13. 7n 13 Janua&+ 2012' a meet#ng to add&ess t e A!!"#$ant-s g&#e(an$es too% !"a$e 4#t t e !a&t#$#!at#on of t e C #ef' <*' t e C #ef' 9T*' t e C #ef' 9TPU' a *en#o& Auman 9esou&$es 7ff#$e&' A9 = *' t4o &e!&esent

su!e&(#so&' fo& 4 #$ #t 4as not !oss#)"e to)"ame one s#de ent#&e"+. T ese as!e$ts #n$"udedH

a. T e #nt&odu$t#on of so"#d manage&#a" !&a$t#$es 1e.g.' a da#"+ $ e$%,"#st fo& #nd#(#dua" measu&ement3' t e&e)+ $ ang#ng t e :&e"a2#ng and st&ess,fⅇ s#tuat#on !&e(#ous"+ e2#st#ng #n t e Un#t?

). =od#f#$at#ons on a soft4a&e used to $a"$u"ate !&odu$t#(#t+ 4#t out !&e(#ous $onsu"tat#ons 4#t t e team. A"t oug t ese mod#f#$at#ons 4e&e not !&o!osed and/o& #nt&odu$ed)+ t e C #ef' 9PTU'

26. .+ memo&andum dated 14 Ce)&ua&+ 2014' t e A$t#ng D#&e$to&,Gene&a"' UN7G' #nfo&med t e A!!"#$ant t at' afte& &e(#e4 of t e Pane"-s &e!o&t' e ad de$#ded to $"ose t e $ase 4#t &es!e$t to e& $om!"a#nt' 4#t no a$t#on to)e ta%en on t e g&ounds t at t e Pane" :d#d not f#nd e(#den$e to su!!o&t t e a""egat#ons of a&assment and a)use of aut o&#t+;. >n add#t#on' t e memo&andum &em#nded t e A!!"#$ant of e& :o)"#gat#on to fo""o4 t e d#&e$t#ons and #nst&u$t#ons !&o!e&"+ #ssued)+ t e *e$&eta&+,Gene&a" and)+ J e&K su!e&(#so&s' as !e& JsKtaff J&Ku"e 1.21a3;.

2@. T e A!!"#$ant-s su!e&(#so& 4as "#%e4#se #nfo&med)+ a se!a&ate memo&andum of t e same date a)out t e Pane"-s on"us#ons' and t e su)se5uent de$#s#on to $"ose t e $ase 4#t no a$t#on. * e 4as &em#nded of e& dut#es as a su!e&(#so& and #n(#ted to unde&ta%e a!!&o!&#ate t&a#n#ng.

2/. .+ ema#" dated 20 Ce)&ua&+ 2014' t e A!!"#$ant $on(e+ed to t e A$t#ng D#&e$to&,Gene&a"' UN7G' e& d#sa!!o#ntment at #s de$#s#on' and $a""ed #nto 5uest#on t e 5ua"#t+ and t e !e&t#nen$e of t e #n(est#gat#on. >n !a&t#$u"a&' s e s a&ed e& one&ns t at t e fo$us of t e #n(est#gat#on 4as m#s!"a$ed and t at e& a$tua" a""egat#ons 4e&e fo& t e most !a&t not add&essed.

29. 7n 0 =a&$ 2014' t e A!!"#$ant f#"ed an a!!"#$at#on $ a""eng#ng t e 14 Ce)&ua&+ 2014 de$#s#on. >t 4as d#sm#ssed as #&&e$e#(a)"e fo& 4ant of management e(a"uat#on')+ summa&+ 6udgment dated 11 =a&$ 2014 1Kostomarova UNDT/2014/02@3.

30. UN7G-2.79219.66653(&)2.5788(a)6.99TJD-245.51 -19472453892(a)-14.3239(t)11.5318(#)1

33. A $ase management d#s$uss#on 4as e"d on 1/ =a+ 2010.

34. .+ 7&de& No. 10@ 1GVA/20103 of 20 =a+ 2010' a"" anne2es to t e 9es!ondent-s &e!"+ f#"ed ex parte 4e&e made a(a#"a)"e to t e A!!"#$ant on an unde& sea")as#s and &eda$ted as a!!&o!&#ate? t e+ #n$"uded t e Pane"-s #n(est#gat#on &e!o&t. Cu&t e&mo&e' t e 9es!ondent 4as #nst&u$ted to !&o(#de add#t#ona" #nfo&mat#on on t e "ega")as#s fo& ent&ust#ng to t e Pane" t e #n(est#gat#on of)ot t e A!!"#$ant-s $om!"a#nt fo& !&o #)#ted $ondu$t unde& *T/*G./200//0' and t at of e& su!e&(#so&. T e 9es!ondent f#"ed #s &es!onse to t #s 7&de& on 2@ =a+ 2010.

30. 7n 1 June 2010' t e A!!"#$ant !&o(#ded $omments on t e 9es!ondent-s su)m#ss#on of 2@ =a+ 2010' and ad(#sed t at s e no "onge& 4#s ed to $a"" an+ of t e !&e(#ous"+ &e5uested 4#tnesses.

36. 7n 10 June 2010' and fo""o4#ng #nst&u$t#ons de"#(e&ed #n 7&de& No. 114 1GVA/20103 of / June 2010' t e 9es!ondent f#"ed on an unde& sea")as#s a num)e& of $ommun#$at#ons)et4een t e Adm#n#st&at#on o& t e Pane" and t e A!!"#$ant o& t e A!!"#$ant-s su!e&(#so&' du&#ng o& !&#o& to t e Pane"-s #n(est#gat#on.

3@. 7n 1@ June 2010' a ea&#ng on t e me&#ts too% !"a$e' 4#t t e !a&t#$#!at#on !V2.87 43 47( )90.87

D#&e$to&,Gene&a"' UN7G' #nd#$ates a m#sunde&stand#ng of t e essent#a" deta#"s of t e #n(est#gat#on?

).

f. T e amount of t#me ta%en to #n#t#a""+ !&o$ess e& $om!"a#nt 4as not &easona)"e. A"most t &ee mont s afte& t e C #ef' DC=' announ$ed' on 13 Janua&+ 2012' t at t e A!!"#$ant-s $om!"a#nt 4as &e$e#(ed and an #n(est#gat#on 4ou"d)e "aun$ ed' s e 4as #nfo&med t at e& $om!"a#nt 4as #n(a"#d. T e Pane" 4as a!!o#nted on 16 No(em)e& 2012' t at #s' mo&e t an f#(e mont s afte& s e su)m#tted e& &ed&afted $om!"a#nt?

g. T e 4a+ #n 4 #$ e& $om!"a#nt 4as and"ed $aused t e A!!"#$ant se&#ous d#s&u!t#on of)ot e& !&ofess#ona" and !&#(ate "#fe. Ae& &e!utat#on as)een a&med and e& &e"at#ons 4#t e& $o""eagues se&#ous"+ affe$ted? as a &esu"t' t e A!!"#$ant #s #so"ated)e$ause t e sta

#t' as an attem!t fo& an #nfo&ma" sett"ement of t e d#s!ute' #n "#ne 4#t se$. 0.0 to 0.10 of *T/*G./200//0' 4 #$ fa#"ed' des!#te t e Adm#n#st&at#on-s effo&ts?

$. T e Adm#n#st&at#on a$ted d#"#gent"+ #n &em#nd#ng t e A!!"#$ant' on 29 =a&$ 2012' t at no fo&ma" a$t#on $ou"d)e #n#t#ated)ased on e& 1/ De$em)e& 2011 ema#"' and #n(#t#ng e& to fo""o4 t e !&o$edu&es set out #n *T/*G./200//0?

d. G#(en t e !a&t#$u"a&#t#es of t e $ase' ent&ust#ng t e Pane" to #n(est#gate)ot t e A!!"#$ant-s and e& su!e&(#so&-s $om!"a#nts 4as !&o!e&' and #t 4as deemed a!!&o!&#ate' eff#$#ent and o!e&at#ona""+ sound. *e$s. 0.14 and 0.19 of *T/*G./200//0 $ate& fo& t e &e(#e4 and assessment of t e agg&#e(ed #nd#(#dua"-s #ntent? su$ dete&m#nat#on 4as ne$essa&+ not on"+ to add&ess sa#d !&o(#s#ons' es!e$#a""+ #n (#e4 of t e A!!"#$ant-s $ont&ad#$to&+ statements 1#n !a&t#$u"a& at t e 13 Janua&+ 2012 meet#ng3')ut a"so)e$ause t e Adm#n#st&at#on 4as &es!ons#)"e to a$t u!on t e &e5uest fo& #n(est#gat#on)+ t e C #ef' 9TPU. .es#des' t #s $ou&se of a$t#on !&esented no &#s% of unde&m#n#ng t e #n(est#gat#on' as a"" t e #n(o"(ed !a&t#es ad a"&ead+ e2tens#(e"+ !&esented t e#& (#e4s)efo&e t e #n(est#gat#on ad e(en sta&ted' and a(o#ded a!!o#nt#ng a se$ond se!a&ate !ane"' 4 #$ 4as an #neff#$#ent use of t e 7&gan#8at#on-s &esou&$es?

e. T e de$#s#on to $"ose t e A!!"#$ant-s $ase 4as !&o$edu&a""+ and "ega""+ $o&&e$t' s#n$e t e Pane" d#d not f#nd e(#den$e of a&assment and

g. Nonet e"ess' t e Pane"-s &e!o&t #nd#$ated t at t e&

o. T e Adm#n#st&at#on d#"#gent"+ &eass#gned t e A!!"#$ant on 11 Ju"+ 2012' on t e &e$ommendat#on of t e =ed#$a" *e&(#$e *e$t#on' UN7G' and !u&suant to se$. 0.9 of *T/*G./200//0' 4#t t e a#m of a!!eas#ng t e $onf"#$t and "essen#ng t e A!!"#$ant-s !otent#a" a&m. T e&efo&e' s e suffe&ed no a&m due to t e "engt of t e #n(est#gat#on' no&)e$ause of t e de$#s#on to $"ose t e $ase o& t e a""eged #m!&o!e& and"#ng of e& $om!"a#nt.

Subject-matter and scope of the judicial review

41. A$$o&d#ng to a&t. 2.1a3 of #ts *tatute' t e T&#)una" #s $om!etent to e2am#ne t e "a4fu"ness of adm#n#st&at#(e de$#s#ons e2$"us#(e"+. T e adm#n#st&at#(e de$#s#on !&esent"+ unde& s$&ut#n+ #s t at to ta%e no fu&t e& a$t#onGt at #s'

$om!"a#nt des$&#)e t e a""eged #n$#dent1s3 of !&o #)#ted $ondu$t #n deta#"' #nd#$ate an+ add#t#ona" e(#den$e and #nfo&mat#on &e"e(ant to t e matte&' and t at #t #n$"ude#

a. T e name of t e a""eged offende&?

). Date1s3 and "o$at#ons1s3 of #n$#dent1s3?

$. Des$&#!t#on of #n$#dent1s3?

d. Names of 4#tnesses' #f an+?

e. Names of !e&sons 4 o a&e a4a&e of #n$#dent1s3' #f an+?

f. An+ ot e& &e"e(ant #nfo&mat#on' #n$"ud#ng do$umenta&+ e(#den$e? and

g. Date of su)m#ss#on and s#gnatu&e of t e agg&#e(ed #nd#(#dua".

04. T e A!!"#$ant-s ema#"ed $om!"(.38(m)-0.08573(t)0.87304.28 T fD12.5039 0 TdD[(T)-7

e& un4#""#ngness to d#s$uss 4o&%,&e"ated matte&s 4#t t e staff. T e ema#" fu&t e& noted t at t e A!!"#$ant-s &a#s#ng e& one&ns 4#t e& se$ond &e!o&t#ng off#$e&' t e C #ef' 9T*' "ed to #mmed#ate :$onse5uen$es; aga#nst e&' s!e$#f+#ng t at s e ad)een a$$used of "#es and defamat#on and "o4 !&odu$t#(#t+' t at a message asse&t#ng t at t e A!!"#$ant ad engaged #n unet #$a")e a(#ou& ad)een sent to a"" e& $o""eagues' as 4e"" as to A9=* and t e D#&e$to&' DC=' and a"so t at' u!on t e A!!"#$ant-s &etu&n f&om a t &ee,mont s#$% "ea(e' e& su!e&(#so& announ$ed !u)"#$"+ t at s e 4ou"d a!!"+ : a&s met ods; (#s,I,(#s t e A!!"#$ant.

0@. As a matte& of fa$t' t e memo&andum)+ t e C #ef' 9TPU' $ons#st#ng of)a&e"+ t4o !a&ag&a! s and 4#t out anne2es' 4as !a&t#$u"a&"+)&#ef and s%et$ +. >t !o#nted to one so"e e2am!"e of 4 at t e A!!"#$ant-s su!e&(#so& $ons#de&ed to)e fa"se statements 1to 4#t' t at t e Gene&a" Assem)"+-s standa&ds fo& te2t, !&o$esso&s ad 3ae

Misuse and abuse of procedure

61. *T/*G./200//0 4as !&omu"gated to add&ess (e&+ s!e$#f#$ %#nds of $ondu$t'

#n essen$e' $ons#sted of a negat#on of t e A!!"#$ant-s a$$usat#ons. To t #s e2tent' #t $an)e des$&#)ed as a :$ounte&,$"a#m; to t e A!!"#$ant-s $om!"a#nt.

66. C&om t e moment)ot $om!"a#nts 4e&e me&ged #n one same #n(est#gat#on' t e !&o$edu&e tu&ned f&om one tend#ng to s ed "#g t #nto some g#(en a""egat#ons' #nto one o!!os#ng t4o $ont&ad#$to&+ a""egat#ons. 7t e&4#se sa#d' t e d+nam#$s of t e #n(est#gat#on s #fted f&om #n5u#s#to&#a" to ad(e&sa&#a". C&om t en on' t e #n(est#gat#(e &e!o&t d#s$"oses t at t e #n(est#gat#on 4as d#(e&ted f&om t e tas% of e2am#n#ng t e a$tua" A!!"#$ant-s $om!"a#nt to an #n5u#&+ #nto t e $om!"a#nant.

6@.

Incomplete disclosure of the allegations against the Applicant

@0. T e $om!"a#nt of t e C #ef' 9TPU' enun$#ates t4o t+!es of 4&ongdo#ng t at s e att&#)uted to t e A!!"#$ant: fa"se a""egat#ons; and :#nsu)o&d#nat#on;. Ne(e&t e"ess' t e 16 No(em)e& 2012 "ette&s a!!o#nt#ng t e Pane" mem)e&s om#tted an+ &efe&en$e to :#nsu)o&d#nat#on;' as #t #dent#f#ed t e su)6e$t,matte& of t e #n(est#gat#on as one&n#ng' a")e#t not ne$essa&#"+ "#m#ted to:

a. Aa&assment and a)use of aut o&#t+)+ t e C #ef' 9TPU? and

). Ca"se a""egat#ons)+ t e A!!"#$ant.

@1. =o&e #m!o&tant"+' ne#t e& t e memo&andum of 12 De$em)e& 2012 of t e C #ef' A9=*' UN7G' to t e A!!"#$ant Gad(#s#ng e& of t e a!!o#ntment of t e Pane"' no& t e "ette& of t e same date' 4 e&e)+ t e Pane" #nfo&med e& of #ts a!!o#ntment and t e #n#t#at#on of #ts 4o&%' #nd#$ated t at an+ a""egat#ons of #nsu)o&d#nat#on 4e&e to)e add&essed du&#ng t e #n(est#gat#on. T e fo&me& &efe&&ed on"+ to t e A!!"#$ant-s a""egat#ons aga#nst e& f#&st &e!o&t#ng off#$e&'

Pane"-s f#nd#ngs? #n !a&t#$u"a&' one of #ts on"us#ons' as off#$#a""+ $on(e+ed)+ t e 14 Ce)&ua&+ 2014 memo&andum of t e D#&e$to&,Gene&a"' UN7G' 4as t at t e A!!"#$ant ad :Po!en"+ and &e!eated"+- $ast dou)t on t e !&odu$t#(#t+ no&ms esta)"#s ed)+ t e =anagement;' t at e& a$ts $ou"d

A!!"#$ant-s a""egat#ons 4e&e e2!"a#ned and d#s$ussed at "engt ?#n fa$t' t &ee da+s afte& t e C #ef' 9TPU' "odged e& $om!"a#nt aga#nst t e A!!"#$ant.

@/. A"so' #t #s 5u#te a!!a&ent f&om e& ans4e&s 4 en #nte&(#e4ed)+ t e Pane" t at t e C #ef' 9TPU' 4as fu""+ a$5ua#nted #n ad(an$e 4#t t e a$$usat#ons aga#nst e&? #ndeed' #t #s st&#%#ng t at t e Pane" as%ed on"+ one su)stant#(e 5uest#on to t e A!!"#$ant-s su!e&(#so&' to 4 #$ s e ga(e su$ a d#s$u&s#(e &es!onse t at #t f#""ed fou& !ages #n t e #nte&(#e4 &e$o&d !&e!a&ed)+ t e Pane"' #n$"ud#ng t e !&odu$t#on of not "ess t an fou& su!!o&t#ng do$uments t at t e C #ef' 9TPU' ad ostens#)"+ !&#nted)efo&e and and ta%en to t e #nte&(#e4.

@9. Aen$e' t e "a$% of not#f#$at#on to t e A!!"#$ant of t e a""egat#ons aga#nst e& #s $om!ounded)+ t e fa$t t at' afte& t e Adm#n#st&at#on ad' #m!&o!e&"+' $on(e&ted t e !&o$edu&e #n an ad(e&sa&#a" one' #t fa#"ed to ensu&e t e e5ua"#t+ of a&ms)et4een t e t4o one&ned staff mem)e&s. T #s

t#mes!an fo& an #n(est#gat#on' t e T&#)una" a$%no4"edges t at t e #n(est#gat#on as)een $om!"e2 and "a)o&#ous. .e #t as #t ma+'' t #s does not' #n an+ e(ent' a$$ount fo& t e o(e& 12 mont s s!ent at ot e& stages of t e !&o$edu&e' #n$"ud#ng &e(#e4#ng t e A!!"#$ant-s f#&st $om!"a#nt and ad(#s#ng e& t at #t d#d not meet fo&ma" &e5u#&ements.

93. T e T&#)una" #s sat#sf#ed t at t e Adm#n#st&at#on #n$u&&ed #n una$$e!ta)"e de"a+s at a"most e(e&+ stage of t e !&o$ess#ng of t e A!!"#$ant-s $om!"a#nt' 4#t no o& no &easona)"e e2!"anat#on fo& t em' #n (#o"at#on of se$. 0.3' 0.14 and 0.1@ of *T/*G./200//0.

%emedies

94. Aa(#ng found t at t e !&o$edu&e "ead#ng to t e #m!ugned de$#s#on 4as ma&&ed 4#t a num)e& of fundamenta" f"a4s' and st&ess#ng t at man+ of t em one&n t e (e&+ foundat#ons of t e &eg#me set #n *T/*G./200//0' t e T&#)una" f#nds t at t e&e as)een a m#s$a&&#age of !&o$ess #n t e !&esent $ase. >n (#e4 of t at' t e $ontested de$#s#on must)e &es$#nded and t e #n(est#gat#on set as#de.

90. T e T&#)una" fu&t e& o"ds t at t e A!!"#$ant as susta#ned s#gn#f#$ant mo&a" damage &esu"t#ng f&om t e $ontested de$#s#on.

96.

d. T #s amount s a"")e !a#d 4#t #n 60 da+s f&om t e date t #s Judgment