Introduction

1. Te A!!"#\$ant% a fo&me& staff mem'e& of te Un#ted Nat#ons (ff#\$e on D&ugs and C&#me)*UN(DC+,% \$ontests te de\$#s#on to f#na"#-e #s !e&fo&man\$e a!!&a#sa" fo& te !e&fo&man\$e \$.\$"e 1 A!&#" 200/ to 31~0a&\$ 2010~t1o~.ea&s afte& te end of te \$.\$"e. 2e a"so \$ontests te de\$#s#on to a3e te &e'utta" of #s 200/42010~!e&fo&man\$e a!!&a#sa" &e!o&t \$ondu\$ted '. &e'utta" !ane" mem'e&s f&om a "#st 1 #\$ ad not

- ?. T e A!!"#\$ant &e\$e#3ed #s 200/42010 !e&fo&man\$e a!!&a#sa" &e!o&t on 1/No3em'e& 2010. 201e3e& t e f#&st 3e&s#on 1as amended and &e4#ssued se3e&a"". and t e f#na" &e!o&t 1as s#gned off '. t e :>(and 5>(on 2 0 a&\$ 2011% and '. t e A!!"#\$ant on 15 0 a&\$ 2011. T e fa\$ts \$on\$e&n#ng t #s \$ou&se of e3ents s a"" 'e des\$&#'ed and \$ons#de&ed #n deta#" 1 en t e T&#'una" dete&m#nes t e #ssue &ega&d#ng t e de"a. #n #ssu#ng t e 200/42010 !e&fo&man\$e a!!&a#sa".
- 7. (n@ De\$em'e& 200/% t e A!!"#\$ant 1 as #nfo&med t at #s !ost 1 ou"d 'e a'o"#s ed and t at e 1 ou"d 'e &eass#gned to t e !os#t#on of 5 en#o& Aega" Ad3#se& to 'e \$&eated 1 #t #n t e (ff#\$e of t e C #ef% TP<. T #s ne 1 !ost ad "essened manage&#a" and su!e&3#so&. fun\$t#ons.
- @. U!on &e\$e#!t of t e f#na" \$0!. of t e 200/42010 !e&fo&man\$e a!!&a#sa"\ t e A!!"#\$ant\ on 15 0 a\\$ 2011\ su'm#tted #s &e'utta" statement to UN(DC\ 2 > 0.5. (ne .ea\\$ "ate\\$ on 23 0 a\\$ 2012\ t e &e'utta" &e!o\\$ t 1 as #ssued.
- /. T e fa\$ts &e"at#ng to t e \$onst#tut#on of t e &e'utta" !ane" and t e &e'utta" !\$0\$ess 1#"" e7ua"". 'e a\$t#\$u"ated 'e"o 1\$1 en t e T\$t* una" add\$esses t e &e'utta" !\$0\$ess unde\$ta\$en '. UN (DC.
- 10. (n 2@ 0 a&\$ 2012% t e A!!"#\$ant f#"ed t e !&esent a!!"#\$at#on \$ontest#ng t e !&o\$ess ta8en ' . t e Adm#n#st&at#on #n esta'"#s #ng t e &e'utta" !ane" and t e &e!o&t of t e &e'utta" !ane". T e a!!"#\$at#on 1 as se&3ed on t e >es!ondent on 2/ 0 a&\$ 2012 1#t a &e!". due on 30 A!&#" 2012.
- 11. (n 2 A!&#" 2012\| t e A!!"#\| ant \| \&e\| e#3ed a \| \&e 3#sed \| \&e ' utta" \| \&e ! o\| \&t.
- 12. < . (&de& No. 70)GVA/2012, dated 10 A!&#" 2012% t e T&# una" d#&e\$ted t e !a&t#es to attend a \$ase management ea&#ng on 1@ A!&#" 2012% #n 1 #\$ t e !&esent and se3e&a" ot e& e9tant \$ases 'efo&e t e T&# una" 1 e&e d#s\$ussed.
- 13. T e >es!ondent soug t an e9tens#on of t#me to f#"e a &e!". on 2? A!&#" 2012 and t e T&# 'una"\[\(\) ' . (\&de\& No. 77)GVA/2012,\[\) dated 27 A!\&#" 2012\[\) \&e;e\\$ted t e >es!ondent=s mot#on and t e \&e!". 1 as f#"ed on 30 A!\&#" 2012 .

Case No. UNDT/GVA/2012/024 Judgment No. UNDT/2013/135

14. (n 4 No3em'e& 2012% t e A!!"#\$ant f#"ed a mot#on fo& &e\$usa" of t e unde&s#gned ;udge and '. (&de& No. /2)N<6/2013,% #ssued on 2 0 a. 2013% t e t en P&es#dent of t e D#s!ute T&# 'una" &e;e\$ted t e a!!"#\$at#on fo& &e\$usa".

15. T e T&#'una"\" '. (&de& No. 134)GVA/2013,\" #ssued on 1/5e!tem'e& 2013\" d#&e\$ted t e !a&t#es not to f#"e an. fu&t e& su'm#ss#ons and #nfo&med t em t at t e matte& 1 ou"d 'e ad;udged 'ased on t e 1 &#tten !"ead#ngs.

Parties' submissions

1?.

- d. >efe& t e !e&sons &es!ons#'"e fo& t e de"a.s #n \$ondu\$t#ng #s &e'utta" to t e 5e\$&eta&.4Gene&a" fo& a\$\$ounta'#"#t..
- 1@. T e >es!ondent=s ma#n a&guments a&eB
 - a. T e de"a. #n #ssu#ng t e 200/42010 !e&fo&man\$e a!!&a#sa" #s due to t e A!!"#\$ant=s o1n \$&eat#on and a"" t e ot e& de"a.s 1 e&e ;ust#f#edC
 - '. D en t e mandate of t e &e'utta" !ane"% 1 #\$ 1 as esta'"#s ed on 1? 0 a&\$ 2007 fo& a t1 o4.ea& te&m% e9!#&ed on 1? 0 a&\$ 200/% t e !ane" \$ont#nued #ts fun\$t#ons de facto $\mathcal C$
 - \$. Te mandate of t at &e'utta" !ane" e9!#&ed at a t#me 1 en UN(DC 1 as unde&go#ng a &est&u\$tu&#ng e9e&\$#se% 1 #\$ t&#gge&ed adm#n#st&at#3e \$ anges &esu"t#ng #n de"a.s to esta'"#s mem'e&s #! #n 3a&#ous adm#n#st&at#3e \$ omm#tteesC
 - d. 6n (\$to'e& and No3em'e& 2010% UN (DC management \$a""ed fo& staff mem'e&s to e9!&ess #nte&est to 'e\$ome a mem'e& #n adm#n#st&at#3e \$omm#tteesC #t a"so #nfo&med staff mem'e&s t at mem'e&s #!s #n some of t ese \$omm#ttees 1 e&e o3e&due fo& &ene1a" and t at t e. 1 ou"d &ema#n 3a"#d unt#" t e &ene1a" mem'e&s #! e9e&\$#se 1 as \$om!"etedC and
 - e. T e &e'utta" &e!o&t 1 as &e3#sed afte& t e \$o&&e\$t#on of a \$"e&#\$a" e&&o& and as su\$ t e \$ ange to t e #n#t#a" &e!o&t 1 as m#n#ma".
- 1/. T e >es!ondent &e7uests t e T&#'una" to &e;e\$t t e a!!"#\$at#on #n #ts ent#&et. and not to ente&ta#n an. &e7uest fo& \$om!ensat#on 'e\$ause ne#t e& t e A!!"#\$ant=s omega of em!"o.ment no& #s te&ms of a!!o#ntment a3e 'een affe\$ted.

Considerations

20. D#t &es!e\$t to t e \$ontested adm#n#st&at#3e de\$#s#on% t e T&#'una" &e\$a""s 1 at 1 as e"d '. t e A!!ea"s T&#'una" #n #ts ;udgment Massabni 20124UNAT423@% name". t atB

- 24. T e T&#'una" f#nds t at a &e'utta" !ane" s ou"d 'e \$ons#de&ed as a te\$ n#\$a" 'od. unde& staff &u"e 11.2)', s#n\$e #t &e3#e1s and #ssues de\$#s#ons &e"at#ng to !e&fo&man\$e a!!&a#sa"s% 1 #\$ a&e te\$ n#\$a" #n natu&e. T e T&#'una" does not s a&e t e 3#e1 t at a &e7uest fo& management e3a"uat#on #s a !&e&e7u#s#te 'efo&e f#"#ng an a!!"#\$at#on 1#t &es!e\$t to de\$#s#ons &e"at#ng to t e !&o\$ess of &e3#e1#ng !e&fo&man\$e a!!&a#sa"s)see Kamanou UNDT/2012/05/% Gomes da Conceicao UNDT/2012/1/0,.
- 25. 6n \$0m#ng to t #s \$0n\$"us#on\ t e T\(\frac{1}{4}\) una" too8 #nto a\\$ount t e \$0m!os#t\) and t e mandate of t e \(\frac{1}{4}\) e' utta" !ane" unde\(\frac{1}{4}\) t e te\(\frac{1}{4}\)ma s 1 e"" as t e \$0u\) \$0 anagement and De3e"o!ment 5.stem,\(\frac{1}{4}\) as 1 e"" as t e \$0u\) \$0 as \$1\) e' fo""o 1 ed \(\frac{1}{4}\) n t e \(\frac{1}{4}\) e' utta" !\(\frac{1}{4}\)0\$ess. 6n a\\$50\) dan\\$e 1\) t se\\$. 14.1 of 5T/A6/2010/5\(\frac{1}{4}\) t e \(\frac{1}{4}\)e' utta" !ane" mem'e\(\frac{1}{4}\)s *must a3e ade7uate 8no1"edge and e9!e\(\frac{1}{4}\)en\(\frac{1}{4}\)end to \(\frac{1}{4}\)end 1 t e a!!\(\frac{1}{4}\)a#sa" and #ts \(\frac{1}{4}\)at#ng+. 6n 3\)#e 1 of t e\(\frac{1}{4}\)0 Tua"#f\(\frac{1}{4}\)sat#on and e9!e\(\frac{1}{4}\)end 1 t e a!!\(\frac{1}{4}\)at#sa" and #ts \(\frac{1}{4}\)at#ng+. 6n 3\)#e 1 of t e\(\frac{1}{4}\)0 Tua"#f\(\frac{1}{4}\)sat#on and e9!e\(\frac{1}{4}\)end 1 t e a!!\(\frac{1}{4}\)at#sa" on t e 'as\(\frac{1}{4}\)s of a \(\frac{1}{4}\)end 'utta" statement\(\frac{1}{4}\) t e \(\frac{1}{4}\)end 1 t e \(\f
- 2?. T e&efo&e% t e T&# 'una" \$ons#de&s t e a!!"#\$at#on &e\$e#3a'"e.

Merits

Facts regarding the delay in issuing the 2009-2010 performance appraisal

- 27. Te fa\$ts &e"at#ng to te #ssuan\$e of te A!!"#\$ant=s 200/42010 !e&fo&man\$e a!!&a#sa" &e!o&t 1e&e a"&ead. des\$&#'ed #n Judgment Gehr UNDT/2011/211 and a&e &e!&odu\$ed e&eunde&.
- 2@. (n 1@ Janua&. 2010% t e (ff#\$e&4#n4C a&ge% DTA% &e7uested t e A!!"#\$ant to ta8e a\$t#on #n o&de& to f#na"#se #s m#d4!o#nt !e&fo&man\$e &e3#e1. >es!ond#ng to t #s &e7uest% t e A!!"#\$ant !o#nted out t at e ad en\$ounte&ed te\$ n#\$a"

!&o'"ems 1#t t e e"e\$t&on#\$!e&fo&man\$e a!!&a#sa" s.stem)*e4PA5+, and t at #s e4PA5 &e!o&t \$onta#ned some #na\$\$u&a\$#es.

- 2/. < . *5!e\$#a" 0 essage+ dated 1 0 a&\$ 2010% t e C #ef% 2 uman > esou &\$es 0 anagement 5 e & 3 # \$\$e\$) * 2 > 0 5+, % UN (DC% #nfo & med staff t at% #n 3 #e 1 of t e fa\$t t at t e 200/42010 !e & fo & man \$\$e\$ a!! & a #sa" 1 as to end on 31 0 a & \$\$e\$ 2010% end40f4\$. \$\$"e a!! & a #sa"s oug t to 'e \$\$om!" eted '. 1? A! & #" 2010.
- 30. (n 25 0 a&\$ 2010% t e C #ef% TP<% en7u#&ed as to t e A!!"#\$ant=s a3a#"a'#"#t. to d#s\$uss #s !e&fo&man\$e 1#t a 3#e1 to f#na"#s#ng #s 200/42010 e4PA5 &e!o&t. 6n an ema#" sent on t e same da. to t e C #ef% 2 > 0.5% t e A!!"#\$ant o';e\$ted to t e de\$#s#on to !&o\$eed 1#t #s !e&fo&man\$e a!!&a#sa"% em! as#s#ng t at t e e4PA5 on". a!!"#ed to staff mem'e&s 1 ose a!!o#ntments 1e&e of at "east one .ea& and t at t e (ff#\$e&4#n4C a&ge% DTA% ad not 'een des#gnated as #s &e!o&t#ng off#\$e&t oug e ad ta8en !a&t #n t e a!!&a#sa".
- 31. (n 15 A!&#" 2010% t e (ff#\$e&4#n4C a&ge% 2 > 0.5% &es!onded to t e A!!"#\$ant=s ema#" of 25 0 a&\$ 2010% e9!"a#n#ng t at% t oug t e !o"#\$. go3e&n#ng t e e4PA5 !&o\$ess as set out #n adm#n#st&at#3e #nst&u\$t#on 5T/A6/2002/3 a!!"#ed to staff o"d#ng an a!!o#ntment of at "east one .ea&% t e "engt of t e A!!"#\$ant=s \$onse\$ut#3e a!!o#ntments amounted to one .ea& and \$o3e&ed t e !e&fo&man\$e \$.\$"e. 2e a"so &e\$ommended t at a meet#ng 'e \$on3ened 1#t t e A!!"#\$ant and #s :> (#n o&de& to f#na"#se #s e4PA5 &e!o&t.
- 32. An e9\$ ange of ema#"s ensued 'et1een t e A!!"#\$ant and t e (ff#\$e&4#n4 C a&ge\\$ 2 > 0.5\\$ #n 1 #\\$ t e fo\\$me\\$ a\\$gued t at 5T/A6/2002/3 1 as not a!!"#\$a'"e to staff mem'e\\$s 1 o e"d an a!!o\\$ntment of "ess t an a .ea\\$ at t e 'eg\\$nn\\$ng of t e ne 1 !e\\$fo\\$man\\$e \\$.\$"e o\\$ at t e t\\$me of t e\\$\\$k\$ m\\$d4!o\\$nt !e\\$fo\\$man\\$e \\$e3\\$e1.

33.

as8ed to 'e !&o3#ded 1#t t e !&o3#s#ons a\$\$o&d#ng to 1 #\$ su\$ a!!&a#sa" 1 ou"d 'e \$ondu\$ted.

34. (n 12 (\$to'e& 2010% t e C #ef% TP<% 1 & ote to t e A!!"#\$ant% stat#ng t at% #n \$ase e !e&s#sted not to ta8e a\$t#on to f#na"#se #s e4PA5 & e!o&t% s e and #s 5> (1 ou"d !&e!a&e a 1 & #tten a!!&a#sa" of #s 200/42010 !e&fo&man\$eC t e do\$ument 1 ou"d t en 'e s a&ed 1 #t t e A!!"#\$ant and !"a\$ed #n #s (5:. T e A!!"#\$ant & e!"#ed on t e fo""o 1 #ng da.% not#ng t at e ad not & e\$e#3ed an. & es!onse to #s 7 ue&. of ? 0 a. 2010 \$on\$e&n#ng t e !&o3#s#ons 1 #\$ 1 ou"d a!!". to su\$

- 3/. <. ema#" of 1 De\$em'e& 2010% t e (ff#\$e&4#n4C a&ge% DTA% #nfo&med t e A!!"#\$ant t at t e o!t#on !&o!osed #n #s ema#" of 2? No3em'e& 2010 ad 'een &e;e\$ted. 2e stated t at 5T/A6/2002/3 1as a!!"#\$a'"e to t e 200/42010 !e&fo&man\$e \$.\$"e% t at des!#te man. &e7uests and #nst&u\$t#ons t e A!!"#\$ant ad &e!eated". &efused to use t e e4PA5 and t at #t ad a\$\$o&d#ng". 'een de\$#ded to !&o\$eed 1#t t e 1 &#tten !e&fo&man\$e a!!&a#sa" outs#de t e e4PA5 s.stem. 2e a"so stated t at t e dead"#ne fo& t e A!!"#\$ant to su'm#t #s \$omments ad 'een e9tended to 10 De\$em'e& 2010.
- 40. 6n t e \$ou&se of t e management e3a"uat#on% t e Adm#n#st&at#on of UN (DC #nd#\$ated #n Janua&. 2011 t at #t 1 ou"d &emo3e t e 1 &#tten !e&fo&man\$e a!!&a#sa" f&om t e A!!"#\$ant=s (5:.6t added t at #t 1 ou"d !&e!a&e a &e3#sed 3e&s#on% 1 #\$ 1 ou"d not &efe& to matte&s !e&ta#n#ng to t e 201042011 &e!o&t#ng \$.\$"e and 1 #\$ to tnt=tnt=t 1 d 2 19 (e)3.84767 (a)3.84766 (s)-0.83 (s)-0.839844 (#)3 2 s)+679839844 (*)-20(.7328473 to t2 19 (e)3..8473.840 (.)2 0 (.)25ated #o3eto #n#s (")] T J D337.56 0 T d D [(e)3fantA6//seatn 2 0 3 (6) 2 3.0 0 78 (/)-2.1679839871T J D32.76 m85.84766 (nt)-2.167.84766 (d)-1 (o&)3.0 0 7n 2 0.76 T d D [(1)2

5T/A6/2002/3. T e A!!ea"s T&#'una" a 1 a&ded t e A!!"#\$ant \$om!ensat#on fo& t e 3#0"at#on of t e !&#n\$#!"e of audi alteram partem.

4@. T e T&#'una" ta8es note t at most of t ese \$ anges to t e !e&fo&man\$e a!!&a#sa" 1e&e #m!"emented afte& t e A!!"#\$ant ad &e7uested management e3a"uat#on and afte& e ad f#"ed #s a!!"#\$at#on 'efo&e t e T&#'una" \$ontest#ng t e sa#d !e&fo&man\$e a!!&a#sa".

Facts regarding the rebuttal process

- 4/. (n 15 0 a&\$ 2011% t e A!!"#\$ant su'm#tted #s &e'utta" statement to UN (DC% 2 > 0.5% 1 #\$ a\$8no 1 "edged &e\$e#!t of #t on 24 0 a&\$ 2011 and as8ed fo& a !e&fo&man\$e a!!&a#sa" do\$ument \$onta#n#ng a"" s#gnatu&es. 2 > 0.5 fu&t e& #nd#\$ated t at a ne 1 &e'utta" !ane" 1 as .et to 'e set u! '. 1 A!&#" 2011. T e ne9t da.% t e A!!"#\$ant sent t e !age of #s !e&fo&man\$e a!!&a#sa" &e!o&t \$onta#n#ng a"" s#gnatu&es to 2 > 0.5.
- 50. (n 30 0 a&\$ 2011\% UN (DC\% 2 > 0 5\% \#nfo&med t e A!!"\#\\$ant t at \#s !e&fo&man\\$e a!!\&a\#sa" 1 ou"d 'e \\$ondu\\$ted unde\& 5T/A6/2002/3 and t at t e "\#st of \&e' utta" !ane" mem'e\&s 1 as \#n\\$om!"ete. (n t e same date\% t e A!!"\#\\$ant 1 \&ote \#nfo\&m\#ng 2 > 0.5 t at s\#n\\$e e 1 as to 'e assessed unde\& 5T/A6/2002/3\% t e \&e' utta" !ane" mem'e\&s s ou"d 'e f\&om t e "\#st esta'"\#s ed unde\& 5T/A6/2002/3.
- 51. (n 1 A!&#" 2011% 2 > 0.5 #nfo&med t e A!!"#\$ant t at s#n\$e #s 200/42010 !e&fo&man\$e a!!&a#sa" 1 as go3e&ned '. 5T/A6/2002/3% e 1 as not "#m#ted to t e \$ o#\$e of mem'e&s as !e& t e ne 1 adm#n#st&at#3e #nst&u\$t#on 5T/A6/2010/5.
- 52. (n 21 A!&#" 2011% a '&oad\$ast #nfo&med UN (DC staff of t e ne 1 "#st of &e'utta" !ane" mem'e&s and on 2? A!&#" 2011% t e A!!"#\$ant 1 as #nfo&med of t e ne 1 "#st and 1 as as8ed to se"e\$t t e mem'e&s to fo&m t e !ane" fo& t e &e'utta" of #s 200/42010 !e&fo&man\$e a!!&a#sa". 2e 1 as not &est&#\$ted #n an . 1a . &ega&d#ng #s se"e\$t#on of !ane" mem'e&s.
- 53. (n 12 0 a. 2011% t e A!!"#\$ant se"e\$ted mem'e&s to \$om!ose #s &e'utta" !ane" and on 17 0 a. 2011% 2 > 0.5 #nfo&med #m t at #t 1 ou"d fo&1 a&d #s se"e\$t#on Eto 1 oIG and \$o4o&d#nate t e &e'utta" as !e& 5T/A6/2002/3.

- 54. (n 25 0 a. 2011% t e A!!"#\$ant &e\$e#3ed \$onf#&mat#on of #s se"e\$t#on of !ane" mem 'e&s and on 31 0 a. 2011% t e &e 'utta" !ane" as8ed t e Adm#n#st&at#on fo& #ts &es!onse to t e A!!"#\$ant=s &e 'utta" statement.
- 55. T e Adm#n#st&at#on t&ansm#tted #ts &es!onse to t e &e'utta" !ane" on 17 June 2011. (n 1/ Ju". 2011% t e C a#&man of t e &e'utta" !ane" &e\$used #mse"f% fo& !e&sona" &easons% and t e A!!"#\$ant 1 as &e7u#&ed to a!!o#nt anot e& mem'e& to a\$t as C a#&.
- 5?. (n 25 Ju". 2011% t e A!!"#\$ant nom#nated one of t e D#&e\$to& mem'e&s f&om t e "#st of !ane" mem'e&s to 'e t e C a#& and% on t e same date% 2 > 0.5 #nfo&med #m t at t e !&o!osed #nd#3#dua" 1 as on annua" "ea3e unt#" 27 Ju". 2011. 201e3e& on 2@ Ju". 2011% t e !&o!osed #nd#3#dua" #nfo&med 2 > 0.5 t at e 1 as on "ea3e unt#" 17 August 2011 and t at #mmed#ate". t e&eafte&% e ad to 'e a1a. on a t1o41ee8 m#ss#on. Add#t#ona"". e #nd#\$ated t at e ad man. ot e& tas8s and de\$"#ned t e ass#gnment of 'e#ng t e C a#&man of t e A!!"#\$ant=s &e'utta" !ane".

Considerations on the rebuttal process

?0. 5e\$t#on 1@.2 of 5T/A6/2010/5\\ 1 #t \\ &es!e\$t to #ts a!!"#\$a'#"#t.\\ !\ &o3#des t \\ atB

5T/A6/2002/3 #s e&e'. a'o"#s ed. 201e3e& !e&fo&man\$e a!!&a#sa"s ante&#o& to t e !e&fo&man\$e \$.\$"e 201042011 s a"" 'e \$ondu\$ted and \$om!"eted #n a\$\$o&dan\$e 1#t t e !&o\$edu&es des\$&#'ed #n 5T/A6/2002/3.

- ?1. 6t fo""o1s f&om t e a'o3e !&o3#s#on t at t e A!!"#\$ant=s 200/42010 !e&fo&man\$e a!!&a#sa" ad to 'e \$ondu\$ted and \$om!"eted #n a\$\$o&dan\$e 1#t t e !&o\$edu&es des\$&#'ed #n 5T/A6/2002/3. 6t fu&t e& fo""o1s f&om t e a'o3e t at du&#ng a \$e&ta#n !e&#od% t e&e s ou"d a3e 'een t1o &e'utta" !ane"sC one unde& 5T/A6/2002/3 and anot e& unde& 5T/A6/2010/5.
- ?2. T e >es!ondent su'm#tted t at t e !&e3#ous &e'utta" !ane" ad 'een esta'"#s ed on 1? 0 a&\$ 2007% 1#t a t1 o4.ea& mandate. 2 e \$on\$eded t at% !u&suant to se\$. 14.2 of 5T/A6/2002/3% t e mandate of t e &e'utta" !ane" e9!#&ed on 1? 0 a&\$ 200/C o1 e3e&% e a&gued t at #n t e a'sen\$e of a ne1". esta'"#s ed !ane"% t e o"d !ane" \$ont#nued #ts fun\$t#ons de facto.
- ?3. T e T&#'una" \$ons#de&s t at 5T/A6/2002/3 !&o3#des no "ega" 'as#s fo& an e9tens#on of t e mandate of a &e'utta" !ane"% as \$"a#med '. t e >es!ondent. 6ndeed% se\$. 14.2% f#&st senten\$e% &eads& *>e'utta" !ane" mem'e&s s a"" se&3e fo& a t 1 o4. ea& te&m+ and does not !&o3#de fo& an e9\$e!t#on to t #s &u"e.
- ?4. T e&efo&e% t e T&#'una" f#nds t at t e fa\$t t at t e Adm#n#st&at#on ad #nd#\$ated to staff mem'e&s t at mem'e&s #!s of !ane"s t at 1e&e o3e&due &ema#n 3a"#d unt#" t e e9e&\$#se of se"e\$t#ng ne 1 \$and#dates 1as \$om!"eted ad no "ega" #m!a\$t. A\$\$o&d#ng".% t e T&#'una" notes t at afte& t e e9!#&. of t e#& mem'e&s= mandate #n 0a&\$ 200/% t e 2007 &e'utta" !ane" 1as no "onge& \$om!etent to \$ondu\$t "ega"". 3a"#d &e'utta" !&o\$es a"#d 1 (t)-2.16797 (e)-6.1 (m)-2.1655 0 e\$t e e9!t e e9 d 8t

ends t

e9!#&. of t e !ane"=s t1o4.ea& te&m. 5#n\$e se\$. 14.2 does not !&o3#de fo& an e9\$e!t#on<math>&t e mandate &ou"d not 'e "ega"". e9tended.

- ??. 6n add#t#on% t e T&#'una" notes t at% afte& t e A!!"#\$ant=s &e'utta" statement of 15 0 a&\$ 2011% #t too8 mo&e t an one .ea& to de"#3e& t e &e'utta" !ane"=s &e!o&t of 23 0 a&\$ 2012. A"t oug no \$"ea& t#me4"#nes a&e esta'"#s ed% se\$. 15.2 of 5T/A6/2002/3 &e7u#&es t at t e &es!ons#'"e off#\$#a"% afte& &e\$e#!t of t e &e'utta" statement *s a"" !&om!t". !&e!a&e and su'm#t to t e &e'utta" !ane" a '&#ef 1 &#tten statement F+% and se\$. 15.3 of 5T/A6/2002/3 &e7u#&es t at t e !ane" *s a"" !&e!a&e E#ts &e!o&tG 1#t ma9#mum d#s!at\$ +. A de"a. of one .ea& f&om t e &e'utta" statement unt#" t e de"#3e&. of t e &es!e\$t#3e &e!o&t #s not #n "#ne 1#t t e s!#&#t of !&om!tness !&o3#ded fo& #n a'o3e4&efe&en\$ed !&o3#s#ons of 5T/A6/2002/3.
- ?7. T e&efo&e% t e T&#'una" f#nds t at t e &e'utta" !ane" esta'"#s ed on 21 A!&#" 2011 \$ou"d not "ega"". \$ondu\$t t e A!!"#\$ant=s !e&fo&man\$e &e'utta" !&o\$ess% s#n\$e #t "a\$8ed t e \$om!eten\$e to do so. A"so% #t de"#3e&ed #ts &e!o&t 1#t undue de"a...

Remedies

?@. 5e\$t#on 15.3 of 5T/A6/2002/3 !&o3#des t atB

T e &e'utta" !ane"s s a"" !&e!a&e 1#t ma9#mum d#s!at\$ a '&#ef &e!o&t sett#ng fo&t t e &easons 1 . t e o&#g#na" a!!&a#sa" &at#ng s ou"d o& s ou"d not 'e ma#nta#ned. T e &e!o&t of t e &e'utta" !ane" s a"" 'e !"a\$ed #n t e staff mem'e&=s off#\$#a" status f#"e as an atta\$ ment to t e PA5. T e !e&fo&man\$e &at#ng &esu"t#ng f&om t e &e'utta" !&o\$ess s a"" 'e '#nd#ng on t e ead of t e de!a&tment o& off#\$e and on t e staff mem'e& \$on\$e&ned% su';e\$t to t e u"t#mate aut o&#t. of t e 5e\$&eta&.4Gene&a" as C #ef Adm#n#st&at#3e (ff#\$e& of t e &e\$o&d. An. \$ ange #n t e f#na" &at#ng% and t e date of t e de\$#s#on% s a"" 'e ma&8ed '. t e e9e\$ut#3e o& adm#n#st&at#3e off#\$e on t e f#na" a!!&a#sa" se\$t#on of t e PA5 fo&m% 1#t annotat#on t at t e &at#ng 1 as \$ anged as a &esu"t of a PA5 &e'utta".

?/. 6t fo""o 1s f&om t e a 'o 3e !&o 3#s#on t at #n \$ase of a su\$\$essfu" &e 'utta" $\$ t e \$ a""enged &at#ng #s &e!"a\$ed 1#t a ne 1 one $\$ 1 #\$ "ea 3es no &oom fo & \$an\$e""at#on o &e 9! un \$t#on of t e o &#g#na" !e &fo &man\$e a!! &a #sa" &e!o &t.

- 70. 5#n\$e t e A!!"#\$ant d#d not as8 fo& s!e\$#f#\$!e&fo&man\$e 1#t &es!e\$t to a ne1 !e&fo&man\$e a!!&a#sa"\su\$ \$annot 'e g&anted to #m.
- 71. A&t#\$"e 10.5)', of t e D#s!ute T&#'una"=s statute em!o1e&s t e T&#'una" to g&ant \$om!ensat#on fo& 3#o"at#on of t e "ega" &#g ts of a staff mem'e& as !&o3#ded fo& unde& t e 5taff >egu"at#ons% >u"es% and adm#n#st&at#3e #ssuan\$es.
- 72. T oug not e3e&. 3#o"at#on 1#"" ne\$essa&#". "ead to an a1a&d of \$om!ensat#on)see hou! 20124UNAT4224,% t e T&#'una" ma. a1a&d \$om!ensat#on fo& a\$tua" !e\$un#a&. o& e\$onom#\$ "oss% non4!e\$un#a&. damage% !&o\$edu&a" 3#o"at#ons% st&e4 (!!)-101 (u\$)3.843# 20124UB36797 (T)-9.10/e5609 (')-10..241 (**ensat**)

Case No. UNDT/GVA/2012/024 Judgment No. UNDT/2013/135

- '. T #s amount s a"" 'e !a#d 1#t #n ?0 da.s f&om t e date t #s Judgment 'e\$omes e9e\$uta'"e\| du&\| ng 1 #\| !e&\| +od t e U5 P&\| +me > ate a!!"#\| *a'"e as at t at date s a"" a!!".. 6f t e sum #s not !a\| +d 1#t #n t e ?04da. !e&\| +od\| an add\| +t +ona" 5 J s a"" 'e added to t e U5 P&\| +me > ate unt#" t e date of !a.mentC
- \$. T #s ;udgment #s !ut #n t e A!!"#\$ant=s (ff#\$#a" 5tatus :#"eC and
- d. A"" ot e&!"eas a&e &e;e\$ted.

)#igned,

Judge Tomas Aa8e&

Dated t #s 31^{st} da. of (\$to'e& 2013)

Hnte ℓ da. of (δ 2013) #igned,

>enK 0 . Va&gas 0 .& >eg#st&a&& Gene3a