

Introduction

1. By a decision rendered on 5 February 2013, the Arbitral Tribunal tests the decision of the United Nations Compensation Commission, established pursuant to Security Council Resolution 687 (1996), concerning the claims of the State of Kuwait for damages suffered by it as a result of the invasion and occupation of Kuwait by Iraq in August 1990. The Tribunal is asked to determine whether the United Nations Compensation Commission's decision is in accordance with the provisions of the United Nations Compensation Commission's Statute and the United Nations Compensation Commission's Rules of Procedure.

2. As requested by the State of Kuwait:

a. That the decision be set aside;

b. That the State of Kuwait be awarded interest on the amount of the award from the date of the decision to the date of payment;

c. That the State of Kuwait be awarded interest on the amount of the award from the date of the decision to the date of payment.

Facts

3. The Arbitral Tribunal is asked to determine whether the United Nations Compensation Commission's decision is in accordance with the provisions of the United Nations Compensation Commission's Statute and the United Nations Compensation Commission's Rules of Procedure. The State of Kuwait claims that the United Nations Compensation Commission's decision is in accordance with the provisions of the United Nations Compensation Commission's Statute and the United Nations Compensation Commission's Rules of Procedure.

D.

t)at an fu't)e' !'o"ongat#on of t)e A!!"#Sant+s se

UN*C, -1 de\$#de to eCtend #t fo' a fu't)e' !e'#od(2)#\$)as &een
a""ead done #n ou' \$ase fo' an add#t#ona" !e'#od of t2o ea's.
, Ctens#ons of se\$ondment &e ond fou' ea's a'e usua

not)ing mo'e t)an a te'm#nat#on of se'>#e 2#t)out)a>#ng to !a
#ndemn#t#es< and

g. 7e suffe'ed f'om !'o\$edu'a" and su&stant#>e >#o"at#ons as)#s 'etu'n
'#g)t 2as #nf'#nged(and a"so f'om non8!e\$un#a' damage K #n\$"ud#ng se>e'e
st'ess 'ega'd#ng)#s !'ofess#ona" \$a'ee'()#s se\$u't #n 'et#'ement(as 2e"" as
)#s "oss of ?o& se\$u't as)e no "ong'e')o"ds a !e'manent a ! !o#ntment.

2A. T)e =es!ondent+s !'n\$#!a" \$ontent#ons a'e;

a. UN*C, - fo""o2ed t)e a!"#\$a&"e !'o\$edu'es on se\$ondment #n
a\$So'dan\$e 2#t) t)e *nte'85 'gan#6at#on Ag'eement
.C, B/2003/79C 4/C 4/A(dated 25 June 2003). T)#s ag'eement !'o>#des
fo' t)e '#g)ts of a staff mem&e' on se\$ondment f'om UN*C, - to anot)e'
#nte'nat#ona" o'gan#6at#on. *t def#nes se\$ondment as t)e /mo>ement of a
staff mem&e' f'om one o'gan#6at#on to anot)e' fo' a f#Ced !e'#od(no'ma"
not eC\$eed#ng t2o ea's0 and #nd#\$ates t)at t)e se\$onded staff mem&e' /2#"
'eta#n)#s o')e' '#g)ts of em!"o ment #n t)e 'e"eas#ng o'gan#6at#on0. T)ese
'#g)ts of em!"o ment mean t)at t)e end of)#s se

to state to the respondent the &u"et#n to 2a'ds t)e "ast :ua'te' of 2010. Upon 'e#e#!t of ou' e#ma#" add'ess(2e 2#" ensue t)at >a\$a\$ annou#ements a'e fo' 2a'ded to ou.

\$. P'no' to 31 4a'\$) 2012(UN*C, - sent out to a"" UN*C, - and UN*C, - aff#"#ated staff mem&e's /G"o&a" 4 message B'oad\$asts0 #nfo'm#ng t)em 2eeB" of a#a#"a&"e >a\$a#\$es. T)e A!!"#\$ant 2as #n t)e ma#"#ng "#st of staff 2)o 'e#e#>ed #nfo'mat#on on UN*C, - >a\$a#\$es. As of 31 4a'\$) 2012(D7=(UN*C, -(\$eased su\$) messages(ad>#s#ng #ts staff t)at #t 2ou'd &e t)e# 'es!ons#&#"#t to 'e>#e2 t)e #nt'anet and e=e\$'u#tment s stem fo' a#a#"a&"e >a\$a#\$es. As of 1 A!'#" 2012(>a\$a\$a\$ annou#ements

e. The 2015 Management Agreement does not provide for a right of termination for the seconded staff member to a substantial loss of income of the secondment. The Arbitration Panel has not referred to a

'e\$e#>#ng o'gan#6at#on(&ut 2#" 'eta#n)#s '#g)ts of em!"o ment #n
t)e 'e"eas#ng o'gan#6at#on. T)e !e'#od of se\$ondment ma &e

3@.

staff mem&e's)o"d#ng !e'manent a!!o#ntments0 .em!)as#s added!. B t)#s
!'o>#s#on(t)e A!!"#\$ant(2)o)e"d a !e'manent a!!o#ntment()ad a)#g)
eC!e\$stat#on to &e /'ea&so'&ed0. -u't)e'(#t #s #n "#ne 2#t) t)e >' !'ote\$#>e
'eg#me of !e'manent a!!o#ntments t)at su\$) an a!!o#ntment 2#" &e te'm#nated
on" as a "ast 'eso't and su&?e\$t to \$onst'a#n#ng \$ond#t#ons .\$. staff 'u'e 9.E 'ead
#n \$on?un\$#on 2#t) staff 'u"e 13.11.

DD.

DA. At an 'ate(e>en #f t)e te'm /'#g)ts of em!"o ment0 2e'e not to &e #nte'!'eted as an ent#t'ement to mandato' 'ea&so'!t#on(#t enta#s(at t)e >' "east(not "ess t)an 2)at #s due to a staff mem&e')o"d#ng a !e'manent a!!o#ntment #n \$ase)#s !ost #s a&o"#s)ed .unde' staff 'egu"at#on 9.31(t)at #s(t)e 5 'gan#6at#on must maBe good fa#t) effo'ts to #dent#f a !ost fo' t)e staff mem&e'. *t 'esu"ts f'om t)e fa\$ts of t)e \$ase t)at UN*C, - made no attem!t to f#nd a !os#t#on fo' t)e A!!"#\$ant(&ut #n fa\$ts !"a\$ed t)at &u'den ent#e" on)#m.

Signature of PA by the Applicant

50.

'es\$#ss#on(as !e' a't. 10.5.&l of t)e %tatute(\$onst#tutes an eC\$e!t#on to t)e 'u'e and eC\$e!t#ons(as a matte' of !'#n\$#!"e(must &e #nte'!'eted na''o2" and st'#\$t" .see Kasmani 2010%UNAT%0111.

4 ate'#a" damage

55. T)e A!!"#\$ant susta#ned no "oss of emo"uments. As a 'esu"t of)#s t'ansfe' to 3 4 5()e \$ont#nued 2o'B#ng(2#t)out an &'eaB(#n an o'gan#6at#on a!!" #ng t)e same sa"a' s\$a"e(and)e 'ema#ned em!"o ed at t)e same g'ade and ste!. -u't)e'mo'e(t)e A!!"#\$ant ma#nta#ned a"")#s &enef#ts and ent#t"ements.

5E. As fo' t)e #ndemn#tes and/o' a""o2an\$es t)at)e m#

allocation & not 'ended after' this date would be "sufficient".
The effect (no material damage & death) of this is self-evident.

59. In an case (the Tribunal) was informed that the Applicant was sentenced to a 5-year term of imprisonment and fined (as well as sentenced to a 10-month term of imprisonment of the United Nations High Commissioner for Refugees. Given these circumstances even in the event that the Applicant came to "lose" his mental faculties in the future (including due to a non-accidental) the Applicant would be no less a "victim" of the contested decision.

4.0 'a' damage

E0. The Applicant suffers at UN*C, - decision caused him non-material damage (including severe stress 'regarding' his 'professional' 'career' and his self-worth) as well as a "loss of" & self-worth for the no longer "ordinary" elements of allocation.

E1.

Conclusion

E2. The second of the foregoing Treaty provisions;

a. The contested decision has been found unlawful in its findings

& The Applicant's total and U\$2,000,000 of moral damage and

\$. Applicant's claims are dismissed.

.Signed

Judge Thomas Baer

Dated this 13th day of January 2015

, noted in the register on this 13th day of January 2015