

1. The Board was established on 1 January 2015 by the Secretary-General of the United Nations through Commission of Inquiry (UN+ C, /0) to investigate the death of the Commission of Inquiry (not to mention from the P1 to the P15 "e2e" during the 2013 Processions & session.

2. It is noted that the facts and grounds of appeal in this matter (see also in Case No. UNDT/GVA/2015/165 - , od(#gue41V#5ue40) 6*#* 6 as *e(a'd 7o#nt" 6#t* the !esent \$ase. Parts of Judgment UNDT/2016/030) de#2e(ed on 1% A!(# 2016) a(e (e!eated in this Judgment.

3. The Secretary-General joined UN+ C, in A!(# 1883 as , e!at(#at#on 9ff#Se(-P130 in Add#s A'a'a) :t*o!#a) unde(a s*o(tite(m a! !o#ntment. ;o""o6#ng t*e e<!#(of t*#s and a su'se5uent s*o(tite(m a! !o#ntment) *e 6 as (e*(ed in &e!tem'e(1885 as P(og(amme 9ff#Se(-P130 in J#7#gga) :t*o!#a) 6*(e *e su'se5uent" se(2ed as , e!at(#at#on 9ff#Se(-P130 unt#" *#s (eass#gnment in Ju" 1888 to P(eto(#a) &out* Af(#\$a) as , eg#ona" Du(a' "e &o"ut#ons 9ff#Se(-P130.

%. In January (2000) the Secretary-General was granted an indefinite appointment. Between July 2000 and August 2001) *e a\$ted as Assistant , e!(esentat#2e -P1%0 #n P(eto(#a) fo(6*#* *e (e\$e#2ed a &!e\$#a" Post A""o6an\$e -. &PA/0. In No2em'e(2003) *e 6 as (eass#gned to Ad7uman#) Uganda) as +ead of &u'19ff#Se -P1%0. +e (e\$e#2ed an &PA unt#" *#s !(omot#on to t*e P1% "e2e" in De\$em'e(200%. As f(om Ju" 2005) *e se(2ed as +ead of f(

g9 r(

6.

18. 9n 1B =a(\$* 2015) t*e A!!"#Sant su'm#tted to t*e De!ut +#g*
Comm#ss#onme

26. T*e A!!"#SantAs !(#n\$#!a" \$ontent#ons a(e

a. T*e UN+C , !(omot#ons me\$*an#sm enta#"s t*at t*e UN+C , staff mem'e(s) 6*o fo\$us on t*e#(6o(@ (at*e(t*an on ad2an\$ement) \$ede a deg(ee of \$ont(o" o2e(t*e#(\$a(ee() 6*#\$* ot*e(staff mem'e(s (eta#n fu"" #n o(gan#4at#ons 6#t* a (an@ #n !ost s stem. 3n (etu(n) #t #s #n\$um'ent u!on t*e UN+C , to !ut #n !"a\$e effe\$t#2e) fa#(and t(ans!a(ent !(o\$edu(es fo((e2#e 6#ng #ts staff mem'e(s) \$and#da\$ fo(!(omot#onI

'. B fa#"ng to suff#\$#ent" def#ne t*e t*(ee e2a"uat#on \$(#te(#a fo(t*e &e\$ond , ound) name" .!e(fo(man\$e/) .manage(#a" a\$*#e2ements/ and .e<em!"a("eade(s*#! 5ua"#tes/) set o'7e\$t#2e standa(ds and a"#gn #tse"f 6#t* t*e !e(fo(man\$e a!!(a#sa" !o"# \$) t*e P(omot#ons Po"# \$ d#d not a""o6 fo(a fa#(and t(ans!a(ent \$om!a(at#2e assessment of t*e \$and#datesI

\$. T*e a('#t(a#ness (esu"t#ng f(om t*e fa#"u(e to def#ne t*e e2a"uat#on \$(#te(#a 6as e<a\$e('ated ' t*e (e2#e 6 me\$*an#sm) 6*#\$* enta#"ed t*at ea\$* of t*e s#< &PP mem'e(s) *ad to (e2#e 6 t*e fa\$t s*eeet of 1>0 e"#g# "e ma"e staff mem'e(s) t*us *a2#ng to (ead t*ousands of !ages) and (an@ t*em #n o(de(aga#nst ea\$* ot*e(o2e(t*e \$ou(se of on" a fe 6 da sI

d. T*e D+ , =As de\$#s#on to d#2#de \$and#dates ' gende(#n t*e &e\$ond , ound d#d not \$onfo(m 6#t* t*e P(omot#ons Po"# \$ and ma *a2e !(e2ented t*e A!!"#Sant f(om ad2an\$#ng to t*e T*#(d , oundI

e. T*e D+ , =As de\$#s#on not to !(o2#de t*e !ane" mem'e(s) 6#t* t*e \$and#datesA eIPADs o(eIPADs (at#ngs !(e2ented t*em f(om ta@#ng #nto a\$ \$ount (e"e2ant #nfo(mat#on) and \$onst#tutes a !(o\$edu(a" e((o(#n t*e #m!"ementat#on of t*e P(omot#ons Po"# \$ I

f. B ad2#s#ng t*e !ane" mem'e(s) to \$ons#de(as a dete(m#nat#2e fa\$to(#n t*e#((an@#ng t*e \$and#datesA su#ta'#"#t fo(!"a\$ement to a !ost at a P15 "e2e" #n t*e#((es!e\$t#2e a(ea of (es!ons#'"#t) t*e D+ , = #nt(odused an add#t#ona" \$(#te(#on not (ef"e\$ted #n t*e P(omot#ons Po"# \$ I

#. , es\$#ss#on of t*e \$ontested de\$#s#on and (et(oa\$t#2e g(ant of
!(omot#onI

##. 3n t*e a"te(nat#2e) \$om!ensat#on e5u#2a"ent to t*e d#ffe(en\$e #n
sa"a('et6een *#s \$u((ent sa"a(and *#s sa"a(on

g. In (es!eSt of t*e (emed#es soug*t) t*e , es!ondent su'm#ts t*at e2en #f t*e T(#'una" 6e(e to f#nd t*at t*e !(omot#ons !(o\$ess 6as ta#nted ' an s*o(t\$om#ngs) t*ese s*ou'd not "ead to t*e (es\$#ss#on of t*e \$ontested de\$#s#on as t*e A!!"#\$ant *ad no .s#gn#f#\$ant/ o(.fo(eseea''e/ \$*an\$e fo(!(omot#on) fo(t*e (easons set out a' o2eI

*. ;u(t*e(mo(e) t*e A!!"#\$antAs \$"a#m fo(\$om!ensat#on e5u#2a"ent to t*e d#ffe(en\$e #n sa"a('et6een *#s \$u((ent sa"a(and *#s sa"a(on !(omot#on fo(t6o ea(s #s 6#t*out me(#t as t*e #m!"ementat#on of an !(omot#on 6ou'd (e5u#(e t*e A!!"#\$ant to f#(st o'ta#n a !os#t#on at t*e P15 "e2e") 6*#\$* *ad not *a!!ened at t*e t#me of t*e (e!" . Add#t#ona") g#2en t*at t*e A!!"#\$ant #s e"#g#"e fo(!(omot#on du(#ng t*e 201% P(omot#ons &ess#on) 6*#\$* #s ongo#ng) *e \$annot 'e a6a(ded \$om!ensat#on fo(mo(e t*an one ea(I

#. T*e A!!"#\$antAs \$"a#m fo(mo(a" damages #s a"so 6#t*out me(#t g#2en t*at *e *as addu\$ed no e2#den\$e of *#s a""eged emot#ona" d#st(essI

7. ;#na") t*e A!!"#\$antAs \$"a#m fo(#nte(ests #s e<\$ess#2e and un7ust#f#edI

@. Conse5uent") t*e , es!ondent (e5uests t*e T(#'una" to (e7eSt t*e a!!"#\$at#on #n #ts ent#(et .

2B. Befo(e e<am#n#ng t*e a""eged e((o(s #n t*e \$ontested de\$#s#on) t*e T(#'una" \$ons#de(s #t a!!(o!(#ate to g#2e a '(#ef o2e(2#e6 of t*e P(omot#ons Po"# \$) 6*#\$* #s un#5ue to t*e UN+C , and stems f(om #ts .(an@ #n !e(son/ s stem. T*#s Po"# \$ *as 'een a!!"#ed fo(t*e f#(st t#me #n t*e 2013 P(omot#ons &ess#on and fundamenta" de!a(ts f(om t*e !(e2#ous !o"# \$ as staff mem'e(s a(e no "onge(g#2en a !o#ntl'ased s\$o(#ng 'ut (at*(e(su'7e\$ted to a \$om!a(at#2e assessment among ea\$* ote(' a !ane" \$om!osed of sen#o(staff mem'e(s of t*e UN+C , . J *#st some of t*#s T(#'una"As !(e2#ous *o"d#ngs #n (es!eSt of t*e UN+C ,

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Judgment No. UNDT/2016/031

, ound/) fo""o6#ng 6*#\$* .t*e Pane" &e\$(eta(#at 6#""

Promotions Posts are a benefit from the fact that there is no question

;a#u(e to !(o2#de t*e &PP mem 'e(s 6#t* t*e \$and#datesA eIPADs

60. T*e A!!"#\$ant a"so \$*a""enges t*e fa\$t t*at t*e &PP mem 'e(s 6e(e !(o2#ded on" 6#t* t*e \$and#datesA fa\$t s*eeet) to t*e e<\$"us#on of t*e#(eIPADs. T*e , es!ondent (e\$ogn#ses t*s 'ut a(gues #t 6as #n "#ne 6#t* t*e P(omot#ons Po"#\$ as t*e staff mem 'e(sA fa\$t s*eeet (ef"e\$ted t*e#(eIPADs.

61. T*e e2#den\$e 'efo(e t*e T(#'una" 6as t*at t*e fa\$t s*eeet d#s!"a s t*e staff mem 'e(sA 6o(@#ng *#sto(and !a(t of t*e#(!e(fo(man\$e a!!(a#sa") name" t*e na((at#2e se\$#on of t*e#(eIPADs. 3t does not #n\$"ude) *o6e2e() t*e nume(#\$a" (at#ngs fo(t*e a!!(a#sa" of ea\$* o'7e\$#2e and \$om!eten\$ \$onta#ned #n t*e eIPADs) and t*e o2e(a"" (at#ngs fo(su\$*.

62. 3n t*s \$onne\$t#on) #t #s (e\$a""ed t*at t*e Po"#\$ fo(t*e UN+C , Pe(fo(man\$e =anagement L A!!(a#sa" & stem -39 = 0B>/200B K ; 9 = 0B8/200B0 -.PA = &/0) #nt(odused #n 200B) go2e(ned t*e a!!(a#sa" s stem #n use du(#ng t*e !e(fo(man\$e assessment !e(#od (e"e2ant fo(t*e 2013 P(omot#ons &ess#on) name" 1 Janua(2008 to 31 De\$em 'e(2013.

63. 3n '(#ef) t*e PA = & !(o2#ded fo(an assessment of 6*et*e(staff mem 'e(s

- #. Not !(of#\$ent 1) 2
- ##. Pa(t#a"" P(of#\$ent 3) %) 5
- ###. P(of#\$ent 6) >) B
- #2. :<\$e!t#ona"" P(of#\$ent 8) 10

65. T*e (at#ngs 6e(e to 'e a\$\$om!an#ed ' \$omments f(om t*e staff mem'e(As su!e(2#so(and) 6*e(e a!!"#\$a'"e) f(om mu"t#l(ate(s -see se\$. 25) %0) 50- '0 of t*e PA = &0.

66. At t*e *ea(#ng) t*e +ead of t*e +uman ,esou(\$es Po"# \$ and P"ann#ng &e(2#\$e) UN+C ,) test#f#ed t*at t*e e<!e(#en\$e *ad s*o6n t*at some su!e(2#so(s 6e(e mo(e !(one to g#2e *#g* (an@#ngs t*an ot*e(s) \$aus#ng 6*at *e (efe((ed to as a .(at#ng #nf"at#on/. +e e<!(essed t*e 2#e6 t*at t*e (at#ngs 6e(e .un(e"#a'"e/ and mean#ng"ess #f not su!!o(ted ' \$omments. T*e Adm#n#st(at#on t*e(fo(e \$ons#de(ed t*at on" t*e na((at#2e !a(t of t*e eIPADs s*ou'd 'e d#s\$"osed to t*e &PP mem'e(s fo(t*e#(assessment of \$and#dates du(#ng t*e &e\$ond and T*#(d , ounds) as t*e 6ou'd g#2e a 'ette(!#Stu(e of t*e !e(fo(man\$e and a'#"#thes of an staff mem'e(unde(\$ons#de(at#on.

6>. T*e +ead of t*e +uman ,esou(\$es Po"# \$ and P"ann#ng &e(2#\$e fu(t*e(e<!"a#ned t*at t*e UN+C , 6as not sat#sf#ed 6#t* t*e a!!(a#sa" s stem esta'"#s*ed ' t*e PA = & and (e2#e6ed #t #n 201%) nota'" to mod#f t*e (at#ng s\$a'e) and to (e5u#(e t*at e<\$e!t#ona" (at#ngs 'e t*e su'7e\$t of (e2#e6) #n o(de(to (emo2e t*e a'#t(a#ness \$onta#ned #n t*e !(e2#ous a!!(a#sa" s stem. +e a"so stated t*at t*e P(omot#ons Po"# \$ 6as d(afte(d #n t*e "#g*t of t*e fo(t*\$om#ng ne6 !e(fo(man\$e a!!(a#sa" !o"# \$) and #ntended) f(om #ts #n\$e!t#on) to e<\$"ude t*e eIPADs f(om t*e &PP mem'e(sA (e2#e6. T*e C*#ef of t*e Ass#gnments and P(omot#ons &e\$#on) D+ , =) UN+C ,) fu(t*e(test#f#ed t*at t*e &PP mem'e(s 6e(e s!e\$#f#\$a"" ad2#sed #n a '(#ef#ng sess#on t*at .eIPADs (at#ngs D6e(eE not to 'e d#s\$"osed/ to t*em.

6B. T*e ,es!ondent a"so su'm#tted do\$umenta(e2#den\$e s*o6ng t*at f(om 2008) fo"o6ng t*e f#(st a!!(a#sa" e<e(\$#se !u(suant to t*e PA = &) d#s!a(#tes #n (at#ngs among 2a(#ous manage(s and off#ses 6e(e noted 6#t* \$on\$e(n. 3n a

'(oad\$ast ema#" message of % June 2010) t*e t*en D#(e\$to(of D+ , =) UN+C ,)
 #nfo(med a"" staff mem'e(s t*at .a\$(oss off#\$es a(ound t*e 6o("d and #n
 *ead5ua(te(s) t*e(e #s a "ot of 2a(#at#on #n t*e (at#ngsI and at t*e #nd#2#dua" "e2e")
 (at#ngs and na((at#2es somet#mes do no \$o((es!ond/. +e #m!(essed u!on t*e fa\$t
 t*at measu(es 6ou"d 'e ta@en to (emed t*e !(o'"em #n t*e ne<t a!!(a#sa" \$ \$"e
 and t*at D+ , = 6ou"d u!on #ts (e2#e6 of t*e #nd#2#dua" eIPADs) .(e2e(t to staff
 mem'e(s and manage(s 6#t* \$omments) and a"so d(a6 "essons "ea(ned to #m!(o2e
 !(a\$t#se #n gene(a"/. T*e D+ , = a"so unde(too@ to .a0 u!date t*e gu#dan\$e on t*e
 (at#ng s\$a"eI '0 #nt(odu\$e standa(ds fo(t*e 5ua"#t assu(an\$e of eIPADsI and \$0
 !(o2#de gu#de"#nes to manage(s and ,e2#e6#ng 9ff#\$e(s on *o6 to \$a"#'(ate
 (at#ngs/. 3n t*e meant#me) *e announ\$ed t*at .a"" \$om!"eted eIPADs 6#" "e
 a\$\$e!ted #n t*e s stem 'ut fo(!u(!oses of (e!o(t#ng) t*e fa\$t s*eets of a"" staff
 mem'e(s 6#" #n\$"ude on" t*e na((at#2es fo(2008/. +o6e2e() *e s!e\$#f#ed t*at
 t*e eIPADs) #n\$"ud#ng t*e (at#ngs) \$ou"d 'e .(efe((ed to ' D+ , = as needed) fo(

manage(s to ensu(e \$ons#sten\$. = anage(s \$ont#nued to 'e as@ed and e<!e\$ted to e2a"uate t*e#(su!e(2#sees ' ! (o2#d#ng t*em a (at#ng) toget*e(6#t* \$omments. 3((es!e\$t#2e of t*e D+ , =As assessment of t*e (at#ngsA 2a"ue) t*e 6e(e an #nteg(a" !a(t of t*e staff mem'e(sA eIPADs f(om 2008 to 2013 and fo(ma"" !a(t of t*e UN+C , As "ega" f(ame6o(@. An (efe(en\$e to an eIPAD du(#ng t*at !e(#od #n\$"uded 'ot* t*e na((at#2e and t*e (at#ngs \$onta#ned #n t*e !e(fo(man\$e a!!(a#sa" do\$ument) #((es!e\$t#2e of t*e fa\$t t*at on" t*e \$omments 6e(e (e!(odu\$ed #n t*e staff mem'e(sA fa\$t s*eet. ;o(t*e \$u((ent P(omot#ons &ess#on) t*e P(omot#ons Po"#\$ must 'e (ead #n t*e "#g*t of t*e PA=&) 6*#\$* 6as t*e a!!"#\$a'"e adm#n#st(at#2e #ssuan\$e (ega(d#ng !e(fo(man\$e a!!(a#sa" at t*e (e"e2ant !e(#od.

>1. T*e P(omot#ons Po"#\$) at se\$. 5.8.1-#0 and -##0) e<!"#\$#t" (efe(s to 'ot* t*e \$and#datesA fa\$t s*eet and eIPADs fo(\$ons#de(at#on ' t*e &PP #n t*e &e\$ond , ound. T*e (efe(en\$e to t6o se!a(ate do\$uments \$"ea(" #nd#\$ates t*at 'ot* 6e(e to 'e !(o2#ded) ot*e(6#se t*e ment#on of PA , /eIPAD 6ou"d 'e mean#ng"ess.

>2. 3n !a(t#\$u"a() se\$. 5.8.1-#0 !(o2#des t*at t*e &PP s*a"" assess a staff mem'e(As .a'##"t and (ead#ness to !e(fo(m at a *#g*e("e2e" as (ef"e\$ted #n t*e

t* e eIPAD) 6 *#e t* e 6o(d .na((at#2e/ atta\$*es to t* e fa\$t s* eet. C"ea(") #n "#g*t of t* e unam'#guous 6o(d#ng of t*#s !(o2#s#on) #t #s f(om 'ot* t* e eIPAD !e(fo(man\$e e2a"uat#ons and t* e fa\$t s* eet na((at#2e t*at t* e assessment *ad to 'e made #n (es!e\$t of t* e .manage(#a" a\$*#e2ements/.

>%. T* e , es!ondentAs a(gument t*at se\$. 5.8.1 s*ou"d 'e #nte(!eted #n su\$* a 6a t*at t* e eIPAD and t* e fa\$t s* eet (efe(to t* e same do\$ument) name" t* e fa\$t s* eet a"one) must 'e (e7e\$ted as #t *as 'een \$"ea(" esta'"#s*ed t*at fa\$t s* eet does not ent#(e" (ef"e\$t t* e eIPADs 'e\$ause #t does not (e!(odu\$e t* e (at#ngs \$onta#ned #n t* e "atte(. 3f #t *ad 'een #ntended to (efe(on" to t* e na((at#2e) t*en t* e P(omot#ons Po"#\$ *ad to 'e d(afted to so s!e\$#f t*#s. 3t #s a"so \$"ea(f(om t* e P(omot#ons Po"#\$ t*at t* e #nfo(mat#on \$onta#ned #n t* e eIPADs) #n\$"ud#ng t* e (at#ngs) 6as d#(e\$t" (e"e2ant to t* e &PP mem'e(As assessment du(#ng t* e &e\$ond , ound.

>5. ;#(st") se\$. 5.8.1-#0 (e5u#(ed t* e &PP mem'e(s to assess 6*et*e(t* e staff mem'e(As !e(fo(man\$e met t* e m#n#mum t*(es*o"d of .A\$*#e2ed/ o(#ts e5u#2a"ent fo(o2e(a"" 6o(@ o'7e\$t#2es) and .P(of#\$ent/ o(#ts e5u#2a"ent fo(

. (e\$e#2ed at "east one MNot/Pa(t#a"" A\$*#e2edA and/o(MNot/Pa(t#a"" P(of#\$#entA (at#ng on t*e#(elPADs \$o2e(#ng t*e !e(#od f(om 1 Janua(2008 to 31 De\$em'e(2013/) and to #nd#\$ate ' an aste(#s@ #f t*ose (at#ngs *ad 'een !(o2#ded mo(e t*an on\$e. A Pe(fo(man\$e =anagement Asso\$#ate #n t*e Pe(fo(man\$e =anagement Un#t t*en gene(ated a (e!o(t f(om t*e UN+C, As :nte(!(#se , esou(\$e P"ann#ng & stem) and #dent#f#ed .t*ose elPADs #n 6*#\$* t*e (at#ng fo(o2e(a"" o'7e\$#2es and/o(t*e (at#ng fo(o2e(a"" \$om!eten\$#es fo(at "east one elPAD du(#ng t*e !e(#od 2008|2013 6as 'e"o6 5.1) 6*#\$* 6as t*e "o6est !oss# 'e MA\$*#e2edA/MP(of#\$#entA (at#ng unde(Dt*e PA = &E/. +e #dent#f#ed fou(\$and#dates fo(!(omot#on to t*e P15 "e2e" 6*o (e\$e#2ed a (at#ng of "ess t*an .A\$*#e2ed/ o(.P(of#\$#ent/) and \$on2e ed t*#s #nfo(mat#on to t*e &PP &e\$(eta(' ema#. T*e T(#'una" #s not ent#(e" su(e *o6 t*#s #nfo(mat#on 6as u"t#mate" \$on2e ed to t*e &PP) 'ut #t seems to *a2e 'een done o(a"" .

>B. T*e T(#'una" \$ons#de(s t*at t*ese e<!"anat#ons as to t*e met*odo"og adol#ted ' t*e D+, = to #m!"ement t*e P(omot#ons Po"# \$ a(e 6o((#some #n se2e(a" as!e\$ts. ;#(st) #t a!!ea(s t*at #t 6as not ant#\$#!ated) !(#o(to t*e &PP sess#on) t*at a (e2#e6 of t*e \$and#datesA elPADs 6as ne\$essa(to) 2e(#f #f t*e !e(fo(man\$e standa(d 6as met. T*#s) #n tu(n) (a#ses dou' ts a'out *o6 t*e D+, = en2#saged unde(ta@#ng t*e assessment of t* T*e \$ s Mes

\$annot (e\$on\$#e t*ese t6o a! !a(ent" \$ont(ad#\$to(!(o2s#ons of t*e PA = & and g#2en t*at #t #s not dete(m#nat#2e of t*e !(esent a!!"#\$at#on) 6#" "m#t #tse'f to (e\$ommend#ng t*e Adm#n#st(at#on to "oo@ #nto t*e matte(. As a (esu"t) #t #s 6e" !oss#"e t*at staff mem'e(s 6*o d#d not e2en meet t*e m#n#mum !e(fo(man\$e t*(es*o"d ad2an\$ed to t*e T*#(d , ound.

B0. ;#na") and most #m!o(tant") #t tu(ned out t*at #t 6as t*e D+ , = t*at assessed !a(t of t*e !e(fo(man\$e \$(#te(#on unde(se\$. 5.8.1-#0) #instead of t*e &PP) #n \$ont(a2ent#on 6#t* t*e e<!"#\$#t te(ms of t*e P(omot#ons Po"# \$) unde(6*#\$* t*e aut*o(#t to ma@e t*at assessment \$"ea(" fa""s on t*e &PP. 3n t*#s (es!e\$t) t*e #nfo(mat#on !(o2#ded ' t*e D+ , = to t*e &PP 6as not suff#s#ent to \$on\$ude t*at t*e &PP mem'e(s u"t#mate" made t*e#(#nd#2#dua" assessment of t*e e2a"uat#on \$(#te(#on as !e(t*e te(ms of se\$. 5.8.1-#0. T*e a! !a(ent de\$#s#on of t*e D+ , = to @ee! t*e (at#ngs f(om t*e &PP meant t*at t*e &PP mem'e(s 6e(e) t*us) not !e(sona"" a"e to as\$e(ta#n t*e \$o((e\$tness o(ot*e(6#se of t*e #nfo(mat#on #n t*e \$ons#de(at#ons unde(se\$. 5.8.1-#0 of t*e Po"# \$ e2en t*oug* t*e Po"# \$ (e5u#(ed t*at t*e *ad to 'e !e(sona"" sat#sf#ed t*at t*e \$(#te(#on *ad 'een met.

B1. Add#t#ona") t*e (at#ngs g#2en to t*e \$and#dates ' t*e#(su!e(2#so(s #n (es!e\$t of t*e a\$*#e2ement of t*e#(6o(@ o'7e\$t#2es and t*e#("e2e" of \$om!eten\$#es 6as \$e(ta#n" a usefu") #f not ne\$essa() #nd#\$ato(to \$om!a(e t*e 2a(#ous \$and#datesA !e(fo(man\$e) manage(#a" a\$*#e2ements and "eade(s*#! 5ua"#t#es. 3t !(o2#ded a 5uant#tat#2e measu(e t*at 6ou"d !oss#" a""o6 t*e &PP mem'e(s to #dent#f st(engt*s and 6ea@nesses #n t*e 2a(#ous staff mem'e(sA \$and#da\$) and \$om!a(e t*em aga#nst one anot*e(. ;o(#nstan\$e) (at#ngs of . :<\$e!t#ona" A\$*#e2ed/ o(. :<\$e!t#ona" P(of#\$ent/ 6e(e most \$e(ta#n" (e"e2ant to t*e &PPAs \$ons#de(at#on of)) 6*et*e(\$and#dates *ad . \$ons#stent" demonst(ated e<\$e!t#ona" !e(fo(man\$e and do\$umented e<em!"a(

83. &e\$. 5.12.2 to 5.12.6 t*en go on to set t*e effe\$t#2e date of !(omot#on) de!end#ng on 6*et*e(t*e staff mem'e(6as a"(ead se(2#ng at t*e *#g*("e2e" o(not) se(2#ng on an e<!e(t !ost o(6as 6#t*#n t6o ea(s f(om (et#(ement.

8%. T*e T(#'una" f#nds t*at su#ta'#"#t fo(!"a\$ement #

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documents (including to the "one" line. Hence the P(omotions Po"# does not
envisage an (one for the D+, = to (including additional" information to &PP
members' (but so" to (including the "ad" and guidance on the a!"#s" (e
(unless -see see. %.2.5).

102. The T("#una" finds that the (is no (om in the P(omotions Po"# for the
&PP members (to information (including additional" information the ma @no6
a' out' but that is not (estimated in the documents submitted to the (e2#e6. 9t#e(6#se
sand#dates ma 'e advantaged o(disadvantage' based on the fact that the a(e
@no6n to some of the &PP members' (including the do(to ne!otism and 'has. The
T("#una" a\$@no6"edges that &PP members' ma *a2e @no6n some of the
sand#dates) for *a2#ng !(e2#ous" 6o(ed 6#t* t*em o(sue(2#sed t*em and) to
some extent) ma 'e nf"uenced ' t*em(!e(sona" @no6"edge of the sand#datesA
!(for man\$. T*s #s una2o#da' (e and) #indeed) #m!"#\$t' a"o6ed ' t*em
P(omotions Po"# 6*#\$* d#d not !(e\$ude &PP members' to assess sand#dates t*em
ma @no6) unless #f t*em 6e(e t*em(\$u((ent sue(2#so(. That said) t*em #s a
d#ffe(en\$e 'et6een 'e#ng nf"uenced ' some

&PP mem'e(s and t*e#(t(eatment ' t*e D+ , = 6*en #t .\$(un\$*ed t*e data/) as one 6#tness stated. T*e , es!ondent a(gues t*at t*e met*odo"og used 6as !(o!e('ut a\$@no6"edges t*at t*e(e *a2e 'een some m#sta@es \$omm#tted ' t*e &PP mem'e(s #n a!!" #ng t*e suggested met*odo"og . +e a(gues) *o6e2e() t*at t*ese *ad no #m!a\$t on t*e A!!"#SantAs \$and#da\$ as a \$o((e\$ted g(#d s*o6s t*at *e 6ou"d not *a2e ad2an\$ed to t*e T*#(d , ound #n an e2ent.

105. 3t *as 'een esta'"s*ed t*at t*e D+ , = ad2#sed t*e !ane" mem'e(s t*at .DaEt t#mes) t6o o(mo(e fa\$t s*eets ma 'e #nd#st#ngu#s*a'"e/) #n 6*#\$* \$ase t*e \$ou"d .(an@ t*em t*e same/. T*e D+ , = e<! "a#ned t*e met*odo"og fo((an@#ng #n t*#s s\$ena(#o ' 6a of e<am!"es. ;o(#nstan\$e) #f t*e f#(st t*(ee \$and#dates of a "#st *ad #nd#st#ngu#s*a'"e fa\$t s*eets) t*e 6e(e a"" t*(ee to 'e (an@ed num'e(one) and t*e \$and#date afte(t*em 6as to 'e (an@ed num'e(fou(.

106. T*e \$onso"#dated ta'"e of (an@#ngs fo(ma'e \$and#dates fo(!(omot#on to t*e P15 "e2e" s*o6s t*at a"" s#< &PP mem'e(s ga2e t*e same (an@#ng to one o(mo(e \$and#dates at some !o#nt. 3ndeed) 6*(eas t*(ee !ane" mem'e(s ga2e t*e same (an@#ng to mo(e t*an one \$and#date on" #n a fe6 o\$\$as#ons) t*(ee ot*(e(s d#d #t s stemat#\$a"") engag#ng #n a g(ou!#ng e<e(\$se. :((o(s #n fo""o6#ng t*e suggested met*odo"og 6e(e #dent#f#ed #n t*e \$ou(se of t*e !(esent !(o\$eed#ngs ' t*e D+ , =) t*e A!!"#Sant and t*e T(#'una" #n t*e (an@#ngs !(o2#ded ' ea\$* of t*e s#< &PP mem'e(s) some 'e#ng of 2e(se(#ous \$on\$e(n.

10>. ;o(e<am!"e) one &PP mem'e(ga2e #dent#\$a" (an@#ngs to a num'e(of \$and#dates on se2e(a" o\$\$as#ons) 'ut 6#t*out ta@#ng #t #nto a\$\$ount 6*en g#2#ng t*e ne<t (an@. +e (an@ed t6o \$and#dates num'e(> and t*e ne<t one num'e(B) 6*#"st t*e (an@#ng fo(t*e "atte(s*ou"d *a2e 'een num'e(8 a\$\$o(d#ng to t*e D+ , =As suggested met*odo"og . T*e &PP mem'e(#n 5uest#on s stemat#\$a"" (e!eated t*#s !(o\$edu(e) 6*#\$* (esu"ted #n t*e (an@#ng of 1%6 \$and#dates 'et6een num'e(1 and 12>. T*en) t*#s &PP mem'e(sta(ted to (an@ a g(ou! of \$and#dates at t*e 'ottom end) (an@#ng 21 of t*em num'e(1>0. T*#s "eft t*(ee \$and#dates to 'e (an@ed 'et6een num'e(12> and 1>0I t*ese t*(ee \$and

not \$om!" 6#t* t*e D+ , =As suggested met*odo"og 6*(e') fo(e<am!"e) t*e
21 "ast \$and#dates s*ou"d *a2e (e\$e#2ed a (an@#ng of 1%8) not 1>0. T*s ma *a2e
a s#gn#f#\$ant #m!a\$ on t*e#(a2e(age.

10B. A se\$ond &PP mem'e(a! !ea(s to *a2e engaged #n a !u(e g(ou!#ng e<e(\$#se
' (an@#ng) fo(e<am!"e) 1%> \$and#dates among a g(ou! of 3 \$and#dates o(mo(e(B
\$and#dates num'e(1) 3 \$and#dates num'e(6) 5 \$and#dates num'e(12) >
\$and#dates num'e(1>) 6 \$and#dates num'e(2%) 20 \$and#dates num'e(3%) 16
\$and#dates num'e(58) > \$and#dates num'e(>6) > \$and#dates num'e(B3) 11
\$and#dates num'e(80) 1> \$and#dates num'e(106) > \$and#dates num'e(12%) 11
\$and#dates num'e(13>) % \$and#dates num'e(1%5) 10 \$and#dates num'e(15%) and
B \$and#dates num'e(163. 3n t*s !(o\$ess) *e \$omm#tted se2e(a" e((o(s #n t*e
a!!"#Sat#on of t*e suggested met*odo"og) ' not ass#gn#ng \$o((e\$t" t*e ne<t
(an@#ng. +e (an@ed a"most a"" \$and#dates 6#t*#n a g(ou!) 6*#\$* \$auses t*e
T(#'una" to 6onde(6*at e<a\$t \$(#te(#a t*s !ane" mem'e(6as a!!" #ng.

108. A t*#(d &PP mem'e(a"so engaged #n a s#m#a(g(ou!#

111. None of these elements detected in the present proceedings. The evidence shows that the D+, = "elected the individual" (amongst former &PP members) an Administrative Assistant (employed these in a "sonso" dated "st) and "suggested the age (amongst of ea\$ \$and#dateI t*en) the &PP member(s) were assigned to sign the "sonso" dated (amongst ta"e) 6*#* the "a" (ent" d#d 6*#*out an "fu" (t*e) 5uest#on#ng.

112. The T("una" (e\$"'s t*at t*e P(omotions Po"\$ (o2#des fo(a .Som!a(at#2e assessment and (amongst/ of t*e \$and#dates. The "an meaning of su\$* e!(ess#on s t*at \$and#dates must 'e Som!a(ed to one anot*(e(and g#2en a \$onse\$ut#2e (amongst) fo(t*e f(st to t*e "ast. The(e #s no (o2#s#on fo(t*e g#2#ng of t*e same (amongst to mo(e t*an one \$and#date) "et a"one to engage #n a g(ou!#ng e<e(\$se. The T("una" notes t*at t*e #m!a\$ on t*e \$onso" dated (amongst of an &PP member(att(#' ut#ng t*e same (amongst to mo(e t*an one \$and#date) fo(#nstan\$e ' g#2#ng t*e (2#e of t*e 'est (amongst to e#g*t \$and#dates) #s d#ffe(ent fo(t*at of an &PP member((amongst \$and#dates #nd#2#dua" and \$onse\$ut#2e" . &#m#"a() #t #s o'2#ous t*at #f 21 !e!"e a(e g#2en t*e 'ottom (amongst ' one &PP member(t*#s &PP member(6#" \$ause an anoma" #n t*e (amongst Som!a(ed to ot*(e(fe"o 6 &PP member(s. &u!(#s#ng") #t a!"eas t*at t*e D+, = d#d not \$ons#de(*o6 #ts suggested met*odo"og \$ou'd d#sto(t t*e \$and#datesA \$onso" dated (amongst) ne#t*(e(at t*e t#me of (o!os#ng t*e#(met*odo"og no(6*en #t .\$(un\$*ed t*e data/. No stat#st#\$an 6as \$onsu"ted) a"t*oug* #t a!"eas ne\$essa(to get a (ofess#ona" ad2#e g#2en t*e !otent#a" #m!a\$ of t*e (o!osed met*odo"og on t*e \$and#datesA o2e(a" (amongst).

113. :2en mo(e 6o((#some #s t*e fa\$ t*at t*e D+, = de2e"o!ed t*e \$onso" dated "st of \$and#dates 6*o ad2an\$ed to t*e T*(d ,ound 'ased on t*e num'e(s (o2#ded ' t*e &PP member(s 6*#* d#s!"a ed) on t*e#(fa\$e) "atant e((o(s. Amongst ot*(e(s) t*e g(ou!#ng of \$and#dates ' t*(ee &PP member(s s*ou'd *a2e (easona'" \$aused \$on\$e(n as to t*e (o\$edu(es ado!ted) as s*ou'd *a2e t*e #m!oss#"e (an@ of 1>1 g#2en ' one !ane" member(. J*(eas #t ma 6e" 'e t*at !ane" member(s ma) at t#mes) *a2e d#ff#\$u"t#es to d#ffe(ent#ate some \$and#dates) t*e s stemat#\$ g(ou!#ng unde(ta@en ' t*(ee !ane" member(s) of u! to 21

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#nst(u\$t#ons on (an@#ng #n \$ases #n 6*#\$* an &PP me

s#gn#f#\$ant e((o(s #n t*e (an@#ngs !(o2#ded ' &PP mem'e(s (a#ses se(#ous
\$on\$(ns as to t*e#((e"#a'##"t and 5uest#ons as to t*e met*odo"og t*at some &PP
mem'e(s ado!ted) 6*#\$* (ema#ned un5uest#oned and une<!"a#ned ' t*e D+ , = .

*

A('t(a(!o\$ess

118.

some \$and#dates amongst t*e s#< &PP mem'e(s. ;o(#nstan\$e) one \$and#date 6as (an@ed num'e(s 3) 6) 11) 33) >3 and 101. Anot*e(one 6as (an@ed 1) 1>) 22) %2) B6 and 10>. A fou(t* one 6as (an@ed 6) 21) 5%) 5B) BB and 16B. T*e A!!"#sant 6as (an@ed num'e(s 53) 55) 11>) 11>) 118 and 156) 6#t* a s!(ead of 103 'et6een *#s "o6e(and *#g*e(#nd#2#dua" (an@#ngs.

121. At ot*(e (t#mes) t*e ta'"e !o#nts to 6a(ds some \$onsensus 'ut 6#t* s#gnf#\$ant out"#e(s. ;o(#nstan\$e) one \$and#date 6as (an@ed num'e(s 12) 1%) 1B) 1B) 25 and 101. Anot*e(one 6as (an@ed num'e(s 21) 106) 10B) 112) 1%8 and 1>0. U"t#mate") t*e &PP mem'e(s 6e(e on" unan#mous #n (an@#ng 13 \$and#dates among t*e to! 56 6*o 6ou'd ad2an\$e to t*e T*#(d , ound.

122. T*e T(#'una" \$ons#de(s t*at t*e d#s\$(e!an\$es #n t*e (an@#ng ta'"e dese(2ed some e<!"anat#ons. 3t #s 'e ond unde(stand#ng t*at a!!" #ng t*e same \$(#te(#a 6*#\$* a"" (efe(to t*e \$and#datesA o6n !e(sonne" (e\$(o(d and su!!osed" (e2#e6#ng t*e same #nfo(mat#on) t6o &PP mem'e(s 6ou'd d#sag(ee to su\$* an e<tent as to (an@ one \$and#date at t*e t6o e<t(em#thes of t*e s!e\$(um among a 6#de !oo" of 1>0 \$and#dates. J *#e t*(e(e #s no dou't t*at t*e e<e(\$#se #n2o"2es an e'ement of su'7e\$t#2#t) #t #s (easona'"e to assume t*at t*(e(e 6ou'd 'e at "east some \$onsensus 6#t*#n t*e g(ou! as to 6*et*(e(a \$and#date #s outstand#ng o(6*et*(e(*e o(s*e 6ou'd (an@ among t*e "ess me(#to(#ous. T*e T(#'una" f#nds t*at t*e 2a(#at#ons a(e su\$* as to (a#se se(#ous \$on\$(e(ns as to t*e 6*o"e !(o\$ess. =ost su(!(#s#ng") no 5ue(6as made ' t*ose adm#n#ste(#ng t*e !(o\$ess. 3t seems !a(t#\$u"a(" #n\$ong(uous t*at t*e D+ , =) 6*#\$* 6as so \$on\$(ened a'out an une2enness #n (es!e\$t of a!!(a#sa" s\$o(#ng #n t*e elPADs) found t*at su\$* 2a(#at#ons of assessment #n t*e (an@#ngs ' t*e &PP mem'e(s 6as ent#(e" a\$e!ta'"e and \$ou'd !(o\$eed 6#t*out \$omment.

123. 3nstead of 5uest#on#ng t*e met*odo"og and 'e#ng \$on\$(ened 6#t* t*e a\$ua" 2a"#d#t of t*e \$om!a(at#2e assessment made ' t*e &PP) t*e ,es!ondent soug*t to a(gue 'efo(e t*e T(#'una" t*at t*e d#2e(gen\$e of (an@#ngs) e2en #f e<t(eme) 6as e<!e\$ted and) #ndeed) !a(t of t*e (e2#e6 e<e(\$#se. 3n t*#s (es!e\$t) t*e +ead of +uman ,esou\$(es Po"#\$ and P"ann#ng &e(2#se) UN+C ,) stated #n *#s 6#tness statement

11. In order to fulfil the mandate of the staff members of the Office of the High Commissioner for Human Rights, at the request of the Secretary-General, the High Commissioner for Human Rights has conducted an assessment of the work of the staff members of the Office of the High Commissioner for Human Rights in the future as made the Secretary-General of

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defined. In an event the different issues encountered in the !omotions e<e(\$se unde(e2#e6 a! !ea(to stem not from the e2a"uat#on \$(#te(#a t*emse"2es) 'ut from the met*odo"og to assess the in a \$om!a(at#2e fas*#on.

131. Turning to the task the "lane" member(s 6e(e as@ed to unde(ta@e) the T('#'una" notes that the e #s "tt"e gu#dan\$e) #f an) #n the P(omotions Po"# \$ a'out the !o\$edu(e o(met*odo"og to 'e used to fu"fu" the *#g*" \$om!"e< e<e(\$se that the &\$ond , ound e2a"uat#on #n2o"2es. No adm#n#st(at#2e #ssuan\$e 6as !(o2#ded e#t#e(. Instead the D+ , = attempted to de2#se the met*odo"og to 'e fo"o6ed.

132. It was 'een esta" #s#ed that on 1> June 201%) the D+ , = \$on2ened the &PP to the P(omotions &ess#on to 'e *e"d #n Gene2a f(om 30 June 201% to 11 Ju" 201%) fo(\$ons#de(at#on of a"" e"#g#"e \$and#dates fo(!(omotion to the P15 and D11 "e2e") ma"e and fema"e. The(e 6e(e 1>0 ma"e and 161 fema"e e"#g#"e \$and#dates fo(!(omotion to the P15 "e2e") #n add#t#on to those to the D11 "e2e" fo(6*#\$* the T('#'una" #s una6a(e of the num'e(. The &PP member(s 6e(e) at that time) g#2en a\$\$ess to a"" the \$and#datesA fa\$t s#eets. ;(om 30 June to % Ju" 201%) the &PP member(s gat#e(ed #n Gene2a to \$ondu\$t the#(#nd#2#dua" assessment of a"" the \$and#dates) #n a \$ont(o"ed en2#(onment) a6a f(om an d#st(a\$t#on. U!on a((#2a") the &PP member(s 6e(e !(o2#ded 6#t* a \$om!u

\$annot 'e s#m!" e<!"a#ned ' (efe(en\$e to t*e fa\$t t*at t*#s (e2#e6 e<e(\$#se
enta#"ed an e"ement of su'7e\$t#2#t . Not on" d#d t*e , es!ondent fa#" to !(o2#de
an sat#sfa\$tto(e<!"anat#on fo(t*ese d#2e(gen\$es) 'ut *e a"so fa#"ed to
demonst(ate t*at t*e A!!"#\$antAs \$and#da\$ fo(!(omot#on 6as) #indeed) !(o!e("'
\$om!a(ed 6#t* t*at of t*e 168 ot*e(\$and#dates ' t*e s#< &PP mem'e(s 'ased on
t*e esta'"#s*ed e2a"uat#on \$(#te(#a.

1%0. G#2en t*e fa#"u(e to !(o2#de t*e !ane" mem'e(s t*e elPADsA (at#ngs) 6*#\$*
6e(e ne\$essa(to \$om!a(e t*e \$and#dates #n "#g*t of t*e e2a"uat#on \$(#te(#a) t*e
#n2#tat#on to ta@e #nto a\$\$ount o!e(at#ona" (e5u#(ements as 6e"" as !e(sona"
@no6"edge of \$and#dates) and t*e 6a t*e (e2#e6 6as \$ondu\$ted) t*e T(#'una"
f#nds t*at t*e !(esum!t#on of (egu"a(#t *as 'een (e'uttet) and t*at t*e(e a(e
st(ong #nd#\$ato(s t*at t*e &\$ond , ound (e2#e6 6as

du(#ng t*e &e\$ond , ound e2a'uat#on \$annot 'e \$u(ed du(#ng t*e T*#(d , ound #n (es!e\$t of t*ose staff mem'e(s) su\$* as t*e A!!"#\$ant) 6*o d#d not ad2an\$e to t*at stage. T*e \$onst#tut#on) #n t*e &e\$ond , ound) of a "a(ge(!oo" of \$and#dates t*an t*e a\$tua" a2a#a"e !(omot#on s'ots #s meant to a""o6 t*e !ane" to \$o""e\$t#2e" se"e\$t t*e to! 56 among t*e .su'stant#a"" e5ua"" me(#to(#ous \$and#dates/) not to \$u(e !(o\$edu(a" defe\$ts \$omm#tted ea("#e(. 3f some \$and#dates 6e(e #n\$"uded #n t*e !oo" ' m#sta@e and ot*e(s e<\$"uded) t*e &PP mem'e(s 6e(e no "onge(\$om!a(#ng .su'stant#a"" e5ua"" me(#to(#ous \$and#dates/.

1%3. &e\$ond") t*e T(#'una" notes t*at t*e(e #s no !(o2#s#on #n t*e P(omot#ons Po"#\$ #n (es!e\$t of t*e met*odo"og fo(\$onso"#dat#ng t*e #nd#2#dua" (an@#ngs !(o2#ded ' ea\$* of t*e s#< &PP mem'e(s. T*e e2#den\$e s*o6s t*at t*e D+ , = e"e\$ted to ta@e an a(#t*met#\$ mean of t*e #nd#2#dua" (an@#ngs !(o2#ded ' ea\$* &PP mem'e(. B ta@#ng an a(#t*met#\$ mean) t*e \$and#datesA (an@#ngs 6e(e

\$on2e(ted #nto nume(#\$a" 2a"ues) 6*#\$* 6e(e t*en (an@ed f(om t*e "o6est to t*e *#g*est. None of t*e 6#tnesses !(esented ' t*e , es!ondent \$ou'd !(o2#de an \$ogent e<! "anat#on as to 6* t*#s met*odo"og 6as \$*osen. T*e e2#den\$e d#s\$"osed t*at no stat#st#\$a" ad2#\$e 6as soug*t o(o'ta#ned #n (es!e\$t of t*e a!!(o!(#ate met*odo"og to 'e used.

1%%. T*e T(#'una" (e\$a""s t*at t*e ne6 2e(s#on of t*e P(omot#ons Po"#\$) a!!"#ed fo(t*e 2013 P(omot#ons &ess#on) #s su'stant#a"" d#ffe(ent f(om t*e !(e2#ous !o"#\$ as #t enta#s a (an@#ng !(o\$ess (at*e(t*an a s\$o(#ng one. T*e \$onso"#dat#on !(o\$ess 'e\$ame e2en mo(e \$om!"e< 6#t* t*e a""o\$at#on of t*e same (an@#ng to 2a(#ous \$and#dates) as e<! "a#ned a'o2e) and #n t*e !(esen\$e of e<t(eme (an@#ngs. J *#st t*e met*odo"og ado!ted ma u"t#mate" 'e an a\$e!ta"e 6a to !(o\$eed) t*e T(#'una" #s \$on\$e(ned t*at no \$ons#de(at#on a!!eas to *a2e 'een g#2en to t*e #m!a\$t of ta@#ng an a(#t*met#\$ mean (at*e(t*an) o(#n \$on7un\$#on 6#t*) a med#an o(a mode fo(#nstan\$. T*e !oss#'#"#t of e<\$"ud#ng e<t(eme (an@#ngs f(om t*e a2e(age a"so a!!eas not to *a2e 'een \$ons#de(ed. G#2en t*e sma"" num'e(of &PP mem'e(s) t*e #m!a\$t of an out"#e(6as !otent#a"" dete(m#nat#2e of t*e f#na" (an@ g#2en to a \$and#date. ;o(#nstan\$e) one \$and#date 6*o 6as (an@ed 'et6een 58 and 85 ' f#2e &PP mem'e(s) ne2e(t*e"ess ad2an\$ed to t*e T*#(d , ound as *e 6as

(an@ed num 'e(26 ' a s<t* one. 3f t*s out"#e((an@#ng *ad 'een d#s\$a(ded) t*s \$and#date 6ou"d not *a2e 'een among t*e 56 \$and#dates 6*o ad2an\$ed to t*e T*(d , ound) 6*#\$* a"so means t*at someone e"se 6ou"d *a2e.

1%5. 3n t*ese \$(Sumstan\$es) t*e T(#'una" #s not \$on2#n\$ed ' t*e ,es!ondentAs a(gument t*at ta@#ng an a(#t*met#\$ mean of t*e s#< #nd#2#dua" (an@#ngs \$u(ed a"" t*e s#gn#f#\$ant !(o'"ems #n t*e (an@#ngs *#g*"#g*ted a'o2e. , at*e() #t a! !ea(s t*at t*e \$om!"e<#t of t*e stat#st#\$a" e<e(\$#se #n2o"2ed *as 'een unde(est#mated.

+

1%6. T*e A!!"#\$ant a(gues t*at t*e "a\$@ of (easons !(o2#ded to *#m fo(t*e \$ontested de\$s#on a"so \$auses #t to 'e #""ega" as *e 6as !(e2ented f(om mean#ngfu"" \$*a""eng#ng #t. T*e ,es!ondent su'm#ts t*at t*e A!!"#\$ant 6as !(o2#ded 6#t* suff#s#ent (easons as *e *ad 'een #nfp(m(")-9 .751(e)6 .9 9 2 9 d 'eee 'eeC7()25-8.079 9 13(a)-3 !(((")-6 9 9 .9 60221(a)-3. 6 6 653(")0.8 T dD [(e)-3. 6 6523(n)9 .17(*)-0. 9 60. 9 60221(g)9 .6 9 849(s)5.0234(o)-0. 9

T(#'una'. 3n t*e #nstant \$ase) t*e A!!"#\$ant) 6*o *ad as@ed to o'ta#n (easons fo(t*e de\$#s#on not to !(omote *#m and to o'ta#n t*e m#nutes of t*e &PP meet#ngs on 21 and 30 9\$to'e(201%) 6as on" #nfo(med of *#s (an@#ngs ' t*e De!ut +#g* Comm#ss#one(on 11 June 2015 t*(oug* *#s (es!onse to t*e A!!"#\$antAs (e5uest fo(management e2a"uat-0. 9 60221(g)9 . 6 9849(*)-0. 9 60224(())2(t)0.873046(221()-112.e)-14.325(es45.776 94(

Resubmission of the Contested Decision

156. It is settled under the law that in cases of UN+C, as in the present case, the Tribunal should not grant a motion for reconsideration of a decision of a signatory if the signatory has not seen the decision. 2011 UNAT 11 > 21 ' 2011 UNAT 11 > % and - 2011 UNAT 11 > 50. The Tribunal's decision is final and binding on the parties. The Tribunal's decision is final and binding on the parties. The Tribunal's decision is final and binding on the parties.

157. The Tribunal's decision is final and binding on the parties. The Tribunal's decision is final and binding on the parties. The Tribunal's decision is final and binding on the parties. The Tribunal's decision is final and binding on the parties. The Tribunal's decision is final and binding on the parties.

158. In this case, the Tribunal's decision is final and binding on the parties. The Tribunal's decision is final and binding on the parties. The Tribunal's decision is final and binding on the parties. The Tribunal's decision is final and binding on the parties. The Tribunal's decision is final and binding on the parties.

159. The Tribunal's decision is final and binding on the parties. The Tribunal's decision is final and binding on the parties. The Tribunal's decision is final and binding on the parties. The Tribunal's decision is final and binding on the parties. The Tribunal's decision is final and binding on the parties.

\$o"e\$#2e" (e2#e6ed ' t*e &PP mem'e(s 6#t*#n a !oo" of 112 \$and#dates #n t*e T*#(d , ound.

160. =ost #m!o(tant") t*e T(#'una" #s of t*e 2#e6 t*at t*e A!!"#SantAs \$onso"#dated (an@#ng as esta' "#s*ed ' t*e D+ , =) as 6e"" as t*e #nd#2#dua" (an@#ngs !(o2#ded ' t*e &PP mem'e(s) a(e so un(e"#a'"e t*at t*e \$annot se(2e as a 'as#s fo(\$ons#de(at#on of t*e A!!"#SantAs \$*an\$e fo(!(omot#on. +o6 6ou"d t*e A!!"#Sant *a2e 'een \$om!a(ed aga#nst t*e ot*e(\$and#dates #f t*e !ane" mem'e(s *ad 'een !(o2#ded 6#t* *#s eIPA-3..873046(*)-0.95892931t

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(e2#e6 6as so f#a6ed t*at #t #s #m!oss# ' "e to as\$e(ta#n 6 *et*e(#t 6ou" d "ead to fa#(and ade5uate \$ons#de(at#on of staff mem'e(sA \$and#da\$ fo(!(omot#on #f !(o!e(" #m!"emented.

16B. T*e(efo(e) t*e A!!"#\$antAs (e5uest fo(s!e\$#f#\$!e(fo(man\$e must 'e (e7e\$ted.

A"te(nat#2e \$om!ensat#on

168. A(t. 10.5-a0 of t*e T(#'una"As &tatute !(o2#des t*at .6*(e t*e \$ontested adm#n#st(at#2e de\$#s#on \$on\$e(ns F !(omot#on F) t*e D#s!ute T(#'una" s*a"" a"so set an amount of \$om!ensat#on t*at t*e (es!ondent ma e"e\$t to !a as an a"te(nat#2e to t*e (es\$#s#on of t*e \$ontested adm#n#st(at#2e de\$#s#on o(s!e\$#f#\$!e(fo(man\$e o(de(ed/. T*e A!!"#\$ant soug*t to a(gue t*at as *e *ad 'een e"#m#nated f(om t*e !(o\$ess !(#o(to a f#na" de\$#s#on 'e#ng made ' t*e +#g* Comm#ss#one() t*e T(#'una" #s not (e5u#(ed to set an a"te(nat#2e \$om!ensat#on to (es\$#s#on.

1>0. T*e T(#'una" \$ons#de(s t*at t*s a(gument #s 6#t*out me(#t. 3t #s \$"ea(t*at t*e \$ontested de\$#s#on \$on\$e(ns a !(omot#on #((es!e\$t#2e of t*e moment 6*en t*e A!!"#\$antAs \$and#da\$ fo(!(omot#on 6as tu(ned do6n and) u"t#mate") (e7e\$ted. T*e T(#'una" s*a"" t*e(efo(e set an amount of \$om!ensat#on t*at t*e , es!ondent ma e"e\$t to !a as an a"te(nat#2e to t*e (es\$#s#on of t*e \$ontested adm#n#st(at#2e de\$#s#on) #n a\$\$o(dan\$e 6#t* 10.5-a0 of #ts &tatute.

1>1. 3n \$a"\$u"at#ng t*e) t*e A!!"ea"s T(#'una" *as st(essed t*at t*e dete(m#nat#on of t*e . \$om!ensat#on #n "#eu/ must 'e done on a \$ase1' !\$ase 'as#s and \$a((#es a \$e(ta#n deg(ee of em!#(#\$#sm -see " . 2011!UNAT!2650. 3n (es!e\$t of de\$#s#ons den #ng !(omot#ons) #t fu(t*e(*e"d t*at .t*(e #s no set 6a fo(a t#a" \$ou(t to set damages fo("oss of \$*an\$e of !(omot#on and t*at ea\$* \$ase must tu(n on #ts fa\$ts/ - 2012!UNAT!218) !a(a. 22! see a"so (2015!UNAT!6030.

1>2. In sum, the assessment of the provisions denoting the provisions under UN+C, the provisions of the Treaty set the amount of the amount to be paid to the Commission to C+;B)000 -see / UNDT/2010/1>BI " UNDT/2008/0%0) C+;8)000 -see . 2010 UNAT10>0I0 and C+;10)000 -see UNDT/2012/0810) taking into account that the amount would be the same as the amount of the provisions of the Treaty.

1>3. Along the same lines, the Applicant's Treaty (sent a 6a(ded U&D10)000 for the loss of the amount of the provisions as the amount of the provisions in the case of the assessment of the provisions in the case of the assessment of the provisions of the Treaty. The Treaty is the same as the amount of the provisions of the Treaty.

6*#\$* #s .t*e f#(st da of t*e ann#2e(sa(mont* t6o ea(s !(#o(to (et#(ement/
!u(suant to se\$. 5.12.6 of t*e P(omot#ons Po"#\$. +e 6#" t*us *a2e suffe(ed no
"oss of sa"a(. +o6e2e() #f *e #s not !(omoted) *e 6#" not 'e a'"e to \$"a#m
\$om!ensat#on un"ess *e f#"es an a!"#\$at#on 'efo(e t*e T(#'una" \$ontest#ng t*e
ne6 de\$s#on to den *#m a !(omot#on.

1>>. &*ou"d t*e Adm#n#st(at#on \$*oose to !a t*e A!"#\$ant \$om!ensat#on #n "#eu

the respondent's claims of the implementation of a programme (Somali national) and state's obligations (reasons for that decision. -emphasized)

1B0. The respondent alleges as to the instant case that the respondent's amended version of the Treaty of Friendship and Consular Rights between the United Kingdom and Somalia is not to promote the interests of the respondent (the amendment) because the respondent to the Treaty of Friendship and Consular Rights (the respondent) issued and enforced (enforced) after the amendment.

1B1. The respondent alleged that the respondent's claim to the Somali national for moral damages assessed at the time of the fundamental breach of the respondent's

1B3. It follows from the fact that I am a staff member (see also (e)ou(se) t*
+g* Comm#ss#one(As de\$#s#on on *#s o(*e(!(omot#on 'e\$omes f#na" on" afte
su\$* (e\$ou(se *as 'een \$ons#de(ed. &n\$e t*e A!!"#\$ant soug*t (e\$ou(se) t*e +g*
Comm#ss#one(As de\$#s#on \$on\$e(n#ng *#s \$and#da\$ fo(!(omot#on to t*e P15 "e2e"
6as f#na"#sed on" on 3 =a(\$* 2015) e2en #f *e (e7e\$ted t*e A!!"#\$antAs (e\$ou(se.
&*ou"d t*e \$ontested de\$#s#on 'e \$ons#de(ed as 'e#ng t*e one announ\$ed on
20 9 \$to'e(201%) t*e (e5uest fo(management e2a"uat#on 6ou"d *a2e 'een t#me!
'a((ed -staff (u"e 11.20 and t*e #nstant a!!"#\$at#on #((e\$e#2a'"e
-a(t. B-10-d0-#0-'0 of t*e T(#'una"As &tatuteI see , 2010UNATI036)
2010UNATI0>2)

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188. Des!#te 'e#ng e<!(ess" #n2#ted ' t*e T(#'una" to addu\$e e2#den\$e of mo(a" #n7u(du(#ng t*e *ea(#ng) t*e A!!"#\$ant d#d not do so) \$"a#m#ng t*at t*e fundamenta" '(ea\$* of *s ent#t"ements #n #tse"f ga2e (#se to a \$"a#m fo(mo(a" #n7u(. 3n 2#e6 of t*e fo(ego#ng) t*s a(gument must 'e (e7e\$ted.

180. T*e T(#'una" *as a"so \$(efu"" e<am#ned t*e !"ead#ngs and do\$uments su'm#tted ' t*e A!!"#\$ant 'ut t*(e #s no a""egat#on of mo(a" *a(m. T*e on" a""egat#on #n t*s (es!e\$t #s to 'e found #n t*e \$on\$"us#on of t*e a!!"#\$at#on) 6*(e t*e A!!"#\$ant \$"a#ms \$om!ensat#on fo(. '(ea\$* of staff (#g*ts and emot#ona" d#st(ess) !e(2013!UNAT1308 - 0 at !a(as 36-#0 o(-##0/). T*s a"one #s not suff#s#ent to su' stant#ate a mo(a" #n7u(.

181. T*e T(#'una" st(esses t*at t*e (e5u#(ement to addu\$e e2#den\$e of mo(a" #n7u(s*ou'd not \$ome as a su(!(#se #n t*e !(esent \$ase as #t 6as am!" de'ated at t*e *ea(#ng) and t*e A!!"#\$ant 6as !(o2#ded 6#t* am!"e o!!o(tun#t#es to su'm#t an e2#den\$e #n t*s (es!e\$t) *ad *e 6#s*ed to do so.

182. T*e T(#'una" notes t*at #t 6ou'd (ea\$* t*e same \$on\$"us#on e2en #f #t 6e(e to \$ons#de(t*at t*e (#g*t to \$"a#m \$om!ensat#on fo(mo(a" damages a(ose f(om t*e +#g* Comm#ss#one(As #n#t#a" de\$s#on on !(omot#ons of 20 9\$to 'e(201%) as #t #s of t*e 2#e6 t*at a!!"#\$at#ons f#ed afte(t*e !u'"#\$at#on date of t*e amendment to a(t. 10.5 of t*e T(#'una"as &tatute a(e go2e(ned ' #t.

183. T*e T(#'una" #s m#ndfu" of t*e 6e""lsett"ed !(#n\$#!"e t*at \$*anges #n "a6 ma not 'e (et(oa\$t#2e" a!!"#ed -see ! 201%1UNAT1386I (201%1 UNAT1%08I & " 201%1UNAT1%%0. T*s !(#n\$#!"e *as 'een a!!"#ed ' t*e A!!"ea"s T(#'una" to a2o#d t*at su' stant#2e (#g*ts 'e affe\$ted ' amendments to t*e (u"es. T*e s#tuat#on #s d#ffe(ent *(e(e) as t*e amendment to a(t. 10.5 of t*e &tatute does not affe\$t t*e staff mem'e(sA su' stant#2e (#g*t to (emed fo(mo(a" #n7u() 'ut me(e" (e5u#(es t*em to su' stant#ate #t #n t*e \$ou(se of t*e !(o\$eed#ngs 'efo(e t*e D#s!ute T(#'una". 3n ot*(e(6o(ds) t*e amendment mod#f#es t*e (u"es of e2#den\$e #n (es!e\$t of a \$"a#m fo(mo(a" #n7u(.

18%. ,eso"ut#on 68/203) 6*#\$* #nt(odu\$ed t*e amendment to a(t. 10.5 of t*e T(#'una"as &tatute) does not \$onta#n an !(o2#s#on as to t*e moda"#t#es of #ts ent(#nto fo(\$e o(t(ans#t#ona" measu(es. H#@e 6#se) ne#t*(e(t*e T(#'una"as &tatute no(#ts ,u"es of P(o\$edu(e \$onta#n an !(o2#s#on go2e(n#ng t*e ent(#nto fo(\$e and a!!"#Sa'#"#t of \$*anges to !(o\$edu(a" (u"es 'efo(e t*e T(#'una".

185. 3n t*#s \$onte<t) t*e T(#'una" #s of t*e 2#e6 t*at !(o\$eed#ngs 'efo(e #t a(e #n !(#n\$#!"e go2e(ned ' t*e !(o\$edu(a" (u"es #n fo(\$e at t*e t#me of t*e#(#nst#tut#on) un"ess e<!(ess" ot*(e(6#se !(o2#ded. 3n t*#s (es!e\$t) t*e T(#'una" notes t*at #t #s gene(a"" (e\$ogn#4ed t*at a!!" #ng .t*e !(#n\$#!"e to !(o\$edu(a"

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