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DISCIPLINARY BOARD OF THE INTERNATIONAL CRIMINAL COURT

Original: English

Reference: SDO-2021-171 DB Decision  
Date: 1 December 2021

**Before:** Mr. Nigel Hampton QC, Presiding member  
Dr. Victor Tsilonis, Alternate Permanent Member  
Mr. François Mazon, *ad hoc* Member

**Public Document**

**Decision of the Disciplinary Board as to Jurisdiction**

**In the matter of Disciplinary Proceedings against Dr. Cyril Laucci (“the Respondent”)**

Counsel for the Respondent:  
Mr. Iain Edwards

Commissioner:  
Ms. Diane Turner QC

## CONTEXTUAL SUMMARY - AS TO FACT AND LAW

1. On 16<sup>th</sup> December 2020 the Complainant, pursuant to Article 34.1(c) of the ICC Code of Professional Conduct for counsel (“CPCC”), complained of alleged misconduct on the part of the Respondent, claiming a violation by him of Article 24 of the CPCC viz by the Respondent’s claimed failure “*to take all necessary steps to ensure that his actions do not bring the Court into disrepute*” and arguing that the Respondent was subject to the provisions of the CPCC “*as a counsel who is included in the list generated pursuant to Rule 22 of the Rules of Procedure and Evidence*”.
2. The Complainant acknowledged that “*while the main focus of the Code is the regulation of conduct with respect to proceedings before the ICC, **evidently to be effective** it must be read more broadly, especially in the context of Article 24*” (emphasis added).
3. And thereby, the Complainant identified the nub of the problem which this Decision deals with. Because at the relevant times of the conduct complained about, the Respondent was not counsel engaged, in any way, with respect to any proceedings before the ICC, although he was on the Rule 22 list of ICC counsel (“the list”).
4. The Board believes it pertinent to set out the full text of Article 24.1 now, as its wording is of relevance in the discussions which follow and, in the determination made by the Board.
5. “**Article 24 Duties towards the Court. 1. Counsel shall take all necessary steps to ensure that his or her actions or those of counsel’s assistants or staff are not prejudicial to the ongoing proceedings and do not bring the Court into disrepute**”. (The Court referred to is the ICC. The words “*Duties towards the Court*” and “*the ongoing proceedings*” will be discussed later).
6. In due course the Commissioner, having investigated the complaint of misconduct, decided to submit a Report to the Disciplinary Board, dated 21<sup>st</sup> June 2021.

7. The Respondent had submitted to the Commissioner a detailed response to the complaint, of 24<sup>th</sup> February 2021, which *inter alia* protested the Commissioner’s jurisdiction claiming that the *“allegations of misconduct made in the Complaint fall outside the scope of her jurisdiction ratione personae”*.
8. The Commissioner considered that jurisdictional protest at some length in her Report (at paragraphs 11, 12 and 24 to 33 incl.). The Commissioner concluded that jurisdiction existed both for her and before this Board. [REDACTED]  
[REDACTED] The Report is informative as to the factual background and context of this matter. The facts themselves are not of direct concern in this Decision, nor are they in dispute.
9. The Board, given the *prima facie* conclusions of the Commissioner as to jurisdiction, determined to continue with disciplinary proceedings against the Respondent, and issued a Summons to the Respondent for him to appear before the Board. [REDACTED]  
[REDACTED]
10. The Commissioner’s formulation of the alleged violation of the CPCC was encapsulated in this way in the Summons: *“Dr. Cyril Laucci, at all relevant times being a defence counsel practising at the International Criminal Court(“ICC”), on July 5, 2017 communicated to Ms. Kimberly Prost, in her then role as Chef de Cabinet to the then President of the ICC, and further on November 28, 2018 communicated to Ms. Prost in her then role as a Judge of the ICC, on each occasion in a manner perceived to be threatening and disrespectful, and in doing so failed in his duties to i) act honourably; and ii) not to bring the Court (ICC) into disrepute; contrary to Articles 6, 24 and 31 of the Code of Professional Conduct for counsel”*.
11. All that the Board needs to say further about the two communications is to adopt this passage from the Commissioner’s Report at paragraph 5: *“The communications referred to above were emails sent July 5, 2017 and November 28, 2018, in the context (of) litigation undertaken by Dr. Laucci against the ICC at the International Labour Organization*

*Administrative Tribunal (ILOAT) in regard to his dismissal as a staff member of the ICC and subsequent failure to be selected for a position as Head of Chambers, among others”.*

12. The only other factual matters which require noting are that Dr. Laucci was placed on the ICC list of counsel on 18<sup>th</sup> February 2016 but was not attached, or appointed, to any case before the ICC until 12<sup>th</sup> June 2020.
13. As will be apparent from both what has been detailed above and from what follows, the critical phrase in the alleged violation is ***“at all relevant times being a defence counsel practising at the (ICC)”***.

#### **THE PROTEST TO JURISDICTION *RATIONE PERSONAE*; in two parts**

##### **Part the First: THE ISSUE and THE RESULT**

14. At an oral preliminary hearing before the Board, counsel for the Respondent indicated that several protests to jurisdiction would be raised, with the first and foremost of these being the lack of jurisdiction *ratione personae*.
15. Both Counsel for the Respondent and the Commissioner have filed comprehensive and helpful submissions covering all preliminary matters raised. The Board, given the conclusion reached, will deal only with the first, i.e., the *ratione personae* protest. If the Board does not specifically deal with any argument raised on either side, it is not because such has not been considered – all the materials put forward have been scrutinised with care by the Board.
16. The Respondent’s submissions on the argument cover some 31 paragraphs; whilst the Commissioner’s in response are contained in 19 paragraphs, as well as calling in aid the 10 paragraphs on the issue in her earlier Report.
17. Put shortly the issue is: Does the CPCC apply to a counsel who is on the ICC list of counsel even though that counsel is not engaged with, or “attached” in any way to a proceeding before the ICC when the impugned conduct takes place? (At paragraph 61 below a

commentator's formulation of "*when not handling ICC business*" is discussed briefly). The Complainant herself put her finger squarely on the issue in her comments set out at paragraph 2 above.

18. The Board has reached a unanimous view on the issue, and that is well expressed by the summary offered by the *ad hoc* member who stated:

(a) The CPCC relates only to the behaviour of counsel practising before the ICC.

(b) The conduct complained of, the subject of the Commissioner's Report, has nothing to do at all with any case before the ICC, but is related to specific employment matters between the Respondent and the Complainant.

(c) There is no impunity gap as the Respondent can be made the subject of a complaint to his local disciplinary board for his actions and/or his behaviour as a lawyer on the ICC list, as at the dates of the two emails.

To adapt some of the Complainant's words: the present disciplinary procedures are not connected with the "*regulation of conduct with respect to proceedings before the ICC*"; and that both a purposive and an interpretive reading of all the relevant regulatory provisions and the CPCC itself leads the Board to the view that there is no basis for the CPCC to "*be read more broadly*" so as "*evidently to be effective*".

19. The CPCC is effective. It does what it was, and is, intended to do, i.e., to regulate the conduct of counsel with respect to proceedings before the ICC.

20. The Board's reasons follow. In those reasons the Board believes it will deal with the substance of the various arguments made in submissions by both sides.

## **Part the Second: THE REASONS FOR THAT RESULT**

21. First, a conclusion reached by the Board as to the list of counsel compiled and kept by the ICC, pursuant to Rule 22 of the Rules of Procedure and Evidence ("the Rules"). That list, for the reasons the Board now sets out, is no more than a list of counsel who have met the ICC

criteria and who are thereby qualified to be on the list and become available to be engaged or appointed as counsel for a party in proceedings before the Court and practise before the Court in those proceedings.

22. Rule 22 is fundamental to the Board's reasoning. The Rule's heading is instructional: *"Appointment and qualifications of Counsel for the defence"*. It not only sets out (in Rule 22.1) the qualifications for counsel (and clarifies the obligation of a defence counsel engaged by a person exercising their right to retain a lawyer of their choice to file a power of attorney with the Registrar – Rule 22.2) but it also (in Rule 22.3) mandates that counsel for the defence **shall** be subject to, *inter alia*, the CPCC **"in the performance of their duties"**. To the Board it is noteworthy that the phrase "the performance of their duties" is used twice in Rule 22.3. The full text of Rule 22 follows.

23. ***"Rule 22 Appointment and qualifications of Counsel for the defence"***

1. *A counsel for the defence shall have established competence in international or criminal law and procedure, as well as the necessary relevant experience, whether as judge, prosecutor, advocate or in any other similar capacity, in criminal proceedings. A counsel for the defence shall have an excellent knowledge of and be fluent in at least one of the working languages of the Court. Counsel for the defence may be assisted by other persons, including professors of law, with relevant experience.*
2. *Counsel for the defence engaged by a person exercising his or her right under the Statute to retain legal counsel of his or her choosing shall file a power of attorney with the Registrar at the earliest opportunity.*
3. *In the performance of their duties, Counsel for the defence shall be subject to the Statute, the Rules, the Regulations, the Code of Professional Conduct for Counsel adopted in accordance with rule 8 and any other document adopted by the Court that may be relevant to the performance of their duties."*

24. Rule 8 provides for the drafting and adopting of the CPCC and the ability for it to be amended.

25. In the Board’s opinion the CPCC, in numerous provisions, reflects the approach laid down in Rule 22.3, i.e., it lays out Articles which apply to, and have effect upon, counsel in the performance of their duties before the Court. This Decision will deal with a number of these Articles which the Board points to as being consistent with the Rule 22.3 founding approach; and will then comment on some of the “duality” and “complementarity” provisions of the CPCC which make it abundantly clear that counsel, even when engaged in the performance of their duties as either engaged or appointed counsel, may be still the subject of disciplinary procedures before their own national (bar) authorities.

26. Before the Board goes on to a close study of the CPCC, it is worthwhile spending a little time on how counsel can have themselves placed on the ICC’s Rule 22 list.

***Placement on the List***

27. The “Guide for applicants to the ICC List of Counsel and Assistants to Counsel” states that *“Experienced lawyers who wish to represent defendants or victims as counsel must be admitted to the List of Counsel”* and that, to be so admitted, they must meet four criteria - competence, experience, language skills and record of high standing (relating this primarily to any criminal or disciplinary offences). The applicant to be admitted to the list must provide *inter alia* (and this is taken from p8 of the application form) (a) a certified copy of their bar registration (in some jurisdictions, known as their admission as a lawyer – “placed on the rolls”), (b) a valid practising certificate (in their “home” jurisdiction) and (c) a certificate of good standing. The Board observes, and will return to this later, that there exist mechanisms (e.g., in Article 70(1)(c) of the Statute and in Regulations 67(2) and 71(1)(a) of the Regulations of the Court –“RoC”) to regulate and sanction conduct and behaviour and, indeed, remove counsel from the list of counsel – the latter analogous to the “striking off the rolls” procedures available in various national bar authorities – even if that counsel is only on the ICC counsel list and not practising before or at the ICC. These mechanisms and powers exist irrespective of the CPCC. (And the Board notes that, before many, if not all, national authorities a counsel can be struck off the roll, whether that counsel is actively practising or not).

28. The Board believes a useful analogy may be drawn between what happens to a newly admitted lawyer in their “home” jurisdiction once they meet the qualifying requirements and become enrolled, and what happens to counsel who meets the ICC qualifying criteria and is placed on the list.
29. In the case of the “home” jurisdiction, an enrolled lawyer is just that: on the rolls – he/she cannot commence to practise law until they obtain a current practising certificate. Only then can they commence to practise, and that is done by them commencing legal work in that “home” jurisdiction.
30. In the case of counsel entered on the ICC list, he/she only commences to practise when he/she is either engaged by a client or appointed to a client. Otherwise, they are just on the list, not practising, and in the equivalent position of merely being on the rolls. On the rolls or list, and available to take or accept work. But, until they take or accept work before the Court, they are not in practise before the ICC. They are certainly not engaged in any way *“in proceedings before the Court”*.

***Interpretation of the provisions of the CPCC***

31. The Board now turns to a more detailed discussion of the CPCC. Chapter 1 of it contains “General provisions”. The first of these, Article 1 (“Scope”), is relied on by the Commissioner who points out that it provides that *“This Code shall apply to defence counsel...practising at the”* ICC and argues from that that once a counsel is placed on the Rule 22 list of counsel, he/she is “practising” at the ICC. Leaving aside for the moment the discussion at paragraphs 25 to 30 immediately above, that broad interpretation overlooks the wording in Rule 22.3 itself (as considered in paragraphs 21 to 25 above) and is made in isolation from subsequent provisions of the CPCC.
32. As well, the Board sees force in the Respondent’s submission that counsel “practising at” the ICC, expressed as it is in the present tense, means counsel currently engaged in an ICC case; and that any *“natural and ordinary”* meaning of that phrase could not *“reasonably be interpreted to include list counsel who are not currently engaged in a case at the Court and*

*whose engagement remains entirely prospective*” unless the CPCC clearly and unambiguously specifies otherwise. A not unreasonable proposition the Board believes, given that the context is the mandating of a jurisdiction to penalise, suspend or permanently ban counsel from practising at the ICC.

33. Article 4 (“Primacy of the Code of Professional Conduct for counsel”) is important. It provides that *“Where there is any inconsistency between this Code and any other code of ethics or professional responsibility which counsel are bound to honour, the terms of this Code shall prevail in respect of the practice and professional ethics of counsel **when practising before the Court**”* (emphasis added).
34. Article 5 (“Solemn undertaking by counsel”) has counsel undertaking to perform his/her duties and exercise his/her mission **“before”** the ICC with integrity and diligence, honourably, freely, independently, expeditiously, and conscientiously and that counsel will scrupulously respect the duties imposed by the CPCC **“before”** the ICC (emphasis added).
35. Article 6 (“Independence of counsel”) is one of the provisions allegedly violated by the Respondent, in that it is claimed that he failed to *“act honourably”*. This Article is still within the “General provisions” of Chapter 1, as are the following Articles 7 to 10.
36. Article 7 (“Professional conduct of counsel”), in 7.1, spells out that counsel must be *“respectful and courteous”* not only to the Chamber, Prosecutor, Registrar, other Registry staff, his/her client, opposing counsel, victims and witnesses, but also to *“any other person involved in the proceedings”*. Again, the Board makes note of the wording – where obligations and duties are imposed, that is done in relation to counsel’s activities in the proceedings.
37. Article 8 (“Respect for professional secrecy and confidentiality”) and Article 9 (“Counsel-client relationship”), in the Board’s view, are clearly directed to counsel’s conduct and obligations in the course of counsel’s work undertaken before the Court. The words used are quite clear as to that.

38. Chapter 2 of the CPCC (“Representation by counsel”) clearly relates to the work of counsel in representing a client before the Court and imposes a variety of obligations on counsel acting in such role. Article 22.5 specifically spells out that a breach of Article 22 (which concerns remuneration of counsel) *“shall amount to misconduct and shall be subject to a disciplinary procedure pursuant to this Code. This may lead to a permanent ban on practising before the Court and being struck off the list of counsel, with transmission to the respective national authority.”*
39. Chapter 3’s title is, again, instructive – “Relations with the Court and others”; and Articles 23 to 29 (incl.) are all explicitly directed towards various facets of a counsel’s relationships when dealing with aspects of practice in matters before the ICC
40. Article 24, for example (and remembering that the Respondent is charged with an alleged violation of Article 24.1) has an illuminating heading: “Duties towards the Court”, pointing to the purpose of the Article in the Board’s view.
41. Each of the five paragraphs of Article 24. contain references, explicit or necessarily implicit, to the proceedings before the Court (explicit at 24.1, 24.4 and 24.5; implicit at 24.2 – *“the client’s case”* - and 24.3).
42. Article 24.1, given that it is a part of the allegation of misconduct, bears setting out in full so that its proper construction can be seen: *“Counsel shall take all necessary steps to ensure that his or her actions or those of counsel’s assistants or staff are not prejudicial **to the ongoing proceedings** and do not bring the Court into disrepute.”* (emphasis added). If one limited oneself to a mere consideration of this paragraph alone, it should be construed, in the Board’s opinion, as relating only to conduct and actions occurring in relation to ongoing proceedings before the ICC. The Article cannot be construed to relate to conduct and actions unrelated to proceedings before the ICC, which is the position in relation to the alleged misconduct charged here. The phrase *“the ongoing proceedings”* governs and regulates both actions prejudicial and disreputable.

43. Chapter 4 of the CPCC (“Disciplinary regime”) contains, *inter alia*, provisions (Articles 30, 37.2 and 38) which, along with such as Articles 4 and 22.5, deal with aspects of the duality and complementarity of the ICC/CPCC jurisdiction and the disciplinary jurisdiction of counsel’s “home/domestic” regime. There is explicit recognition that the ICC/CPCC regime is not the only disciplinary regime exclusively applying to a counsel practising in the ICC – such counsel will still be subject to the standards, ethics and constraints of that counsel’s domestic disciplinary regime. The necessary mechanical provisions in the CPCC to ensure that complementarity works smoothly between both sets of regimes, and that conflicts do not occur, are detailed and comprehensive. And as already noted, the claim to primacy of the CPCC (contained in Article 4), is made with respect to counsel “*when practising before the Court*”.
44. Article 35 (“Limitation period”) is of significance in the Board’s view. It provides that “*The right to file a complaint against counsel for misconduct shall lapse five years after the termination of the representation agreement*”. (The “complaint” referred to is a complaint of misconduct pursuant to Article 34, such as made by the complainant here).
45. To the Board, this Article clearly indicates that the right to make a complaint against counsel exists: (a) whilst there is in place an existing “representation agreement”; or (b) where there has been such a “representation agreement” which has been terminated less than five years before the time of the making of the complaint.
46. Chapter 2 of the CPCC spells out what a “representation agreement” is, its duration and its termination. By Article 11 such an agreement is established when counsel accepts a request for representation (from either client or Court).
47. Articles 16, 17 and 18 cover a variety of ways in which a representation agreement may cease, including: (i) a withdrawal of counsel, with consent of the Court, when a conflict of interest occurs (Article 16); (ii) a withdrawal of counsel’s assignment by the Court (Article 17.1(c)); (iii) a withdrawal, with the Court’s consent, where there has been what might be seen as a fundamental breakdown of the lawyer/client relationship (Article 18.1); (iv) a

withdrawal of counsel through impairment (Article 18.4); (v) counsel being discharged by the client (Article 18.3); and (vi) the case being finally determined (including all appeals) (Article 17.1(a)).

48. Article 17.2, which would appear to apply to all forms of conclusion/termination of a representation agreement whether under Articles 16, 17 or 18, provides that the *“duties of counsel towards the client continue until the representation has ended, except for those duties which subsist under this Code”*. To underline that certain duties continue beyond termination of a representation agreement, Article 18.2 specifically states that counsel, even though withdrawn from the case, remains subject to the obligations of professional secrecy and confidentiality.

49. The Respondent argues that that five-year limitation period for the making of a complaint against counsel to whom Article 1 applies requires three things: a client, a representation agreement with that client and a termination of that representation agreement; and that a list counsel not currently engaged in an ICC case cannot fit those criteria. It is then argued that if the CPCC was intended to apply to list counsel not currently engaged in a case in the ICC, the terms of Article 35 would leave a lacuna in respect of a limitation period for the making of a complaint against such a list counsel: *“It cannot be the case that the Code should be intended to provide less (indeed, no) limitation protection for list counsel who are not currently engaged in a case at the Court than counsel who had been engaged in a case at the Court. Such an outcome would be both absurd and highly unfair”*.

50. In the Commissioner’s Report (paragraph 27) it was contended that, logically, the CPCC *“must apply to counsel’s action after their representation has come to an end, in order for the effective control of unethical or unprofessional behaviour”* (thereby echoing the Complainant’s *“evidently to be effective”* already commented on at paragraphs 2 and 18 above). The Board assumes that, by implication, the Commissioner means that if counsel completes a representation assignment and five years go by without further assignment, but that counsel remains on the ICC list of counsel, that there is no ability to control his/her behaviour. The Board sees two answers to this concern. First, the important and

fundamental obligations continuing (irrespective of the five-year term lapsing or not) as already mentioned in paragraphs 47-48 above. Secondly, the continuing strictures imposed on counsel through his/her “home” disciplinary regime.

51. The Commissioner, in her Response, agrees that *“the limitation period in matters that do not stem from representation is not addressed”* and goes on to suggest that the CPCC *“could benefit from reference to an ultimate limitation period”*. Which rather points up the problems involved in attempting to extend a jurisdiction beyond that which is encapsulated in the clear words of the CPCC.

### ***Conclusions as to the CPCC***

52. The Board returns now to consider the “misconduct” which may be the subject of an Article 34 complaint, with its Article 35 limitation period.

53. Article 31 defines misconduct. Article 31(a), as relevant to this case, provides that *“Counsel commits misconduct when he...violates...any provisions of this Code...imposing a substantial ethical or professional duty on him...”*.

54. The alleged violations relate to the obligations and duties to be found in Articles 6 and 24.1 which, as already discussed above, relate to obligations and duties when counsel is engaged in matters before the ICC.

55. On the facts here (and as agreed by all parties), none of the Respondent’s impugned behaviour relates to his conduct when he was engaged in matters before the ICC. The Commissioner accepts that given success of the *ratione personae* argument these proceedings should be brought to an end. With that, the Board agrees – the formal **Order** will be that the proceedings will be **dismissed for want of jurisdiction**.

### **MISCELLANY**

56. The Commissioner in her Report (at paragraph 33) accepted that, by operation of Articles 30 and 38 of the CPCC, all counsel on the ICC list (and the Board adds, whether engaged before the ICC or not) remain subject to any disciplinary authority in his or her national jurisdiction.
57. These Articles have already been discussed by the Board above (at paragraphs 25 and 43) and need no further comment here, other than to stress that it means that if counsel, whilst on the ICC list, allegedly misconduct themselves whilst not “practising at” the ICC, i.e., whilst not engaged in “ongoing proceedings” “before” the ICC, are still subject to the jurisdiction of their own national authority and may be made the subject of a complaint to that authority. Persons will not “fall between two stools”.
58. In addition, and as covered at paragraph 27 above, list counsel, whether engaged in ongoing proceedings before the Court or not, remain subject to disciplinary provisions of both the Statute (Article 70.1(c) – “Offences against the administration of Justice”, which can result in conviction and sanction, including imprisonment) and the RoC – indeed, if the impugned conduct was seen as sufficiently reprehensible steps could be taken to remove counsel from the list (Regulation 71(1)(a) of the RoC), thereby putting an end to any right to practise before the ICC.
59. By Regulation 69(3) of the RoC there is a continuing obligation on counsel on the list to keep the ICC Registrar of any changes (that are more than *de minimis*) to the information provided to obtain placement on the list, including as to any criminal or disciplinary proceedings against them. If any such subsequent criminal or disciplinary misbehaviour is found proved against counsel, and that behaviour is “*incompatible with the nature of the office of counsel*” before the ICC, under Regulation 67(2) of the RoC, the Registrar “*shall*” remove counsel from the list of counsel, pursuant to Regulation 71(1)(a).
60. The Board’s view as to when the CPCC applies to list counsel perhaps finds some support in Till Gut’s 2012 article “*Counsel Misconduct Before the International Criminal Court*” (Vol. 11, Studies in International and Comparative Criminal Law, pp 189-190) where it is argued

that list counsel are only amenable to the personal jurisdiction of the CPCC where the alleged misconduct arises either (a) in relation to the status of counsel irrespective of a case before the ICC; or (b) *“from a matter that is material to the ICC’s administration of justice, because counsel is either representing a client before the Court, because he or she is otherwise advising in a matter which falls under the ICC’s jurisdiction which has been declared admissible or is in the process of being declared so, or which carries a substantial likelihood of qualifying as admissible”*.

61. The Board finds itself in agreement with the second of these two propositions and with the author’s further conclusion that *“as a result, counsel should not be subject to the Code when not handling ICC business”*.
62. Given the Board’s reasoning as to the CPCC as set out above, the Board does not find itself in complete agreement with the author’s first proposition – but notes that if there was validity attributed to it, its reach would be quite restricted: it might relate, for example, to Article 10(a) of the CPCC which is specifically drawn to the attention of counsel in the letter informing counsel of their admission to the ICC list of counsel.
63. This Article (10(a)), notably, is the only one so drawn to list counsels’ attention. Article 10(a) provides that *“Counsel may advertise provided the information is (a) Accurate”*. It is of interest and, in the Board’s opinion, supportive of its views earlier expressed as to a more limited application of the CPCC than that contended for by the Commissioner, that the letter does not draw counsels’ attention to Article 10(b) which provides that *“Counsel may advertise provided the information is (b) Respectful of counsel’s obligations regarding confidentiality and privilege”*. The wording of 10(b) clearly relates this aspect of advertising to the obligations of counsel only when they have been *“practising before the Court”*. Article 8 of the CPCC (professional secrecy and confidentiality) and its continuing obligations after cessation of representation (by Article 18) are clear as to this (and as already discussed at paragraphs 37 and 47-50).

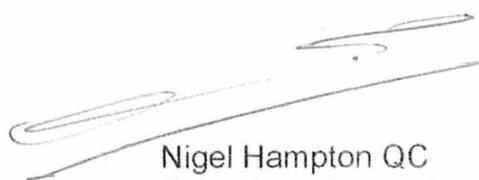
64. Article 7.2 of the CPCC may be another example, although it cannot be said to fall into the “disciplinary” category under scrutiny here. (7.2 “*Counsel shall maintain a high level of competence in the law applicable before the Court...*”). The surrounding paragraphs (7.1, 7.3 and 7.4) however, in the Board’s opinion, clearly relate to other aspects of counsels’ professional conduct before the Court.

## RESULT

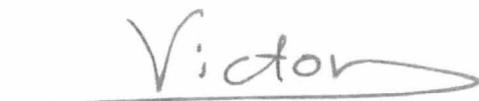
65. These proceedings will be dismissed for want of jurisdiction.

66. Given the Board’s findings as above, the Board observes that it may well still be open for the Complainant to make a complaint against the Respondent, about the alleged misconduct, to the Respondent’s “relevant national authority” (as discussed, for example, at paragraphs 18(c), 56 and 57 above).

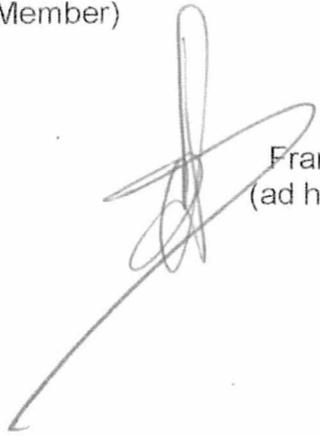
Dated: 1<sup>st</sup> December 2021



Nigel Hampton QC  
(Presiding Member)



Dr. Victor Tsilonis  
(Alternate Permanent Member)



François Mazon  
(ad hoc Member)