfulness of a legal act, and not the administration. This applies equally to complex composite procedures, such as the one at hand.
43. Third, and irrespective of the first and second lines of argument described above, the Board contends that the request made by the NRA under Article 12(5)(d) SRMR with regard to the Appellant is not, in any case, manifestly illegal. More specifically (i) the standard of reasoning was satisfied by the NRA in the request that it made under Article 12(5)d SRMR; and (ii) the Appellant was granted, and made effective use of, its RTBH during the decision-making process for the adoption of the Contested Decision.
44. The Board submits that the second ground of appeal is unfounded for three reasons.
45. First, the Board contends that the wording that was added to Recital 12 to the Contested Decision does not constitute the basis for any substantive change in the way in which the Appellant's MREL was determined. The fact that this wording was not included in the draft decision shared with the Appellant for the RTBH could not, therefore, have adversely affected its interests within the meaning of Article 41(2) of the Charter.
46. Second, the Board contends that the second ground of appeal cannot stand because the Appellant fails utterly to demonstrate how the process for the adoption of the Contested Decision could actually have led to a different outcome had its comments on the newly added wording to Recital 12 been taken into consideration or, more precisely, how such a possibility could not be ruled out.
47. Third, the Board contends that the focus of the second ground of appeal is clearly on the RTBH that was organised at Union level by the SRB in respect of the Contested Decision. As

such, the submissions made by the Appellant must be dismissed, in the Board's words, as "conjecture, contradictory, inaccurate and based on the unreasonable expectation that the SRB should suspend its decision-making process indefinitely pending the final resolution of litigation proceedings before the national courts of a Member State".

48. The Board submits that the third ground of appeal is unfounded for two reasons.
49. First, and with regard to the alleged breach of the principle of sincere cooperation, the case-law cited by the Appellant to support this argument is irrelevant to the case at hand because it concerns the application of that principle with respect to the judicial, as opposed to the administrative, procedure. In any case, the Board took all necessary steps to ensure that a correct and effective decision-making process was followed for the adoption of the Contested Decision.
50. Moreover, and notwithstanding the above, the Board further submits that it is unreasonable to expect that the Board would suspend its decision-making process for the determination of MREL indefinitely pending the final resolution of litigation proceedings before the national courts of a Member State.
51. Second, and with regard to the alleged breach of the principle of legal certainty, the Board contends that the fact that the Appellant has had to initiate separate legal proceedings at both national and Union levels is simply a direct and unavoidable consequence of the complex and bifurcate nature of the composite procedure at hand. Moreover, MREL determinations are subject to periodic review to ensure that they reflect, in an appropriate manner, the ever-evolving circumstances of the bank. As such, and should the national court find in the end that the Fishing Request made by the NRA under Article 12d(5) SRMR is defective, the SRB would then draw the necessary conclusions and adopt a new MREL decision for the bank, as appropriate.
52. The Appellant further complemented its arguments in support of the appeal with its reply to the Board response and in the oral discussion of the case.

### **Findings of the Appeal Panel**

53. This case illustrates an aspect of the challenges posed by composite procedures within the Single Resolution Mechanism (the "SRM"). The Board is at the centre of the SRM and operates under the realm of European administrative law, but sometimes, as in this case, NRAs, which are part of the SRM, are vested with specific powers in the context of composite proceedings, and the exercise under national law of those powers can bind the Board. For the Appeal Panel it is as important to duly exercise, within the limits of its remit as set out in Article 85 SRMR, its review over the Board's decisions, as it is to acknowledge what are the limits to its review mandate. And, as it will be explained below, according to the existing legal framework and case-law of European courts, the Appeal Panel, whilst it can review the Contested Decision, cannot review a decision of the NRA under national law which is part of

the composite proceeding leading to the adoption of the Contested Decision, yet is binding upon the Board. It is for the European legislators ultimately to decide what should be the allocation of powers between national and European levels within the SRM, as challenging as it may be, for authorities and banks alike.

**(a) Admissibility of the appeal.**

54. The Board claims that the Appellant's first ground of appeal is partly inadmissible because, in the Board's view, the arguments made by the Appellant under the first ground of appeal are insufficiently defined to enable the Board, within the meaning of the case-law of the European courts, to protect its interests and to enable the Appeal Panel to undertake its legal review. The Board argues that the Appellant does not define "manifest illegality", "EU law" or identify with any precision the "findings of the ECJ" that would have been contravened by the Board's actions.
55. The Appeal Panel does not share the Board's objection. The Appellant's claim is that the Board should have rejected the Fishing Request by the NRA because it was manifestly illegal, and this because it was obvious that the NRA had failed to guarantee the Appellant's rights under Article 41 of the Charter. The claim, so formulated, is clear enough, and the Board has shown no difficulty to contest it. Whether the claim may encounter legal challenges, derived from the composite nature of the European framework and of the administrative proceedings within the SRM is another matter, to be considered while discussing the merit of the first ground.
56. The Appeal Panel considers therefore the first ground of appeal admissible. Since the admissibility of the other grounds is not contested by the Board, the Appeal Panel will proceed to analyse all three grounds of appeal in that order.

**(b) The first ground of appeal.**

57. By its first ground of appeal, the Appellant claims that the request made by the NRA pursuant to Article 12(5)(d) SRMR is "manifestly illegal" and the Board should have refused to implement it, and this because, before the NRA sent its Fishing Request to the Board, the NRA did not grant the Appellant its procedural rights under Article 41 of the Charter, and the Board was aware of this. The Board, on the contrary, claims that the Appellant's claim is inadmissible and unfounded.
58. The "Fishing request" is contemplated under Article 12d(5) SRMR, which reads as follows (emphasis added):

At the request of the national resolution authority of a resolution entity, the Board shall apply the requirements laid down in paragraph 4 of this Article to a resolution entity which is not subject to Article 92a of Regulation (EU) No 575/2013 and which is part of a resolution group the total assets of which are lower than EUR 100 billion and which the national resolution authority has assessed as reasonably likely to pose a systemic risk in the event of its failure.

When taking a decision to make a request as referred to in the first subparagraph of this paragraph, the national resolution authority shall take into account:

- (a) the prevalence of deposits, and the absence of debt instruments, in the funding model;
- (b) the extent to which access to the capital markets for eligible liabilities is limited;
- (c) the extent to which the resolution entity relies on Common Equity Tier 1 capital to meet the requirement referred to in Article 12f.

The absence of a request by the national resolution authority pursuant to the first subparagraph of this paragraph is without prejudice to any decision of the Board under Article 12c(5).

59. The Appeal Panel had the opportunity in its decision in case 3/2022, of 13 February 2023 to decide on the nature of a Fishing Request, and its implications for the Board's competences, and the Appeal Panel's remit. In that case the Appeal Panel held that (emphasis added):

113. The Appeal Panel considers that pursuant to Article 12d(5) SRMR the Board is bound by the request of the national resolution authority and has no margin of discretion in amending or rejecting the request. [...]

114. The text of Article 12d(5) SRMR specifies that "the Board shall apply" the requirements of paragraph 4 "at the request of the national resolution authority", without leaving any discretion to the Board. This is also confirmed by a contextual and teleological interpretation.

115. The Appeal Panel further recalls that, according to settled case-law, "if an EU authority is bound by a national decision, national courts would control the legality of the national act" (Case C-97/91 *Oleificio Borelli v Commission* [1992] ECLI:EU:C:1992:491). In the Appeal Panel's view, this applies in vertical composite proceedings not only where the act of the national authority is a decision, but also where such an act is a request, to the extent that, as it happens in the instant case, this request is necessary to justify the exercise of power by the European authority and is binding upon the European agency in the double sense that it requires the European agency to take the requested decision and it informs the final content of that decision (which stems directly from Article 12d(4) SRMR, once its application is triggered by the "fishing request").

116. Therefore, the Appeal Panel finds that, in accordance with *Oleificio Borelli*, the legality of the [ . ] "fishing request" needs to be reviewed by [ . ] courts and is clearly beyond the remit of the Appeal Panel.

117. The Appeal Panel further considers that the Appellant has failed to show that the [ . ] "fishing request" was manifestly unlawful. Quite on the contrary, the evidence in the file, including the opinion of [ . ] on the proposed "fishing request" of 10 December 2021, shows that, although the Appellant challenges under several aspects the legality of the [ . ] "fishing request", and [ . ], the SRB and the Appellant have quite different views on the challenges for [ . ] to access capital markets in order to issue and place MREL securities, [ . ] "fishing request" does not show any manifest illegality which could be found by the Board and could justify the Board's refusal to duly implement the fishing request. In the Appeal Panel's view, however, only the [ . ] competent court may decide upon the claims raised by the Appellant against the "fishing request" and pertaining to the validity of such decision in accordance with [ . ] administrative law.

60. Absent any guidance from the European Courts on how to apply the principles of *Oleificio Borelli* (Case C-97/91 *Oleificio Borelli v Commission* [1992] ECLI:EU:C:1992:491) in the context of the SRM composite procedures the Appeal Panel follows its own precedent, where it held that an NRA's Fishing request is binding on the Board, and its legality can only be reviewed by national courts.
61. The Appellant does not dispute these findings, but it argues that, following paragraph 117 of the Appeal Panel's decision, the Board should have refused to implement the Fishing Request by the NRA because it was manifestly illegal.
62. The Appellant offers a detailed justification in its appeal, at paragraphs 33-37 of the reasons why, upon receiving the Fishing Request the Board should have refused to implement it, including an erroneous interpretation of 12d(5), letters (b) and (c) SRMR.
63. However, in the Appeal Panel's view, these alleged flaws would be relevant in the review of the Contested Decision if the NRA's decision had been a proposal, or draft decision, yet the Board's decision would not be bound by the national Fishing Request. In other words, if the European authority had exercised the final decision-making power without being bound by the preparatory acts or the proposals of the national authorities, i.e., the situation discussed by European courts with the judgment of 18 December 2007, , C-64/05 P, *Sweden v Commission* [2007] ECLI:EU:C:2007:802, or with the judgment of 19 December 2018, C-219/17, *Berlusconi*, [2018] ECLIEU:C:2018:1023 or with the judgment 3 December 2019, C-414/18 *Iccrea* [2019] ECLI:EU:C:2019:1036. As explained above, the present case does not fall in the situation of *Sweden v Commission* or *Berlusconi* or *Iccrea*, but of *Oleificio Borelli*, and thus the Appellant's arguments are relevant for the national court.
64. The Appellant further argues, in paragraphs 39-53 that the decision was manifestly illegal because the Appellant was not granted basic safeguards under Article 41 of the Charter by the NRA, such as the right to be heard, or its rights of access to the file, it was not promptly notified of the decision, nor given clear reasons for the decision.
65. [...]. In the Appeal Panel's view, this interpretation of the NRA is unwarranted for the reasons already stated above and in case 3/2022, yet the Appeal Panel acknowledges that there is no final guidance on this by the European courts, and lacking such guidance, the Board (or the Appeal Panel) could not easily characterise as manifestly illegal the Fishing Request as issued by the NRA.
66. Even assuming, however, that, as the Appeal Panel and the Board consider, the NRA's Fishing request is a national decision binding on the Board and is not a provisional ("interim") decision, subject to the Board's definitive decision, as the NRA suggests (the Board has also acknowledged this diverging interpretation with its letter from the Board's Vice-Chair of 11 April 2024) the findings in the present case would not change. That is, the Board had to check

whether it had obtained an actionable, and thus binding decision from the NRA, and it did, but also no manifest illegality was present.

67. In the Appeal Panel's view, the Appellant may be right in general terms that if the Board were aware that a Fishing Request had been issued with a blatant violation of its fundamental procedural rights, the Board, which is bound by the legality principle, should have refrained from implementing the Fishing Request because of its manifest illegality.
68. However, in the present case, the Board has in fact adopted the Contested Decision only after the Fishing Request originally issued by the NRA and allegedly vitiated by a manifest illegality for the violation of the Appellant's fundamental procedural rights, upon request of the Appellant, had been reviewed by the Council of the NRA with its [ . ] (the "**Council Decision**"), and said Council Decision was adopted after having granted an opportunity to the Appellant to be heard and to give its view.
69. It is also worth noting that in the present case the Board, albeit lacking any formal power to require the NRA to act in a specific way, was part of an exchange of views with the NRA about the implications of the Subordination Requirement (communications of April 2023), and it insisted that the Fishing Request be formally communicated to the Appellant, and was informed that, despite the exclusion of a right to be heard under national law, the NRA had tried to take the opinion of the bank into account (communications of May 2023 between the Board and the NRA). The Board waited for the Council Decision before adopting the Contested Decision. All this suggests that the Board went beyond the relatively passive role that Article 12d(5) may suggest, and tried, to the best of its ability, to ensure that the Appellant was adequately informed and heard.
70. This justifies, in the Appeal Panel's view, the Board's conclusion that the Council Decision had ultimately remedied the original violation of the fundamental procedural rights of the Appellant (something which appears to be part of the matters currently under the scrutiny of the national court in the pending case). For this reason, in the Appeal Panel's view, the Board could not, and was right not to consider manifestly illegal the Fishing Request.
71. The Appeal Panel considers regrettable that the SRM framework may leave doubts as to the binding or non-binding nature of the decisions adopted by the competent NRA in the context of composite proceedings within the SRM, and that the NRA and the Board may have different views about the nature of the Fishing Request. However, the Appeal Panel is confident that, in due course, European courts will provide all necessary guidance and trusts that its reding of Article 12d(5) SRMR, in its textual, contextual and finalistic interpretation, may ultimately find confirmation by European courts.
72. It is important to note that the allocation of competences between national and Union levels not only has *functional* relevance, to ensure expediency, but also a *constitutional* relevance, to ensure that the prerogatives of the Union and Member States are respected. A recent and quite illustrative example is, in a completely different context, the judgment of 26 September

2024, C-600/22 P, Puigdemont i Casamajó and Comín i Oliveres v Parliament [2024] ECLI:EU:C:2024:803, where the applicant claimed violations of fundamental rights, and the Court of Justice confirmed not only that the European Parliament could not verify the correctness of the national act, but also that doing so would run against the division of powers between the Union and Member States; national courts were the only competent to review, and the preliminary reference was the mechanism for dialogue with European Courts.

73. Thus, the allocation of competences cannot be sidestepped. In principle, the competent body to decide whether Article 41 of the Charter was complied with are the national courts of the NRA's member state, i.e., [ . ]. The national act does not fall outside the European system of remedies, since under Article 267 TFEU a preliminary reference to the Court of Justice is always available to national courts.
74. For these reasons the first ground is dismissed.

*(c) The second ground of appeal.*

75. By its second ground, the Appellant argues that the Board did not grant the Appellant its right to be heard (the “RTBH”) before taking the Contested Decision because, in the Appellant's view, although the Board allowed comments on the draft MREL decision during October and November 2023, in 2024 the Board revised the draft, and included a sentence stating that the Council's Decision was a crucial part of the Fishing Request, as an additional argument in support of the Board's conclusion that the Council's Decision addressed all the previous violations by the NRA, all of this without asking the Appellant to comment on this particular sentence, which had not been part of the initial draft sent [ . ].
76. The Board, for its part, contends that the wording added to Recital 12 of the Contested Decision provided no basis for any substantive change in the determination of MREL, and thus the content did not adversely affect the Appellant's interest, that taking into account the Appellant's comments on the added wording could not lead to a different outcome, and that the Appellant's observations about the national procedure are inaccurate and conjectural, and could in no way result in an indefinite suspension by the Board of the effects of the decision.
77. The part of the Contested decision on which the Appellant relies is Recital 12, which is reproduced below (emphasis added):

The requirements of Article 12d(4) of Regulation (EU) 806/2014 have been applied based on the request of [ . ] dated [ . ], complemented by addendum of [ . ], confirmed by decision of the Council of [ . ] "On the Examination of the Application Submitted by [ . ] on [ . ]", submitted to the Board according to Article 12d(5) of Regulation (EU) 806/2014. Pursuant to Article 12d(5), first paragraph of Regulation (EU) 806/2014, the Board shall apply the requirements at the request of [ . ] which has assessed that the resolution entity is reasonably likely to pose a systemic risk in the event of its failure, taking into account the mandatory criteria listed in Article 12d(5), second subparagraph, [ . ] of Regulation (EU) 806/2014.

78. The underlined sentence, which makes reference to the fact that the request by the NRA had



been confirmed by decision of the national central bank Council, was not part of the draft decision shared with the Appellant in October 2023, and thus the Appellant could not comment on it. This, according to the Appellant, constitutes a violation of its RTBH.

79. According to the Court of Justice's case-law, the right to be heard:

guarantees every person the opportunity to make known his views effectively during an administrative procedure and before the adoption of any decision liable to affect his interests adversely [...] the right to be heard pursues a dual objective. First, to enable the case to be examined and the facts to be established in as precise and correct a manner as possible, and, secondly, to ensure that the person concerned is in fact protected. The right to be heard is intended, *inter alia*, to guarantee that any decision adversely affecting a person is adopted in full knowledge of the facts, and its purpose is to enable the competent authority to correct an error or to enable the person concerned to submit such information relating to his personal circumstances as will argue in favour of the adoption or non-adoption of the decision, or in favour of its having a specific content (judgment of 4 June 2020, *EEAS v De Loecker*, C-187/19 P, EU:C:2020:444, paragraphs 68-69, citing judgment of 4 April 2019, *OZ v EIB*, C-558/17 P, EU:C:2019:289, paragraph 53, judgments of 3 July 2014, *Kamino International Logistics and Datema Hellmann Worldwide Logistics*, C-129/13 and C-130/13, EU:C:2014:2041, paragraph 38 and the case-law cited, and of 11 December 2014, *Boudjlida*, C-249/13, EU:C:2014:2431, paragraphs 37 and 59).

80. The right to be heard is a fundamental general principle of EU law, which cannot be excluded by legislative provision. However, the Court has also held that:

"fundamental rights, such as observance of the rights of the defence, do not constitute unfettered prerogatives and may be restricted, provided that the restrictions in fact correspond to objectives of general interest pursued by the measure in question and that they do not constitute, with regard to the objectives pursued, a disproportionate and intolerable interference which infringes upon the very substance of the rights guaranteed" (judgments of 15 June 2005, *Dokter and Others*, C-28/05, EU:C:2006:408, paragraph 75, 10 September 2013, *G. and R.*, C-383/13 PPU, EU:C:2013:533, paragraph 33, and 20 December 2017, *Prequ'Italia*, C-276/16, EU:C:2017:1010, paragraph 50, and the case-law cited in them).

81. Thus, the Court tends to approach the matter of the rights of the defence not as a matter of form, but as a matter of substance, finding that:

The question whether there is an infringement of the rights of the defence must be examined in relation to the specific circumstances of each particular case [...] including the nature of the act at issue, the context of its adoption and the legal rules governing the matter in question [...] (judgment 10 September 2013, *G. and R.*, C-383/13 PPU, EU:C:2013:533, paragraph 34, with references to judgment of the Court (Grand Chamber) of 25 October 2011, *Solvay v Commission*, C-110/10 P, EU:C:2011:687, paragraph 63, and judgment of the Court of 18 July 2013, *Commission v Kadi*, C-584/10 P, EU:C:2013:518, paragraph 102).

82. This view is maintained by the Court when assessing the consequences of a procedural irregularity, whereby:

“an infringement of the rights of the defence, in particular the right to be heard, results in annulment only if, had it not been for such an irregularity, the outcome of the procedure might have been different” (judgment 10 September 2013, G. and R., C-383/13 PPU, EU:C:2013:533, paragraph 38, with reference, *inter alia*, to Case C-301/87 France v Commission [1990] ECR I-307, paragraph 31; Case C-288/96 Germany v Commission [2000] ECR I-8237, paragraph 101; Case C-141/08 Foshan Shunde Yongjian Housewares & Hardware v Council [2009] ECR I-9147, paragraph 94; Case C-96/11 P Storck v OHIM [2012] ECR I-0000, paragraph 80).

83. In the present case, the Board shared with the Appellant the draft decision and allowed it to submit comments [ . ] for a period of 10 working days. Subsequently, in [ . ], close to the deadline to exercise its RTBH, the Board sent an email to the Appellant, indicating that it had come to its attention that the Appellant had received supplementary information from the NRA, and the Appellant may require more time to assess the relevance of that information, and thus extending the deadline of the RTBH until [ . ].
84. The Contested Decision includes an additional reference which was not part of the draft decision communicated to the Appellant in October 2023. The original text states that the requirements under Article 12d(4) have been applied after a request by the NRA in a specific date, that this request was complemented by an addendum, in another date, *and* (the part that was not in the draft decision) that this request was confirmed by the national central bank Council, in another date.
85. However, Section II of the Contested Decision, the Memorandum on the Right to be Heard (RTBH) provides more context. This RTBH Memorandum, which forms an integral part of that decision, shows that the Appellant expressed at length its objections to the imposition of the Subordination Requirement resulting from the Fishing Request, both substantive, based on Article 12d(5) SRMR and the principle of proportionality, and procedural, based on the right to a good administration and the rights to an effective remedy and to a fair trial, including the right to be heard.
86. The Board’s response in the RTBH Memorandum explains that the MREL determination in the Contested Decision did not reflect its exercise of discretion, but that it was bound by the national authority, and that, in light of this, the Appellant’s comments were out of the scope and not relevant for the RTBH process. The Board also added, however, that, in its understanding, the NRA complied with the necessary activities to comply with the principle of good administration and the right to judicial protection, and it mentions that the national central bank Council [ . ], after considering the Appellant’s objections, left the decision unchanged, and provided the necessary reasoning.
87. From this *contextual* perspective, the Board’s reference to the NRA’s Council’s Decision can be read as a response to the Appellant’s objection.
88. Furthermore, on [ . ] the Appellant sent a letter to the Board, whereby it gave account of the procedural developments before national authorities, including of [ . ], where said Council confirmed the Fishing Request, and declared that,

according to national law, the Fishing Request constitutes an interim decision that is not independently challengeable. The Appellant indicated that, in its view, its procedural rights had not been respected, that the diverging views between national and European authorities resulted in neither authority providing a legally binding review of the request, and that it planned to challenge the measure before national courts. The Appellant finished by urging the Board to suspend its proceedings.

89. [ ...] (in this case accompanied by the Subordination Requirement) was an interim act, and also explaining why, in the Board's view, the Fishing Request was a definitive national act, binding upon the Board.
90. Thus, if following European case-law, one takes into account "the nature of the act at issue, the context of its adoption and the legal rules governing the matter in question" (*Solvay v Commission*, paragraph 63; *Commission v Kadi*, paragraph 102) the conclusion is that there was no violation of the Appellant's right to be heard. The Appellant's views were heard by the Board, clearly and repeatedly, inside the formal process (where it was granted an extension of time to express them) and outside it, where the Board provided a more extensive explanation of its position, consistent with the one expressed in the Contested Decision.
91. This consistency also leads to conclude that, even if one were to consider the additional text in the Contested Decision, included after the formal RTBH, as both relevant, and as a *prima facie* breach of the Appellant's right to be heard (*quod non*), such breach would not lead to the annulment of the decision. This is not a situation where "had it not been for such an irregularity, the outcome of the procedure might have been different" (judgment 10 September 2013, G. and R., C-383/13 PPU, EU:C:2013:533, paragraph 38), since the Board's position has been consistent throughout the process, and the Board has been aware of the Appellant's concerns about its not having been granted rights of defence by the national authority. Thus, any facts or arguments put forward by the Appellant could not contribute to "enable the case to be examined and the facts to be established in as precise and correct a manner as possible" nor "to guarantee that any decision adversely affecting a person is adopted in full knowledge of the facts" or "to enable the competent authority to correct an error or to enable the person concerned to submit such information relating to his personal circumstances as will argue in favour of the adoption or non-adoption of the decision, or in favour of its having a specific content" (judgment of 4 June 2020, *EEAS v De Loecker*, C-187/19 P, EU:C:2020:444, paragraphs 68-69). The arguments expressed by the Appellant after the decision, and during these proceedings were already known to the Board, had been expressed beforehand in different forms, and through different channels, and had been rejected by the Board for the reasons expressed in the Contested decision, and outside it.
92. Again, the underlying problem is that two authorities that form part of the SRM disagree about the legal nature of an act regulated by the SRMR, the Fishing Request, which affects the position of the Appellant. This disagreement also results in different views about what

procedural safeguards are applicable, and in what leg of the procedure. This is a vexing problem, which the Appeal Panel sincerely regrets.

93. However, the Appeal Panel agrees with the Board's position on the nature of the Fishing Request, and, even considering that, cannot but acknowledge that the Board did everything in its hand to ensure that the Appellant's views were duly heard, and addressed. The Appeal Panel further acknowledges that, in the same spirit, at the hearing, the Board also clearly stated that, should the national competent court declare invalid the Fishing Request, this would require the Board to replace the Contested Decision as to the part of it which is based on the Fishing Request.
94. For these reasons, the second ground of appeal is dismissed.
95. **Third ground of appeal.**
96. By its third ground of appeal, the Appellant claims that the Board failed to comply with the principle of sincere cooperation because, in light of the pending review of the Fishing Request by the competent national court, and the different understanding of the Fishing Request's legal nature by the Board and the NRA, the Board should have suspended its proceedings, and because it, together with the NRA, has failed to take responsibility for justifying the Subordination Requirement or providing effective procedural rights to the Appellant.
97. The Board, for its part, argues that the case-law relied upon by the Appellant is irrelevant in the present case, that, in any event, the Board took all necessary steps to ensure that a correct and effective decision-making process was followed for the adoption of the Contested Decision, and that, notwithstanding all this, it is unreasonable to expect that the Board would suspend its decision-making process indefinitely pending the resolution of national proceedings. Also, with regard to legal certainty, that the need to initiate separate proceedings at national and Union levels is a direct and unavoidable consequence of the complex and bifurcate nature of the composite procedure at hand, not a violation of legal certainty, and, in any event, that the Board, due to the periodic nature of MREL reviews, should national courts decide that the Fishing request was defective, the Board could draw the necessary inferences and incorporate them into a new assessment.
98. The Appeal Panel notes that the principle of sincere cooperation is enshrined in Article 4(3) of the Treaty of the European Union (TEU).
99. This is complemented by Article 13(2) TEU.
100. The relevance of this principle for the SRM is stressed by Recital (88) of the SRMR, which states that:

“The relevant entities, bodies and authorities involved in the application of this Regulation should cooperate with each other in accordance with the duty of sincere cooperation enshrined in the Treaties.”

101. The principle of sincere cooperation under the TEU post-Lisbon (as compared with its predecessor in Article 10 TEC) is placed in a central position, immediately after the EU values and objectives, and it is conceived in reciprocal terms, i.e., the “principle not only obliges the Member States to take all the measures necessary to guarantee the application and effectiveness of EU law but also imposes on the EU institutions mutual duties to cooperate in good faith with the Member States” (judgment of 8 October 2020, C-514/19, *Union des industries de la protection des plantes* [2020] ECLI:EU:C:2020:803, paragraph 49).
102. However, precisely because it is broad, and can apply in different scenarios, it is important to take into account the circumstances of each case in order to assess the duties arising from the principle of sincere cooperation in the concrete circumstances of each case.
103. In that sense, the precedents relied upon by the Appellant are different from those in this case. In particular, the precedent relied upon to justify a purported duty by the Board to stay its proceedings (judgement of 25 July 2018, C-135/16 *Georgsmarienhütte and Others* [2018] ECLI:EU:C:2018:582, paragraph 24) concerned a case where the Commission adopted a decision declaring a national state aid incompatible with the internal market, and this was followed by a decision by national authorities to recover the unlawful state aid. The beneficiaries of the aid challenged the national decision before national courts, raising also doubts about the legality of the Commission decision, which led to a preliminary reference by the national court. The Court of Justice held that:

“where the outcome of the dispute before the national court depends on the validity of the Commission decision, it follows from the obligation of sincere cooperation that the national court should, in order to avoid reaching a decision that runs counter to the Commission decision, stay its proceedings pending final judgment in the action for annulment before the Courts of the European Union, unless it takes the view that, in the circumstances of the case, a reference to the Court of Justice for a preliminary ruling on the validity of the Commission decision is warranted” (judgement of 25 July 2018, *Georgsmarienhütte and Others*, C-135/16, EU:C:2018:582, paragraph 24 citing judgment of 14 December 2000, *Masterfoods and HB*, C-344/98, EU:C:2000:689, paragraph 57).
104. As pointed out by the Board, in that case the Court of Justice considered how the principle of sincere cooperation applied to *national courts*. Furthermore, this consideration was an *obiter dictum*, since the real question was whether the preliminary reference was admissible, given that the natural way was to have filed an action for annulment under Article 263 TFEU (the Court held the preliminary reference to be inadmissible).
105. The present case involves the opposite situation, i.e., instead of a decision by Union authorities binding on national authorities, this case involves a decision by national authorities binding on EU authorities. Thus, the Appellant’s conclusion that the Board should have suspended the application of MREL until national courts had decided on the matter would, in the Appeal Panel’s view, read the principle of sincere cooperation backwards. In *Georgsmarienhütte* cited above (or *Masterfood*, which principle is applied in *Georgsmarienhütte*) there was a binding legal act by European authorities, and the correct course of action was for national authorities to implement the act, and for national courts to not challenge its validity until the competent courts had decided. Reasoning by analogy in this case European authorities should

not question the validity and effectiveness of the national decision, until such invalidity has been declared by the competent courts, in this case national courts.

106. This is in line with another basic principle of EU law. That the acts of the Community institutions are in principle presumed to be lawful and accordingly produce legal effects, even if they are tainted by irregularities, until such time as they are annulled or withdrawn (judgment of the Court of Justice of 15 June 1994, case C-137/92 P, *Commission v BASF*, ECLI:EU:C:1994:247, paragraphs 48-50). This presumption seeks to reconcile two fundamental, but sometimes conflicting, requirements namely stability of legal relations and respect for legality (judgment of the Court of Justice of 8 July 1999, case C-200/92, *ICI v Commission*, ECLI:EU:C:1999:359, paragraph 70). To the extent that the NRA forms part of the system of application of EU Law, the same principle should apply to it.
107. This also helps to dismiss the second limb of the Appellant's third ground. The Appellant's claim that, in refusing to suspend the application of MREL the Board breached the principle of legal certainty cannot be upheld, since the inference from the principle of legal certainty should be the opposite in this case. If there is a decision by national authorities, binding on the Board, even if the act is allegedly tainted by irregularities, the course of action in line with legal certainty is to presume the act lawful and capable of producing legal effects, until such time as the act is annulled or withdrawn by the competent court, or at least suspended by way of interim measures.
108. The Appellant's other consideration regarding the principle of legal certainty, i.e., that being forced to appeal different acts on two different levels, with the resulting uncertainty, is contrary to the principle of legal certainty, must be equally dismissed. The fact that, to protect its interests, and challenge the legality of the acts forming this composite procedure, the Appellant has to appeal against the NRA Fishing Request before national courts, and the Board's MREL determination before the Appeal Panel, is not contrary to the principle of legal certainty. The legislators have the choice to allocate different competences to different authorities in different levels. That may, admittedly, involve procedural complexity, but it is not in breach of the fundamental principles of Union law.
109. The fact that the Board and the NRA appear to have different views about the nature of the act by the NRA is, again, regrettable, but the Board, in the Appeal Panel's view, has acted correctly in its interpretation and in its actions, and cannot be made responsible for the divergence.
110. As a final consideration, unlike other cases that may present irreversible outcomes, MREL determination is, like resolution planning, a cyclical exercise. The MREL subordination requirement resulting from the Contested Decision will apply to the Appellant in 2027, which still provides time room for national courts to decide on the matter, and to the NRA and the Board to draw the appropriate inferences. If the courts were to decide against the presumption of legality of the national act in a subsequent stage, the Board, with the aid of the NRA, would still be able to draw the opportune inferences in subsequent MREL determinations.

111. For these reasons the third ground of appeal is dismissed.

On those grounds, the Appeal Panel hereby:

**Dismisses the appeal.**

\_\_\_\_\_  
David Ramos Muñoz  
Co-Rapporteur

SIGNED

\_\_\_\_\_  
Kaarlo Jännäri

SIGNED

\_\_\_\_\_  
Helen Louri-Dendrinou  
Vice-Chair

SIGNED

\_\_\_\_\_  
Marco Lamandini  
Co-Rapporteur

SIGNED

\_\_\_\_\_  
Christopher Pleister  
Chair

SIGNED

For the Secretariat of the Appeal Panel:

[ . ]

SIGNED