



## Introduction

1. The Applicant is a former staff member of the United Nations Office on Drugs and Crime (UNODC) who contests the decision not to renew his fixed-term appointment upon its expiry on 31 December 2011.

2. The main basis for adequate compensation for the unpaid, full non-renewal of his contract is the lack of due process and for the moral and emotional distress he has suffered as a consequence.

## Facts

3. The Applicant joined the UNODC in Vienna in 2002 and in 2004 he was appointed as Crime Prevention and Criminal Justice Policy Specialist. He was promoted to Senior Policy Specialist in 2007 and in 2010 he was promoted to Senior Policy Specialist in the Department of Justice Administration (DTA) on a fixed-term contract.

8. Following a restructuring of the UNODC in 2008, the Applicant's functional title changed to Chief, Counter-Terrorism Section. In this regard, he was the first of five staff members in the field

A !"#ant , as to &e late%a!!/ %eass"gned to the os"t"on of =en"o% <ega! Ad5"se%\$ , h"#h fun#"ons , e%e )"n !"ne , "th the o5e%a!! %est%u#tu%"ng of TP7.\*

4. ' n 12 Janua%/ 2010\$ the Ch"ef\$ TP7\$ sent an ema"! to TP7 staff mem&e%\$ atta#h"ng the d%aft te%ms of %efe%en#e fo% the ne , st%u#tu%e and as1"ng fo% the%" "n ut. The A !"#ant %e !"ed on 18 Janua%/ 2010\$ suggest"ng that someone e!se shou!d de5e!o the te%ms of %efe%en#e fo% the os"t"on of =en"o% <ega! Ad5"se%\$ s"n#e he had ne5e% as "%ed to the os"t"on.

:. 7/ an ema"! of 20 Janua%/ 2010\$ the ' ff"#e%. "n. Change\$ DTA\$ "n5"ted the A !"#ant to %om t!/ e- %ess h"s %ese%5at"ons\$ "f an/\$ and sought #onf"%mat"on that he ,shed to ta!e on the os"t"on of =en"o% <ega! Ad5"se%. >n %es onse to these 2ue%"es\$ the A !"#ant stated that he ma"nta"ned the 5"e , , h"#h he had %e5"ous!/ #on5e/ed "n ,%"t"ng to the Ch"ef\$ TP7\$ and as!ed , heth% an/ adm"n"st%at"5e de#"s"on had &een o% , as to &e ta!en #on#e"n"ng h"s %o!e "n UN ' DC.

9. 9u%the% e-#hanges ensued &et , een the Ch"ef\$ TP7\$ the Ch"ef of the 0uman ?esou%#es Danagement =e%5"#e ()0 ? D=\*+ and the A !"#ant\$ "n , h"#h the !atte% en2u"%ed , heth% an adm"n"st%at"5e de#"s"on had a!%ead/ &een ta!en , "th %es e#t to h"s %eass"gnment.

10. 7/ an ema"! of 24 Janua%/ 2010 to the A !"#ant\$ the Ch"ef\$ TP7\$ statedE

BTche manage%"a! de#"s"on to !ate%a!!/ %eass"gn /ou A , as ta!en as a%t of the %est%u#tu%"ng of TP7\$ as %e2uested and a %o5ed &/ the BUN ' DCC FB-e#ut"5eC DB"%e#toC A BTche adm"n"st%at"5e "m lementat"on of the een ta

13. On a letter dated 31 January / 2010 sent to the F-#ut"5e D"#e#to%\$ UN ' DC\$ the A !"#ant e- !a"ned that\$ "n h"s 5"e , \$ the de#"s"on to a&o!"sh h"s ost and to %eass"gn h"m to the os"t"on of =en"o% <ega! Ad5"se% , as mot"5ated &/ e-t%aneous #ons"de%at"ons. Oe fu#the% e- !a"ned that the de#"s"on had &een %e#eded &/ %e o%ts of %oh"&"ted #ondu#t\$ "n#!ud"ng ha%ssment\$ aga"nst the Ch"ef\$ TP7\$ and the ' ff"#e%.n.Ch%ge\$ DTA\$ ,ho ,e%e h"s 9"%st and =e#ond ?e o%t"ng ' ff"#e%\$ %es e#t"5e!/.

18. ' n 1 9e&%ua% / 2010\$ the A !"#ant;s #ont%a#t ,as e-tended to 31 Janua% / 2011 and &/ memo%andum dated 11 9e&%ua% / 2010\$ the ' ff"#e%.n. Ch%ge\$ DTA\$ sent an amended 5e%\$on of the #ha%t togethe% , "th the te%ms of %efe%en#e fo% TP7 to the F-#ut"5e D"#e#to%\$ UN ' DC\$ %e#ommend"ng that the ne , st%u#tu%e &e#ome effe#t"5e %et%oa#t"5e! / as f%om 1 9e&%ua% / 2010.

16. ' n 12 9e&%ua% / 2010\$ the Ch"ef\$ TP7\$ "nfo%med TP7 staff that the F-#ut"5e D"#e#to%\$ UN ' DC\$ had fo%ma!! / a %o5ed the ne , st%u#tu%e and the ne-t ste , ou!d &e the d%a , "ng u of the te%ms of %efe%en#e fo% "nd"5"dua! os"t"ons , "th"n the st%u#tu%. =ho%t! / the%eafte%\$ she sent to the A !"#ant d%aft te%ms of %efe%en#e fo% the os"t"on of =en"o% <ega! Ad5"se% and as!ed fo% h"s #omments and suggest"ons.

16. ' n 22 9e&%ua% / 2010\$ the A !"#ant su&m"tted a %e2uest fo% management



harassment or abuse of authority. Regarding his former agent against the #1 of  
 the case from the D#to%\$ DTA\$ UN ' DC\$ the AG/ ' 0 ? D noted that it had  
 some moot cause & the time of the AG/ ' 0 ? D decision the A !#ant  
 had #e#5ed a case from the D#to%\$ DTA\$ and that an/ dela/ 'n case  
 , would not constitute harassment. The AG/ ' 0 ? D #e#hed the #on#lus'on that  
 the A !#ant;s #om !ants d'd not satisf/ the %e2u%ements unde% se#. 6.18 of  
 =T/=G7/200:/6 to , a%%ant the #ondu#t of a fact.f"nd"ng "n5est"gat'on.

28. ' n 13 De#em&e% 2011\$ the A !#ant %e2uested management e5a!uat'on of  
 the #ontested de#"s'on and on 31 Janua%/ 2012\$ he %e#e"5ed a case onse\$ &/ , h"#h  
 the de#"s'on , as u held. ' n 10 A %!" 2012\$ the A !#ant f"led the #u%ent  
 a !#at'on &fo%e the T%"&una! and on 11 Da/ 2012\$ the T%"&una! %e#e"5ed the  
 ?es ondent;s %e !/.

26. ' n 8 No5em&e% 2012\$ the A !#ant f"led a mot'on fo% %e#usa! of the  
 unde%signed 3udge and &/ ' %de% No. 92 (N7>/2013+\$ dated 2 Da/ 2013\$ the then  
 P%es"dent of the D's ute T%"&una! %e#e#ted the a !#at'on fo% %e#usa!.

26. The T%"&una! &/ ' %de% No. 169 (GVA/2013+\$ "ssued on 8 No5em&e% 2013\$  
 orde%ed the a#t"es to f"le an/ o&3e#t"ons to a 3udgment &e"ng %ende%ed , "thout  
 hold"ng an o#a! hea"ng. ' n 6 No5em&e% 2013\$ the A !#ant %e2uested the  
 T%"&una! to hold a hea"ng "n the matte% to #!a%f/ matte%es es e#"a!!/ , "th %ega'd to  
 the a!legat'on %ega'd"ng the %e2uest &/ the F-e#ut"5e D#to%\$ UN ' DC\$ to the  
 Aust%an go5e%nment.

24. The T%"&una! held a hea"ng of the su&stant"5e a !#at'on on  
 26 No5em&e% 2013\$ , h"#h &oth a#t"es attended 5"deo#onfe%en#e.

#### Parties' submissions

2.: The A !#ant;s #ontent"ons a%e E

a. Oe , as )ma#hed to the doo%\* though the #ont"nuous &%e#hes of h's  
 #ont#a#t\$ harassment\$ abuse of authority\$ a&"ta%ness and tal"ng of  
 un!a , fu! de#"s'ons o5e% the !ast t , o /ea%\$ %e#e"ng the end of h's #ont#a#t



30. The respondent's submissions are:

a. The respondent's submissions do not establish that the respondent, as a member of the Board of Directors, and the respondent's actions, as a member of the Board of Directors, are not the cause of the respondent's actions.

b. The respondent's actions, as a member of the Board of Directors, are not the cause of the respondent's actions.

c. The respondent's actions, as a member of the Board of Directors, are not the cause of the respondent's actions.

d. The respondent's actions, as a member of the Board of Directors, are not the cause of the respondent's actions.

e. When the respondent, as a member of the Board of Directors, did not act in the respondent's best interests, the respondent's actions, as a member of the Board of Directors, are not the cause of the respondent's actions.

f. The respondent had agreed to make substantial contributions to the respondent, as a member of the Board of Directors, in 2009 and to the respondent, as a member of the Board of Directors, in 2011.



3. The A !"#ant a##used and d%agged un , "tt"ng staff mem&e%s "nto h"s  
nume%ous !"gat"ons &efo%e the T%"&una! ,h"#h had a %ofound!/  
/

the DTA UN ' DC informed the A that )Bh'sC f"-ed.te%  
a o"ntment B , ou!dC not &e %ene , ed and B , ou!dC the%efo%e e- "e on "ts te%ms on  
31 De#em&e% 2011 u%suant to =taff ?egu!at"on 8.6 and =taff ?ule 8.13.\* Th"s  
%es onse , as a de#"s"on not to %ene , the A !"#ant;s #ont%a#t\$ , h"#h "s the  
su&3e#t of the %esent Judgment.

38. >n assess"ng , heth% the de#"s"on not to %ene , the A !"#ant;s #ont%a#t , as  
mot"5ated &/ "m %o e% #ons"de%at"ons o% "f the%e , e%e an/ #ounte%5a!"ng



A !"#ant f"led a %e2uest fo% %ote#"on f%om %eta!"at"on , "th the Fth"#s ' ff"#e aganst h"s su e%5"so"s and , hen the Fth"#s ' ff"#e de!a/ed "n "ssu"ng a %es onse to h"s %e2uest\$ the A !"#ant &%ought a #!a"m &efo%e the T%"&una! aganst the Fth"#s ' ff"#eH th"s matte% , as d"s osed off "n Judgment UNDT/2012/069.

83. Ghen the Fth"#s ' ff"#e f"na!!/ "ssued a de#"s"on den/"ng the A

Conclusion

8: In 5<sup>e</sup>, of the foregoing, the Tribunal finds that the applicant's dismissal is not justified.

( +

Judge Thomas

Dated this 11<sup>th</sup> day of December 2013

Entered in the register on this 11<sup>th</sup> day of December 2013

( +

En I D. Vargas D. Regista Gene5a