
Case No.: UNDT/GVA/2013/058
Order No.: 163 (GVA/2013)
Date: 25 October 2013

Intro!u tion

1. ' < a88+)!a)o* f)+ed o* 1= O! o"er 2013; ,e A88+)!a* ; a P/> #* er8re er a ,e U*) ed Na)o*s Off)!e a Ge*e2a (?UNOG@); D)2)s)o* of Co*fere*!e 4 a*age : e* (?DC 4 @); #* er8re a)o* %er2)!e; seeAs s.s8e*s)o* of a!)o*; 8e*d)*g : a*age : e* e2a+.a)o*; of ,e de!)s)o* o se-e! 4 r. 5. 7. for ,e 8os))o* of %e*)or #* er8re er (C,)*ese); P/5; ad2er)sed .*der -o" O8e*)*g No. 13/(AN/UNOG/2==62/&/G\$N\$VA (().

Fa ts

2. O* 2= 4 a< 2013; ,e A88+)!a* a88+)ed for ,e 8os of %e*)or #* er8re er (C,)*ese); P/5; -o" O8e*)*g No. 13/(AN/UNOG/2==62/&/G\$N\$VA ((); ad2er)sed o* 16 A8r)+ 2013. A o a+ of 1> a88+)!a)o*s Bere re!e)2ed; o. of B,)!, f)2e !a*d)da es;)*!+.d)*g ,e A88+)!a* ; Bere s!ree*ed e+g)"!e a*d forBarded o ,e 6)r)*g 4 a*ager; ,e ,e* Off)!er/)*C,arge; #* er8re a)o* %er2)!e; DC 4 ; UNOG; for e2a+.a)o*. T,ese f)2e !a*d)da es Bere)*)2) ed for a !o : 8e e*!</"ased)* er2)eB)* -. < 2013; fo+oB)*g B,)!, ,e Assess : e* Pa*e+ de er :)*ed ,a a+ ,e !a*d)da es : e ,e reC.)re : e* s of ,e 8os . Co*seC.e* +<; ,e *a : es of a+ f)2e !a*d)da es;)*!+.d)*g ,e A88+)!a* Ds; Bere 8+a!ed o* ,e +s of re!o : : e*ded !a*d)da es ,a Bas ra*s :) ed o ,e Ce* ra+ &e2)eB 'oard (?C& ' @) o* 1= -. < 2013.

3. A)s : ee)*g of 31 -. < 2013; ,e C& ' Bas *o)* a 8os))o* o e*dorse ,e +s of re!o : : e*ded !a*d)da es "e!a.se) *o ed se2era+)*!o*s)s e*!)es o* ,e Co : 8ara)2e A*a+<s)s &e8or "e Bee* ,e Br) e/.8 of ,e e2a+.a)o*s a*d ,e ra))*g of ,e !o : 8e e*!)es. A+so; ,e +)*A "e Bee* ,e e2a+.a)o* a*d ,e Pa*e+Ds !o*!+.s)o* Bas *o a+Ba<s !ear. 6e*!e ,e C& ' so.g, : ore !+ar)f)!a)o*s a*d de a+is)* ,e e2a+.a)o*s of ,e !a*d)da es; a*d reC.es ed ,e 6)r)*g 4 a*ager o re2)eB ,e Br) e/.8 of ,e e2a+.a)o*s !+ear<)*d)!a)*g ,oB ,e Assess : e* Pa*e+ arr)2ed o) s re!o : : e*da)o*.

>. 0o+oB)*g ,e reC.es fro : ,e C& ' ; ,e 6)r)*g 4 a*ager re2)eBed ,e

fo.r !a*d)da es;)*!+.d)*g ,e A88+)!a* ; s.!!essf.++< : e ,e reC.)re : e* s for ,e
8os))o* a*d ,a o*e; ,e se:e! ed !a*d)da e; eF!eeded ,e reC.)re : e* s. O*
1> A.g.s 2013 ,e C& ' e*dorsed ,e re!o : : e*da)o*s)* fa2o.r of ,e f)2e

ser2)!e; a* < f.r ,er s e8s regard)*g ,e re!r.) : e* aga)*s ,e 8os) o* .*)+ ,e
de er :)a) o* of ,e s.s8e*s) o* of a!) o*.

12. O* 23 O! o"er 2013; ,e &es8o*de* f)+ed ,)s re8+<; B) , o*e a**eF f)+ed ex
parte (A**eF 2). O* ,e sa : e da<; ,e A88+)!a* reC.es ed +ea2e o f)+e !o : : e* s
o* ,e &es8o*de* Ds s." :)ss)o*; B,)!, Bas ref.sed "< ,e Tr)".*a+ s)*!e ,e
8ro!ess)*g of a reC.es for s.s8e*s) o* of a!) o*)s s."(e! o 8ar)!..+ar+< s,or
) : e+) :) s d.e ,e .rge* *a .re of s.! , reC.es s.

13. O* 2> O! o"er 2013; ,e A88+)!a* reC.es ed a!!ess o a"o2e/ : e*)o*ed
A**eF 2.

Parties" ontentions

1>. T,e A88+)!a* Ds 8r) : ar< !o* e*)o*s : a< "e s. : : ar)Ied as fo++oBs:

7 (0 5 1 7 (S) 2 . P r i m a f a c i e u n l a w a d a w / 4 6 0 2 (y) 2 . 2 3 9 2 (t) 0 . 1 9 2 9 8 5 (") - 0 . 7 8 9 5 5 8 5 (*) - 0

d. Ar)!)e 101 8ara. 3 of ,e U*) ed Na)o*s C,ar er a*d % aff &eg. +a)o*
>.2 Bere 2)o+a ed)* ,e se+e!)o* 8ro!ess; s)*!e)* ,)s 2)eB ,e se+e! ed
!a*d)da e)s +ess C.a+f)ed ,a* ,) : for ,e 8os))o*E

e. #* ,)s Tr)" .*a+Ds Order No. 132 (GVA/2013);) Bas a+read<
de : o*s ra ed ,a a*o ,er se+e!)o* 8ro!ess for a 2a!a*!<)* ,e
#* er8re a)o* %er2)!e; ".)* ,e \$*g+)s, "oo ,; s,oBed so : e 8ro!ed.ra)
)rreg.+ar))es; ,e*!e ,e se+e!)o* 8ro!ess for ,e 8os))o* a s aAe)* ,e
8rese* !ase s,o.+d "e d.+< 2er)f)edE

Urgency

f. T,e de!)s)o* o se+e! a*o ,er !a*d)da e for ,e 8os))o*)s go)*g o "e
) : 8+e : e* ed) :))*e* +<;)f *o a+read< do*eE

Irreparable damage

g. T,e) : 8+e : e* a)o* of ,e !o* es ed de!)s)o* Bo.+d ser)o.s+<
(eo8ard)Ie ,)s fa)r !,a*!e for 8ro : o)o* as *o 8ro : o)o* o88or .*) < Bo.+d
"e a2a)+a" +e)* ,e foreseea" +e f. .reE

,. T,e f+aBed se+e!)o* de!)s)o* Bo.+d ,a2e a +as)*g de : ora+)s)*g
effe! ,ro.g,o. ,e se!)o* as a * . : "er of o ,er !a*d)da es are e :))*e* +<
"e er C.a+f)ed ,a* ,e se+e! ed !a*d)da e.

15. T,e &es8o*de* Ds 8r) : ar< !o* e*)o*s : a< "e s. : : ar)Ied as fo++oBs:

Prima facie unlawfulness

a. T,e de!)s)o*)s *o prima facie)+ega+. T,e A88+!)a* Bas fo.*d
e+)g)" +e for ,e 8os))o* a s aAe; ,e Bas)*2) ed for ,e !o : 8e e*!</"ased
)* er2)eB a*d Bas 8+a!ed o* ,e +)s of re!o : : e*d)ed !a*d)da es for
ra*s :)ss)o* o ,e D)re! or/Ge*era+ for f)*a+ se+e!)o*E

1H. The Tribunal, in the light of the evidence, is satisfied that the evidence is sufficient to establish the prima facie case. The Tribunal is satisfied that the evidence is sufficient to establish the prima facie case.

Prima facie unlawfulness

20. The fact that the respondent has failed to provide the requested information, in violation of article 20 of the Law of 20 August 2013 on the Access to Information, is sufficient to establish the prima facie case of unlawfulness. The respondent's failure to provide the requested information is sufficient to establish the prima facie case of unlawfulness.

ad2er)sed a a +a er s age; e.g. for 8o e*)a+ !a*d)da es B)s,)*g o a!C.)re

28. #* ,e Tr)".*a+Ds 2)eB; ,ar : o 8rofess)o*a+ re8. a)o* a*d !areer 8ros8e! s
: a< !o*s) . e)rre8ara"+e da : age. #* ,e 8rese* !ase;) !o*s)ders ,a ,e
A88+)!a* Bo.+d s.ffer)rre8ara"+e da : age o ,s !areer 8ros8e! s s,o.+d ,e
!o* es ed de!)s)o* "e) : 8+e : e* ed. A s."seC.e* : o*e ar< !o : 8e*sa)o*;)f a*<;
Bo.+d *o !o : 8e*sa e a++ ,s da : age)* ,s regard.

2H. #* 2)eB of ,e a"o2e; ,e Tr)".*a+ !o*s)ders ,a ,e ,ree s a . or<
reC.)re : e* s o gra* s.s8e*s)o* of a!)o* are f.+f)++ed)* ,e)*s a* !ase.

30. 0)*a++<;)* 2)eB of) s !o*!+.s)o*; ,e Tr)".*a+ !o*s)ders ,a))s *o

0.784e!)s)o*of a!) s *s *0.290.295585 (a)3.5885 4 ()-2,5 4 ()-2.33292()-2.335585 ()-2
2.33292 (s)-1.06997 (.)-0.29 4 5585 ()-2.3-2.33292 (,)-0.295585 (a)3.rfs)d,+ 4 4 27 6 . (a)-32. 6 4 29 r