Introduction

1.   O$ 17 O6%o4e* 2017؟ %,e A88(+6a$% a fo*#e* s%aff #e#4e* 9+%, %,e U$%e" Na%+o$s Ass+s%a$6e %o %,e : , #e* Ro!ge T*+a(;<UNA : RT=>؟ f+(e" a$ a88(+6a%+o$ 9+%, %,e T*+4!$a(6o$%es%+$g %,e "e6+s+o$ $o% %o g*a$% ,+# a 8e*#ae% a88o+$%#e$%؟ fo((o9+$g ?!"g#e$% Gueben et al. 201@1UNAT1@92 +$,+s fa-o!*.

rocedure !efore t"e Tri!unal

2.   O$ 1' No-e#4e* 2017؟ %,e Res8o$"e$% f+(e" ,+s *e8() %o %,e a88(+6a%+o$.

7.   O$ 1& / a) 2019؟ a Case / a$age#e$% D+s6!ss+o$;<C / D=> 9as 6o$"!6%e" 9+%, %,e 8a*%+6+8a%+o$ of Co!$se(fo* %,e A88(+6a$% a$" Co!$se(fo* %,e Res8o$"e$%. A% %,e C / D؟ %,e 8a*%+es ag*ee" %o a ?!"g#e$% 4e+$g *e$"e*e" o$ %,e 8a8e*s؟ 9+%,o!% a$ o*a(,ea*+$g.

&.   A(so؟ a% %,e C / D؟ %,e 8a*%+es 9e*e g*a$%e" (ea-e %o f+(e a""+%+o$a(

7.   I$ 2009 ⸴ ,e O*ga$+Da⸴+o$!$"e*⸴ooA a o$el⸴+#e Se6*e⸴a*+a⸴19+"e
6o#8*e,e$s+-e eCe*6+se⸴ 4) 9 ,+6, e(+g+4(e s⸴aff #e#4e*s !$"e* ⸴,e S⸴aff R!(es +$

11.   O$ 71 a$!a*) 2012⅝%,e A88(₊6a$% *e6e₊-e" a (e∖∖e* f*o# %,e C,₊ef⁵ 3 ! #a$

20.

Case No.   UNDT/GVA/2017/079

Case No.   UNDT/2019/12&

,.   I$ 6o$%*as% %o %,e f+$"+$gs +$ McIlwraith et al. UNDT/2019/022, %,e A88(+6a$%Es 6o#4+$a%+o$ of (ega(A$o9(e"ge a$" 8*of+6+e$6) +$ E$g(+s, a$" 2*e$6, g+-e ,+# %,e sA+((s *eF!+*e" fo* a (a$g!age 8os%K a$"

+.   T,e A88(+6a$% *eF!es%s %,e T*+4!$a(%o o*"e* %,e A"#+$+s%*a%+o$ %o g*a$% ,+# a 8e*#a$e$% a88o+$%#e$% o* %o 4e g*a$%e" 6o#8e$sa%+o$ fo* %,e fa+(!*e %o g*a$% ,+# s!6, a88o+$%#e$% +$ %,e fo*# of a %e*#+$a%+o$ +$"e#$+%). 3e a(so *eF!es%s #o*a("a#ages fo* %,e <4(a%a$% +$f*+$ge#e$% of ,+s *+g,%s a$" 6a*ee* !$6e*%a+$%) 6a!se" 4) %,e "e6+s+o$=.

27.   T,e Res8o$"e$%Es 8*+$6+8a(6o$%e$%+o$s a*e:

a.   T,e 6o$%es%e" "e6+s+o$ f!(() +#8(e#e$%s !"g#e$% Gueben et al. 201@1 UNAT1@92. T,e AASG/O3R / *e6o$s+"e*e" %,e A88(+6a$% fo* a 8e*#ae% a88o+$%#e$% +$ a66o*"a$6e 9+%, %,e "+*e6%+o$s 6o$%a+$e" %,e*e+$ a$" %,e a88(+6a4(e (ega(f*a#e9o*AK

4.   T,e*e +s $o 6a!sa((+$A 4e%9ee$ %,e 6o$%es%e" "e6+s+o$ a$" %,e A88(+6a$%Es *es+g$a%+o$. 3e s!4#+%%e" ,+s *es+g$a%+o$ o$ 7 a$!a*) 201@5 #o*e %,a$ o$e)ea* 8*+o* %o %,e 6o$%es%e" "e6+s+o$. T,e *easo$s 8*offe*e" 4) %,e A88(+6a$% fo* ,+s *es+g$a%+o$ a*e !$*e(a%e" %o %,e 6o$%es%e" "e6+s+o$K

6.   T,e A88(+6a$%Es -+e9s as %o %,e 6!**e$% a$" f!%!*e

e.   T,e AASG/O3R / 6o$6(!"e" ,a ,e A88(6a$ 9as $o s!a4(e fo* 6o$-e*s+o$ o a 8e*#ae a88o+$#e$ 4e6a!se ,e ,a" $o 8asse" ,e *eF!+*e" LCE5 a 8*e*eF!+s+e fo* ,e e#8(o) #e$ of (a$g!age s,aff +$,e Se6*e,a*+a5 a$" "+" $o 8ossess ,e s!ff+6+e$ sA+((s +$ o,e* UN off+6+a((a$g!age o!s+"e of 2*e$6, a$" E$g(+s,ﾓ

f.   T,e A88(6a$ﾒs s+,!a,+o$ +s "+ffe*e$,o ,e o1(a$g!age 8*ofess+o$a(s,aff #e#4e*s as ,e) 8ossess sA+((s ,a, a*e 6o##o$,o ,e 4*oa"e* Se6*e,a*+a5 a$" a*e $o s!4?e6 ,o ,e "+s++6+ *eF!+*e#e$s of (a$g!age 8os+,+o$s +$,e Se6*e,a*+aﾓ

g.

a88ea(a$" a *e6o$s+"e*a%+o$ eCe*6+se5 %,e A88(+6a$% 9as +$fo*#e" of a se6o$" "e6+s+o$ of 17 /a*6, 2017 "e$)+$g ,+# a 8e*#ae% a88o+$%#e$%. T,+s +s %,e "e6+s+o$!$"e* ?!"+6a(*e-+e9.

29.   Af%e* ,a-+$g 6a*ef!(() eCa#+$e" %,e e-+"e$6e o$ f+(e a$" %,e a*g! #e$%s *a+se" 4) %,e 8a*%+es5 %,e T*+4!$a(,as +"e$%+f+e" %,e fo((o9+$g (ega(+ss!es:

    a.   L ,e%,e* %,e "e6+s+o$ %aAe$ 4) %,e AASG/O3R / $o% %o g*a$% %,e A88(+6a$% a 8e*#a$e$% a88o+$%#e$% +s (a9f!(5 +.e.5 +$ 6o$fo*#+%) 9+%, %,e "+*e6%+o$s g+-e$ 4) %,e A88ea(s T*+4!$a(+$ Gueben et. al 201@1UNAT1@92;

    4.   L ,e%,e* %,e A88(+6a$% +s e$%+%(e" %o 4e 8a+" a %e*#+$a%+o$ +$"e#$+%)Ⱪ a$"

    6.   L ,e%,e* %,e A88(+6a$% +s e$%+%(e" %o #o*a("a#ages.

Was the decision not to grant the Applicant a permanent appointment lawful?

70.   T,e s%a*%+$g 8o+$% fo* %,e T*+4!$a(Ɛs *e-+e9 of %,e (ega(+%) of %,e 6o$%es%e" "e6+s+o$ +s %,e 6o$s+"e*a%+o$ of %,e A88ea(s T*+4!$a(+$ +%s !"g#e$% Gueben et al. 201@1UNAT1@925 9,+6, *e#a$"e" %,e "e6+s+o$s o$ %,e 6o$-e*s+o$ of %,e Gueben et al. a88(+6a$%%sⱭ f+Ce"1%e*# a88o+$%#e$%s5 +$6(!"+$g %,a% of %,e A88(+6a$%5 %o %,e ASG/O3R / fo* *e6o$s+"e*a%+o$.

71.   T,e A88ea(s T*+4!$a(8*es6*+4e" %,e fo((o9+$g +$ Gueben et al. 201@1UNAT1@92 ;a% 8a*a. &B> 9+%, *es8e6% %o %,e *e6o$s+"e*a%+o$ eCe*6+se %,a% ,a" %o 4e !$"e*%aAe$ 4) %,e ASG/O3R / !8o$ *e#a$":

    U8o$ *e#a$"5 9e eC8e6% %,e A"#+$+s%*a%+o$ %o s%*+6%() a",+e*e %o o!* "+*e6%+-es +$ %,e A88ea(s T*+4!$a(!"g#e$% a$" %o o!* f!%,e* +$s%*!6%+o$s ,e*e+$5 9,e*e 9e eC8(+6+%() +$s%*!6% %,e ASG/O3R / %o 6o$s+"e*5 o$ a$ +$"+-+"!a(a$" se8a*a%e 4as+s5 ea6, s%aff #e#4e*Ɛs *es8e6%+-e F!a(+f+6a%+o$s5 6o#8e%e$6+es5 6o$"!6% a$" %a$asfe**a4(e sA+((s 9,e$ "e%e*#+$+$g ea6, of %,e+* a88(+6a%+o$ fo* 6o$-e*s+o$ %o a 8e*#ae% a88o+$%#e$% a$" $o% %o g+-e 8*e"o#+$a$6e o* s!6, o-e*9,e(#+$g 9e+g,% %o %,e 6o$s+"e*a%+o$ of %,e f+$+%e #a$"a%e of

72.   Unless, as for Gueben et. al. 2016-UNAT-692 cases, the management does not...

Case No.   UNDT/GVA/2017/079

Case No.   UNDT/2019/12&

+% +s 6o$s+s%e$%5 !$+fo*# a$" 6o##o$() a66e8%e" 4) %,e #a?o*+%) of %,e s%aAe,o("e*s.

&&.   T,e A88(+6a$% a(so 6(a+#s %,a% a$ eC6e8%+o$ %o %,e *eF!+*e#e$% fo* eC6e((e$%