% 5 &'#ngs to t)e Ɓo&)#g) "e9e" of ene'g and $omm#tment to
<o'=. F#t)#n a 9e' s)o't t#me(s)e esta&"#s)ed a net<o'= of
!a'tne's and fa$#"#tated t)e de9e"o!ment of d#st'#$t "e9e" <o'= !"ans
fo' GCBC/ <)#$) <as $onso"#dated #nto nat#ona" GCBC/ <o'=
!"an. ;e' d'#9e fo' 'esu"t <as fu't)e' e2!'essed t)'oug) su!!o't to
t)e off#$e to $o9e' mo'e t)an one d#st'#$t #n t)e d#9#s#on. % 5)as
t)e a&#"#t to a!!'o!'#ate ne< =no<"edge <)en t)e one!t #s $"ea'
and fa$#"#tate &ot) $ommun#t mo&#"#Dat#on and data $o""e$t#on
du'#ng t)e G45 e2e'$#se. A $oo'd#nated te$)n#$a" su!!o't to t)e
% 5 #n de$ent'a"#Dat#on and eme'gen$ / D66 !'e!a'edness
!"ann#ng <#"" &enef#t t)e staff mem&e' to<a'ds st'engt)en#ng)e'

a.   D#d -not ta=e $onst'u$t#9e feed&a$= f'om >)e'? su!e'9#so' as <e"" as >)e'? $o""eaguesJ℃

&.   F as -not a team !"a e'0℃ and

$.

a'''egat#ons &'oug)t & >)e' su!e'9#so'? t)'oug) an

4H.

A4.   T)e 6eg#ona" C)#ef(;uman 6esou'$es('es!onded on t)e same da (not#ng t)at #n)e' -'e&utta" statement0 t)e A!!"#$ant)ad #nd#$ated t)at s)e <ou"d !'o9#de -deta#"ed $omments0(and t)at t)#s)ad t'#gge'ed t)e 'e@uest & t)e 'e&utta" !ane" to &e !'o9#ded <#t) a -se!a'ate note0. %)e a"so as=ed t)e A!!"#$ant <)et)e' s)e $ou"d s)a'e t)e "atte'*s ema#" <#t) t)e 'e&utta" !ane"(and #nd#$ated t)at #n $ase t)e !ane" <ou"d 'e@u#'e fu't)e' e2!"anat#on #t m#g)t $onta$t t)e A!!"#$ant d#'e$t" .

A4.   A"so on 1A 5a 2014(t)e A!!"#$ant as=ed t)e 6eg#ona" C)#ef(;uman 6esou'$es(#n <'#t#ng(to s)a'e a num&e' of ema#"s <#t) t)e 6e&utta" Pane". T)e A!!"#$ant fu't)e' st'essed t)at an -deta#"ed $omments0 f'om)e' aga#nst ea$) assessment of)e' su!

- T)e 'e&utta" su&m#ss#on statement ,o' ꟽNote fo' +#"e* as #t #s $a""ed & t)e staff mem&e'1 #s !'edom#nant")#g)"#g)t#ng #ssues <#t) t)e !'o$edu'es t)at <e'e not a!!'o!'#ate" fo""o<ed <#t) 'ega'd to t)e PA% !'o$ess &ut does not d#s$uss o' -'e&ut0 t)e $ontent of t)e PA% #n an suff#$#ent deta#". T)e staff mem&e' #nstead 'e@uests fu't)e' #nfo'mat#on f'om t)e su!e'9#so' before s)e #s #n a !os#t#on to do t)#s.

- T)e !ane' a"so o&se'9es t)at t)e'e a'e nume'ous $omments & t)e su!e'9#so' unde' t)e d#ffe'ent <o'= out!uts <)e'e e2am!"es of <ea= !e'fo'man$e a'e !'o9#ded. %u$) $omments a'e 'e"ated to s!e$#f#$ 'e!o'ts not &e#ng !'odu$ed on t#me ,o' at a""l(meet#ngs and a$t#9#t#es not &e#ng)e"d et$. T)e !ane' &e"#e9es t)at t)e staff mem&e' $ou"d)a9e made an attem!t to defend)e'se"f aga#nst t)ese on'ete $omments & !'esent#ng e9#den$e to $ounte'a$t t)em #.e. & su&m#tt#ng t)e a$tua" 'e!o'ts(meet#ng m#nutes et$. T)us(t)e 'e&utta" statement !'esented does not a!!ea' to meet t)e 'e@u#'ements as deta#"ed #n C+/A./2011ᴣ001(!a'ag'a!) 7.12,fl.

- .n on"us#on t)e Pane" does not fee" t)at #t)as 'e$e#9ed enoug) do$umented e9#den$e #n t)e $ou'se of #ts <o'= t)at <ou"d Ꞙust#f a $)ange #n t)e su!e'9#so'*s 'at#ngs on <o'= out!uts and $om!eten$#es #n staff mem&e'*s 2014 PA%.

ᴀ8. B ema#" of 17 June 2014 to t)e C)#ef(Po"#$ and Adm#n#st'at#9e Ga< %e$t#on(D￯6(t)e A!!"#$ant 'efe''ed to t)e -f#na" on"us#ons0 of t)e 'e&utta" !ane"ₗ s)e 'e#te'ated)e' one'ns a&out t)e !'o$ess as <e"" as t)e su&stan$e of)e' !e'fo'man$e e9a"uat#on(and as=ed(inter alia(<)et)e' t)e 'e&utta" of t)e PA% <as a"'ead $om!"eted and(#f not(<)at s)ou"d &e t)e ne2t ste! #n t)e 'e&utta" !'o$ess and <)et)e' t)e #nte'#9e< 'e$o'ds of t)e 'e&utta" !ane" $ou"d &e s)a'ed <#t))e'.

ᴀᴴ. T)e C)#ef(Po"#$ and Adm#n#st'at#9e Ga< %e$t#on(D￯6('es!onded & ema#" of 1ᴴ June 2014(not#ng t)at t)e t'ansm#tta" of t)e 'e&utta" !ane"*s 'e!o't $onst#tuted t)e on"us#on of t)e 'e&utta" !'o$ess and t)e f#na" de$#s#on on)e' 'e&utta" $ase.

60. 8n 24 June 2014(t)e De!ut /2e$ut#9e D#'e$to'(UN.C/+('es!onded to t)e A!!"#$ant*s 'e@uest fo' management e9a"uat#on of 7 5a'$) 2014(-of t)e de$#s#on not to e2tend >)e'? a!!o#ntment u!on #ts e2!#'at#on on 41 5a'$) 20140.

g. ;e' su!e'9#so' fa#"ed to a!!" t)e 'emed#es !'o9#ded fo' unde' se$s. 10.1 and 10.2 of %T/A./2010/A(#n$"ud#ng t)e !'e!a'at#on of a <'#tten !e'fo'man$e #m!'o9ement !"an(

). ;e' se$ond 'e!o't#ng off#$e'(t)e C)#ef of +#e"d 8 !e'at#ons(fa#"ed to add'ess d#sag'eements &et<een)e' and)e' su!e'9#so'(and to)o"d t)e "atte' a$$ounta&"e fo' not ensu'#ng a fa#' and $ons#stent a!!'a#sa" of t)e A!!"#$ant*s !e'fo'man$e and $om!eten$#es(

#. T)e management e9a"uat#on <as &ased on t)e #m!'o!e' on"us#on of t)e 'e&utta" !ane" and of t)e off#$e of #n9est#gat#on(

E. T)e Pane" fa#"ed to e2am#ne t)e 9a'#ous #ssues deta#"ed #n t)e 'e&utta" statement ,e.g.(non3ad)e'en$e to t)e PA% !'o$edu'es(a&us#9e and defamato' $omments(fa"se a""egat#ons and "a$= of Eust#f#$at#on(o9e'a"" #n$ons#sten$ &et<een $omments and 'at#ngs(a&sen$e of oa)#ng(d#s$'#m#nat#on1(

=. To e2am#ne <)et)e')e' negat#9e 'at#ng s)ou"d)a9e &een u!)e"d(#t #s #m!o'tant to e2am#ne <)at Eust#f#$at#ons and do$umenta' e9#den$es >s#$? t)e Pane" <as !'o9#ded <#t) & t)e A!!"#$ant*s su!e'9#so'(<)#"e t)e T'#&una" $annot su&st#tute #ts assessment to t)at of t)e su!e'9#so'(#t)as to $ons#de' <)et)e' t)e do$uments &efo'e #t !'o!e'" $o''o&o'ate t)e negat#9e !e'fo'man$e e9a"uat#on g#9en to)e' #n su!!o't fo' t)e non3'ene<a"(

". T)e Pane" and management e9a"uat#on used -ad9e'se mate'#a"0 ,e.g.(note of 6 +e&'ua' 2014 'e$ommend#ng non3'ene<a" of $ont'a$t(f#"ed t'#! 'e!o't of A +e&'ua' 20141(a"t)oug) t)at mate'#a")ad not &een s)o<n to t)e A!!"#$ant(<)o #nfo'med t)e 'e&utta" !ane" and t)e

m. Although the meeting of formal requirements is a precondition to appoint a Panel under sec. 7.1A of C+/A./2011/001, the Panel was designated although she later found that the rebuttal statement did not meet the requirements provided for under sec. 7.12,f1 of said instruction; as such, the Panel drew its conclusion based on an improper assessment, although the competence to ascertain whether formal requirements have been met lies with the Secretary of the rebuttal panel, it was the panel itself that did that assessment;

n. The comments made by her supervisor were abusive, inconsistent, vague and at times repetitive, the Panel did not assess the overall quality of the assessments and comments, the Applicant was excluded from project reports and was stopped from interacting with her counterparts for a period of nine months, which she reported to senior management and the rebuttal panel;

o. The 2014 PAS mid-year assessment has to be seen in light of the positive evaluation received for the year 2012 only four months earlier, these inconsistencies show that she was subjected to harassment, both in the mid-year and final assessment, the supervisor provided her comments and asked the Applicant to sign the document, while giving her only a few hours' notice;

p. She was given notice of her separation in March 2014 despite the

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d. T)e A!!"#$ant*s s

s#n$e)e' !e'fo'man$e(#n t)e 'e"e9ant $ $"e( )ad &een 'ated as -unsat#sfa$to' 0C

E.   T)e A!!"#$ant <as !ut on t#me" not#$e a&out)e' !e'fo'man$e #nade@ua$#es on at "east fou' o$$as#ons(and <as !'o9#ded <#t) s!e$#f#$ feed&a$= and su!!o't℃ do$umenta' e9#den$e s)o<s t)at t)e A!!"#$ant <as t'eated <#t) 'es!e$t &)e' su!e'9#so'℃ t)e m#d3te'm 'e9#e< too= !"a$e on 2H %e!tem&e' 2014℃

=.   B memo'andum of 6 8$to&e' 2014(add'essed to t)e C)#ef(;uman 6esou'$es(and a"t)oug) not 'e@u#'ed &ut fo' t)e sa=e of t'ans!a'en$ $o!#ed to t)e A!!"#$ant( )e' su!e'9#so' 'e$ommended t)at)e' $ont'a$t not &e 'ene<ed due to !e'fo'man$e #ssues℃

".   T)e a&o9e s)o<s t)at t)e A!!"#$ant <as !ut on t#me" not#$e and(a"t)oug) t)#s <as not 'e@uested & t)e 'u"es ,C+/A./201030011(s)e <as e9en 'e@uested to !'e!a'e a !e'fo'man$e #m!'o9ement !"an(<)#$) s)e fa#"ed to do( )o"d#ng t)at)e' !e'fo'man$e <as #m!e$$a&"e℃

m.   T)e 'e&utta" !'o$edu'e <as $o''e$t" fo""o<ed and t)e on"us#ons & t)e Pane" <e'e Eust#f#ed. T)e Pane" 'e9#e<ed t)e !e't#nent do$umentat#on and #nte'9#e<ed t)e A!!"#$ant(as <e"" as)e' f#'st and se$ond 'e!o't#ng off#$e'(on"ud#ng t)at #t)ad 'e$e#9ed #nsuff#$#ent #nfo'mat#on Eust#f #ng a $)ange of t)e assessment & t)e su!e'9#so'. .n !a't#$u"a'(t)e Pane" too= #nto a$$ount t)e A!!"#$ant's 'e"u$tan$e to add'ess)e' su!e'9#so''s $omments <#t) 'es!e$t to)e' !e'fo'man$e s)o't$om#ngs(and found t)at s)e $ou"d)a9e made an effo't to 'e&ut t)em. +o' a 'e&utta" !'o$ess to fun$t#on !'o!e'" (#t #s #nd#s!ensa&"e t)at t)e staff mem&e' set fo't) t)e g'ounds <))e/s)e s)ou"d)a9e 'e$e#9ed a)#g)e' 'at#ng℃ t)e A!!"#$ant's att#tude du'#ng t)e 'e&utta" !'o$edu'e m#''o'ed t)e one t)at s)e)ad 9#s3N39#s)e' su!e'9#so'( )e' team and UN.C/+ $ounte'!a'ts. T)e Pane" found($o''e$t" so(t)at t)e 2014 PA% $onta#ned nume'ous s!e$#f#$ $omments one'n#ng !e'fo'man$e s)o't$om#ngs(<)#$) <e'e o!en to 'e&utta"℃ #t <as t)e A!!"#$ant's $)o#$e not to 'e&ut t)em("ea9#ng t)e 'e&utta" !ane" <#t) no $)o#$e &ut to f#nd t)at #t

4.1   Temporary and fixed-term appointments expire on the date specified in the letter of appointment. They do not carry an expectancy of renewal. Notwithstanding this, temporary and fixed-term appointments may be extended, subject to, and in accordance with, the provisions of this instruction.

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4.7   A fixed-term appointment may be extended for a period, up to two years at a time, subject to organizational needs, <u>satisfactory service</u> and availability of funds. A fixed-term appointment may be thus extended any number of times. [emphasis added]

7A.   Administrative instruction ST/AI/2010/001, %e!a'at#on f'om se'9#$e1 of 10 5 a'$) 2010 states, in sec. A.2, that "Notwithstanding the provisions of para. A.1, a temporary or fixed-term appointment may be extended, subject to organizational needs, <u>satisfactory service</u>[2] and availability of funds, and in accordance with the provisions of ST/AI/200H300A on Types of Appointment and Categories of %taff, sec. 4.

76.   The Applicant relies on ST/AI/2010/A ,Performance Management and Development System1 of the United Nations %e$'eta'#at. In this respect, the Tribunal recalls what the Appeals Tribunal held in Mashhour 2013UNAT3484, referring to ST/SGB/200H/4 ,Procedures for the promulgation of administrative issuances1B ->administrative issuances shall not apply to the separately administered funds, organs and programmes of the United Nations, unless

78. The Appeals Tribunal made it clear that where a non-renewal decision made be based on poor performance and the Administration has broad discretion in this regard ,Morsy 2014-UNAT-328; Ahmed 2011-UNAT-314(Said 201A-UNAT-A001(a non-renewal decision -can be challenged on the grounds that the Agency has not acted fairly (justly or transparently; with the staff member or was motivated by bias(bias(prejudice or improper motive against the staff member ,Ahmed1(who has the burden of proof in this respect ,Said1.

79. The Appeals Tribunal further explained in Said that it is not the role of the Tribunal to review de novo the Agency 's decision(and to place itself in the position of the decision maker and determine whether it would have renewed the contract based on the performance evaluation.

80. The Appeals Tribunal also ruled in Assale 201A-UNAT-A44 that there is no requirement under the applicable rules to finalise an e-PAS before deciding on the non-renewal of a fixed-term appointment(and that it suffices if the staff member has been informed of performance issues and has had the opportunity (between the mid-point review and the end of contract(to improve his/her performance.

81. Finally (the Appeals Tribunal held in Said that:

> There is no need for the Appeals Tribunal to define the term -poor performance.(This Tribunal has already determined that a P/6 does not need to rate a staff member as -unsatisfactor' (in order to support an agency 's decision not to renew an appointment for poor performance. We have also held that a staff member whose performance was rated as -partially meeting performance expectations(had no legitimate expectancy of renewal of his contract and the non-renewal of another staff member with a similar performance rating was lawful.

82. With these standards in mind(the Tribunal will now examine the various issues arising in the present application.

8A.   T)e A!!"#$ant*s 2014 <o'= !"an <as s#gned &)e' and)e' f#'st 'e!o't#ng off#$e' ,)e' su!e'9#so'1 on 7 A!'#" 2014C t)e m#d3!o#nt 'e9#e< <as f#na"#sed #n %e!tem&e' 2014(and t)e f#na" e9a"uat#on <as on"uded on 14 +e&'ua' 2014.

86.   T)e e9#den$e d#s$"oses t)at se9e'a" meet#ngs <e'e)e"d &et<een t)e A!!"#$ant and)e' su!e'9#so'. T)e T'#&una" notes t)at t)e A!!"#$ant d#s!utes t)e $ontent of t)e meet#ngs &et<een)e' and)e' su!e'9#so' of 24 A!'#"(40 Ju" and 2 %e!tem&e' 2014. .t #s a!!a'ent t)at afte' t)e meet#ngs #n Ju" and %e!tem&e'(t)e A!!"#$ant*s su!e'9#so' <'ote deta#"ed ema#"s to t)e A!!"#$ant('es!e$t#9e" dated 41 Ju" and 1H %e!tem&e' 2014(e2!#$#t' 'efe''#ng to t)e !e'fo'man$e 'e"ated meet#ngs t)e)ad)ad on 24 A!'#"(40 Ju" and 2 %e!tem&e' 2014(and enume'at#ng s!e$#f#$ a'eas fo' #m!'o9ement t)at t)e A!!"#$ant <as as=ed to add'ess. T)e T'#&una" f#nds t)at t)e a9a#"a&"e <'#tten 'e$o'd #s 'e"#a&"e e9#den$e to s)o< t)at t)e A!!"#$ant <as !ut on not#$e(ea'" on and 'egu"a'" t)'oug)out t)e !e'fo'man$e $ $"e(t)'oug) s!e$#f#$ ad9#$e !'o9#ded &)e' su!e'9#so'(t)at t)e'e <e'e se'#ous one'ns a&out)e' !e'fo'man$e(and #n 'es!e$t of <)#$) a'eas.

87.   .n "#g)t of t)e fo'ego#ng(t)e T'#&una" does not f#nd #t a!!'o!'#ate(no' 'e"e9ant(to a""o< t)e A!!"#$ant to !'odu$e t)e aud#o3'e$o'ds s)e made of sa#d meet#ngs <#t)out)e' su!e'9#so'*s =no<"edge and $onsent. T)e T'#&una" fu't)e' f#nds t)at t)e ema#" 'e$o'd <#t) 'es!e$t to t)e a&o9e3'efe'en$ed meet#ngs &et<een t)e A!!"#$ant and)e' su!e'9#so'(<)#$) 'ema#ned unans<e'ed & t)e A!!"#$ant #n Ju" (#s suff#$#ent !'oof t)at s)e <as !ut on not#$e(at t)e "atest #n Ju" 2014(#f not #n A!'#" 2014(t)at t)e'e <e'e one'ns a&out)e' !e'fo'man$e(<)#$) <e'e @u#te s!e$#f#$.

88.   8n 40 %e!tem&e' 2014(t)e A!!"#$ant 'e$e#9ed)e' su!e'9#so'*s $omments on t)e m#d3 ea' 'e9#e<(<)#$) fo""o<ed et anot)e' meet#ng)e"d on 2H %e!tem&e' 2014. T)e m#d3 ea' 'e9#e< aga#n $onta#ned a negat#9e e9a"uat#on of t)e A!!"#$ant*s !e'fo'man$e. T)e A!!"#$ant(#n an ema#" of 40 %e!tem&e' 2014(noted t)at t)e <a t)e !e'fo'man$e a!!'a#sa")ad &een done <as -demo'a"#D#ng0(t)us "ea9#ng no dou&t t)at s)e <as aga#n made a<a'e of one'ns a&out)e' !e'fo'man$e at t)at t#me.

8H.   T)e A!!"#$ant*s su!e'9#so' a"so $o!#ed)e' on t)e memo'andum of
6 8$to&e' 2014 #n <)#$) s)e 'e$ommended not to 'ene< t)e A!!"#$ant*s +TA

10 5 a'$) 2014('efe''ed t)e A!!"#$ant to t)e <'ong adm#n#st'at#9e #nst'u$t#on ,C+/A./20113001/Amend.1(<)#$) <as not a!!"#$a&"el <#t) 'es!e$t to t)e 'e&utta" !'o$ess(<)#$) !'o9#des fo' a dead"#ne of 4A da s to f#"e a 'e&utta" statement. T)e'efo'e(t)e ,un1t#me"#ness of t)e 'e&utta" statement <as not 'a#sed & t)e Adm#n#st'at#on and #s not at #ssue)e'e.

106. T)us(t)e T'#&una" 'e$a""s t)at t)e A!!ea"s T'#&una")e"d #n Das 20143UNAT3421(!a'a. 4A(name" (t)at -an effe$t#9e 'e&utta" me$)an#sm #s an #nteg'a" !a't of a !e'fo'man$e e9a"uat#on !'o$ess0($onf#'m#ng t)e D#s!ute T'#&una"*s f#nd

,f1   T)e 'e&utta" statement s)a"" $"ea'" set fo't) t)e s!e$#f#$ 'easons <) t)e staff mem&e' s)ou"d)a9e 'e$e#9ed a)#g)e' 'at#ng.

7.14   T)e %e$'eta' of t)e 6e&utta" Pane" s)a"" as$e'ta#n t)at t)e fo'ma" 'e@u#'ements fo' ea$) 'e&utta" statement)a9e &een met.

7.14   %)ou"d t)e %e$'eta' dete'm#ne t)at a 'e&utta" statement fa#"s to meet t)e fo'ma" 'e@u#'ements( )e/s)e s)a"" su&m#t a &'#ef 'e!o't stat#ng t)at t)e 'e&utta" statement #s not 'e$e#9a&"e(to t)e C)a#'!e'son of t)e 6e&utta" Pane" fo' endo'sement(and #nfo'm t)e staff mem&e' a$$o'd#ng" .

7.1A   .f t)e fo'ma" 'e@u#'ements fo' t)e 'e&utta" statement a'e met(t)e %e$'eta' s)a"" su&m#t t)e 'e&utta" statement to t)e

108. The Tribunal notes that under the above-referenced provisions, more specifically secs. 7.14 to 7.1A the authority to decide whether a rebuttal statement meets the formal requirements falls on the Registrar (who if he/she is satisfied that it does) shall designate a Rebuttal Panel. In the other hand (when the Registrar concludes that the rebuttal statement was not complete, hence not

&as the decision motivated by e′traneous factors$

122. T)e &u'den of !'oof t)at t)e non3'ene<a" <as &ased on e2t'aneous fa$to's fa""s on t)e A!!"#$ant. T)e T'#&una" $ons#de's t)at t)e A!!"#$ant d#d not !'o9#de e9#den$e a""o<#ng #t to on"ude t)at t)e de$#s#on <as &ased on u"te'#o' mot#9es. 6at)e'(as stated a&o9e(t)e T'#&una" f#nds t)at t)e A!!"#$ant*s su!e'9#so' made genu#ne effo'ts(as ea'" as A!'#" 2014(to add'ess <)at s)e !e'$e#9ed as !e'fo'man$e #ssues on t)e !a't of t)e A!!"#$ant. T)e T'#&una" a"so notes t)at t)e 8.A. found t)at t)e A!!"#$ant*s $om!"a#nt of)a'assment d#d not <a''ant an #n9est#gat#on(s#n$e t)e fa$ts !'esented &)e' -a!!ea'>ed? to &e mo'e #n "#ne <#t) d#ffe'#ng o!#n#ons on >)e'? !e'fo'man$e0 and t)at t)e A!!"#$ant d#d not fo'ma"" $ontest t)at de$#s#on.

(emedies

124.   ; a9#ng found t)at t)e 'e&utta" !'o$ess <as ma'=ed & se'#ous !'o$edu'a" f"a<s(t)e T'#&una" 'u"es t)at t)e f#na" de$#s#on on t)e 'e&utta"($onf#'m#ng t)e A!!"#$ant*s e3PA% 'at#ng fo' t)e $ $"e 2014(<as #""ega" and $annot stand. T)e'efo'e(and s#n$e t)e de$#s#on not to e2tend t)e A!!"#$ant*s a!!o#ntment &e ond 40 June 2014 <as ta=en on t)e &as#s of t)e out$ome of a fundamenta"" f"a<ed 'e&utta" !'o$ess(t)e T'#&una" on"udes t)at t)e non3'ene<a" de$#s#on on t)e g'ounds of t)e A!!"#$ant*s !oo' !e'fo'man$e <as e@ua"" #""ega"(and)as to &e 'es$#nded.

124. Pu'suant to a't. 10.A,a1 of #ts %tatute(<)en a de$#s#on one'n#ng a!!o#ntment(!'omot#on o' te'm#nat#on #s 'es$#nded(t)e T'#&una" s)a"" set an amount of $om!ensat#on to &e !a#d as an a"te'nat#9e to t)e 'es$#ss#on of t)e $ontested adm#n#st'at#9e de$#s#on.

12A. T)e A!!ea"s T'#&una")as 'u"ed t)at -an $ons#de'at#on of an a<a'd of damages fo' !e'sons <)o a'e 'e$'u#ted on f#2ed3te'm $ont'a$ts must ta=e #nto a$$ount(among ot)e' t)#ngs(t)e te'm of t)e $ont'a$t and t)e 'ema#nde' of t)e sa#d te'm(#f an (at t)e t#me of an a""eged &'ea$)0($ons#de'at#on)as a"so &een g#9en to t)e "engt) of e2!etan of 'ene<a" ,Andreyev 201A3UNAT3A01( )a*umba 20143UNAT34871.