

Introduction

1. "# a\$\$&ation !med on 1(Janua)# 2015* t+e A\$\$&'ant* a !o)me))o'u)e)ment Assistant ,G-5. &n t+e United Nations o\$ulation /und ,0UN/ A1.*)o'u)e)ment 2e)3& 'es ")an'+ ,0 2 "1.* A!)&a team* 4ased &n Co\$en+agen* '+a\$enged UN/ A5s de'lsion not to)e3&e 6 +e) 'om\$&ants o! mls'ondu't ,0+a)assment and unde)mtnng 7+e)81. against !&e o! +e) 'olleagues &n t+e 2" team* name# 9)s. V.*)o'u)e)ment Assistant* 9)s. :.* Cont)a't Asso'late* 9)s. ;.* Cont)a'ting and Administ)at&e Assistant* 9)s. <.*)o'u)e)ment Assistant* and 9). =.*)o'u)e)ment Assistant.
2. T+e Res\$ondent su4mited +ls)e\$# on 24 /e4)ua)# 2015. Also* u\$on t+e T)4una%5s &nst)u'tions* t+e Res\$ondent su4mited additio\$al do'umentation on t+e 'om\$&ants !med 4# t+e A\$\$&'ant 6&t+ t+e >!!&'e o! Audit and ?n3estigations 2e)3& 'es ,0>A?21. on 25 June 2015.
3. >n 2(June 2015* t+e T)4una% &n!o)med t+e \$a)ties t+at t+e 'ase 6ould 4e

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t+ese sta!! mem4e)s 6e)e 0' onstant# 4u%%#ng +e)1 and 0a\$\$%#ng e!!o)ts &n o)de) to dest)o# +e) 'a)ee) &n 2 "1.

17. >n 10 2e\$tem4e) 2014* t6o >A?2 &n3estgato)s +ad a \$+one 'on3e)sation 6&t+ t+e A\$\$%#ant to '%a)&!# t+e &n!o)mation s+e \$)o3ded &n +e) 'om\$%alnts aga&nst* inter alia* 9)s. :.* 9)s. ;.* 9)s. <. and 9). =. T+e A\$\$%#ant 'on!&)med t+at a% t+e &nstan'es s+e des')&4ed &n +e) 'om\$%alnts against +e) !o)me) 'o%leagues* &n' %uding 9)s. :.* 9)s. ;.* 9)s. <. and 9). =.* o)'u))ed \$)o) to 22 2e\$tem4e) 2013. T+e A\$\$%#ant 6as ad3&sed t+at t+e >A?2 &n3estgato)s 6ould)e'ommend t+e D(e)to) o! >A?2 to '%ose t+e 'ase.

1E. >n 12 2e\$tem4e) 2014* >A?2 !o)ma## 'losed t+e A\$\$%#ants 'ase against 9)s. :.* 9)s. ;.* 9)s. <. and 9). =. ?n &ts Closu)e Note* >A?2 'on' %uded t+at t+e A\$\$%#ants 'om\$%alnts against +e) !o)me) 'o%leagues 6e)e &))e'e&3a4%e as t+e &n'&ents s+e des')&4ed !e% outside t+e 6-mont+ time %mit set !o)t+ &n t+e 2013 UN/ A o%&# on I a)assment* 2eFua! I a)assment and A4use o! Aut+o)&t# ,0t+e o%.* and +e) a%egations o! 4u%%#ng and +a)assment 07d&d8 not !a% 6&t+&n t+e s'o\$e o! \$)o+&4lited 'ondu't and 7d&d8 not* \$)ma !a'ke* meet t+e)easona4%e t+)es+old %e3e% !o) mls'ondu't1.

1(. "# ema% o! 16 2e\$tem4e) 2014* t+e A\$\$%#ant 6as not&!led t+at >A?2 6ould not 4e %aun'+&ng an &n3estgation &nto +e) 0'om\$%alnts o! +a)assment* 4u%%#ng and a4use o! aut+o)&t# against 12 sta!! mem4e)s at 2 "1* &n'e >A?2 +ad 0'on' %uded &ts \$)e&m&na)#)e3&e 6 o! t+e matte) and 7+ad8 !ound t+at a !u% &n3estgation 76as8 not 6a))anted1* t+e)e!o)e 'ons&de)ng t+e matte) 0'losed1.

20. "# ema% o! 20 2e\$tem4e) 2014* t+e A\$\$%#ant su4m&tted a)e@uest !o) management e3a%uation against >A?25s de'&son not to %aun'+ an &n3estgation &nto t+e 4e+a3(tou) o! 9)s. ;. 2+e)e'el3ed a)e\$%# to &t on 31 >'to4e) 2014* !om t+e HFe'ut&3e D(e)to)* UN/ A* 4# 6+&'+ s+e 6as not&!led t+at >A?2 de'&sons 6e)e Ooutside t+e s'o\$e o!)e3&e 6 4# UN/ A management1.

21. >n 10 No3em4e) 2014* s+e su4m&tted anot+e))e@uest !o) management e3a%uation* t+&s time against >A?25s de'&son not to t)&ge) an &n3estgation &nto t+e 4e+a3(tou) o! 9)s. ;.* 9). =. and anot+e) 'o%league. 2+e)e'el3ed a)e\$%# to &t

on 15 De' em4e) 204* !)om t+e HFe' utl3e D(e'to)* UN/ A* 4# 6+l'+ s+e 6as not!led t+at >A?2 de'lsions 6e)e 0outsde t+e s'o\$e o!)e3te6 4# UN/ A management1. As 'an 4e ln!e))ed !)om t+e)e\$%#* t+e A\$\$%&'ant +ad also su4m!tted* on 31 >'to4e) 2014* a)e@uest !o) management e3a!uation 'on'e)n!ng >A?25s de'lsion not to 'ondu't an ln3estigation lnto +e) 'om\$%&nt against 9)s. <.

Parties' submissions

22. T+e A\$\$%&'ants \$)ln'&\$a! 'ontentions a)eJ

a. T+e)e!usal o! >A?2 to %aun'+ t+e)e@usted ln3estigation ls un!ounded* as +e) 'om\$%&nts 6e)e du# do'umented and t+e lm\$)o\$e) 4e+a3kou) o! +e) 'olleagues* 6+o 6e)e 0s\$)ead!ng slande)s* 4u%%#!ng* +a)ssment and so on1 ag!nst +e)* ls e3kident 4ased on a% \$)oo! s+e a)ead# su4m!tted on man# o' 'astons!

4. I e) 'ase ls not 4e!ng t)eated se)lous# 4# UN/ A* and +e) manage)s t)eated +e) 4ad# as 6e%%* lnstead o! s+o 6!ng +e) su\$\$o)t and lnteg)at!ng +e) lnto t+e 2" team! and

'. As s+e a)ead#)e@usted maFlum 'om\$ensation ln \$)e3lous 'ases s+e !led 6lt+ t+e T)l4una** s+e does not)e@uest t+e 0damage 'om\$ensation1 ln t+e \$)esent 'ase* 4ut s+e seeBs)e'ognition t+at s+e +ad 4een su4De't to +a)ssment and a4use o! aut+o)lt# 6+en 6o)B!ng at UN/ A* and t+at t+e %a'B o! !a3ou)a4le)e'ommendation !)om UN/ A g)eat# lm\$al)ed +e) 'u)ent Do4 sea)'+.

23. T+e Res\$ondent\$ \$)ln'&\$a! 'ontentions a)eJ

a. T+e 'ontested de'lsion o! >A?2 6as taBen ln 'om\$%an'e 6lt+ &ts UN/ A 2014 C+a)te)* a' o)d!ng to 6+l'+ >A?2 +as to o\$e)ate &nde\$endent# and +as dls ')etlona)# aut+o)lt# 6lt+)es\$e't to t+e matte)s lt ln3estigates!

T)l4una! so t+at t+e a\$\$%&'ation ma# 4e 'ons&de)ed 6lt+ t+e 4ene!lt o! t+e !u% >A?2)e'o)d. : e %ea3e lt to t+e dls')etion o! t+e Dls\$ute T)l4una! as to +o6 lt 6ls+es to a' 'ess t+e)e3ant &n!o)mation.

25. I a3lng)e3le6ed t+e >A?2 Closu)e Note and its eF+l4lts* t+e T)l4una! 6 &% eFam&ne 6+et+e) t+e de'l&on o! >A?2 not to \$u)sue an &n3estigation &nto t+e A\$\$%&'ant5s 'om\$%alnts !o) mls'ondu't aga&nst 9)s. :.* 9)s. ;.* 9)s. <. and 9). =. 'om\$%led 6lt+ t+e olt'## as dl)e'ted 4# t+e A\$\$eals T)l4una!. /o) t+e saBe o! 'om\$%eteness* t+e T)l4una! 6 &%)e3le6* &n tu)n* t+e t6o g)ounds)aled 4# >A?2 to 'on'ude t+at t+e A\$\$%&'ant5s 'om\$%alnts 6e)e &)e'e&3a4%e.

Legal framework

26. T+e A\$\$%&'ant5s 'om\$%alnts aga&nst +e) 2" 'olleagues !o) 04u##lng1* +a)assment and 0unde)m&llng +e)1 a)e go3e)ned 4# t+e olt'#. T+e \$)o+&4lted 'ondu't !a&llng unde) lt ls de!&ned &n ls se'. 4 and ls %m&ited to +a)assment* seFua& +a)assment and a4use o! aut+o)&t#. I a)assment* 6+&'+ ls mo)e dl)e't## %&nBed to t+e \$)esent \$)o'eed&ng* ls de!&ned &n se'. 4.1 as !o&o 6sJ

4.1 Harassment

4.1.1 An# lm\$)o\$e) and un6el'ome 'ondu't t+at m>)easona4## 4e eF\$e'ted o) 4e \$e)'e&3ed to 'ause o!en'e o) +um&llation to anot+e) \$e)son. I a)assment ma# 4e \$)esent &n t+e !o)m o! 6o)ds* gestu)es* o) a'tions 6+&'+ tend to anno## ala)m* a4use* demean* &nt&m&date* 4e<le o) 'ause \$e)sonal +um&llation o) em4a))assment to anot+e) o) t+at 'auses &nt&m&dating* +ost&le o) o!!ens&3e 6o)B en3l)onment. ?t &n'udes +a)assment 4ased on an# g)ounds* su'+ as)a'e*)e&glon* 'o&o)* ')eed* et+n&' o)&gln* \$+&st'a%

(.4.2 T+e 'om\$%aint s+a%% not 4eJ

,a. anon#mousJ

,4. su4m!tted on 4e+a!! o! anot+e) \$e)son.

30. T+e T)4una! notes t+at t+e A\$\$%'ant's 'om\$%ant to t+e D>2 !)aud +ot%ne on 1E Ju# 2013 +as no im\$a't on t+e)e'e3a4%lt# o! +e) 'om\$%ants against +e) 2 " 'o%leagues. /tst%# &t a\$\$ea)s t+at t+ls 'om\$%ant 6as o! a gene)a! natu)e* name%# a4out 0some 6o)B \$)o4%ems1* and did not s\$e'&!&'a%# mention 9)s. ;.* 9)s. :.* 9)s. <. and 9). =. 2e'ond%# &t did not meet t+e)e@u)e)ements o! a !o)ma! 'om\$%ant as \$e) unde) se'. (.4.1 o! t+e o%l'#* 6+l'+)e@u)e)es* inter alia* t+at a !o)ma! 'om\$%ant 4e made &n 6)ting to t+e D)e'to)* >A?2* and state t+e &entit# o! t+e alleged o!!ende). T+d%# t+e)e'e3a4%lt# o! ea'+ 'om\$%ant must 4e assessed &nd&3&dual%. A 'om\$%ant t+at +as 4een 'osed does not sus\$end t+e tme %&m&t to su4m&t !u)t+e) !o)ma! 'om\$%ants.

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40. These claims essentially contain vague and general allegations attesting to a distinct and separate set of facts. Most of the allegations against the Respondent and his colleagues are not substantiated by any specific evidence. The Court has found no credible evidence to support the Respondent's allegations of conduct amounting to a wilful violation of the law and regulations.

41. The Trial Court has held that the Respondent failed to establish the existence of a solid case against him to substantiate his claim of wilful violation of the law and regulations. The Respondent has failed to prove that he was guilty of wilful violation of the law and regulations.

42. The Trial Court has held that the Respondent has failed to establish his case of wilful violation of the law and regulations against the Respondent and his colleagues. The Respondent has failed to establish his case of wilful violation of the law and regulations against the Respondent and his colleagues.

43. The Trial Court has held that the Respondent has failed to establish his case of wilful violation of the law and regulations against the Respondent and his colleagues. The Respondent has failed to establish his case of wilful violation of the law and regulations against the Respondent and his colleagues.

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Hn*te)ed in t+e Registe) on t+ls 1(t+ da# o! August 2016*

,Signed.

RenM 9 . Va)gas 9 . * Reg&st)a)* Gene3a