



Judge Jean- . !an/o*s Cous*n

Gene0a

'en1 2. Va!gas 2.

T\$ ' ' AGN%)%

0.

&\$C '\$TA ' 3-G\$N\$ ' A)
%. T4 \$ UN#T\$D NAT#%N&

&e-f-!e5!esented

A+an Gutman6 A)&/% 4 ' 2

t"e UN2PC to)aise t"e matte) ' %t" t"e Pension ?undCs >oad o) %ts 2tanding
Comm%ttee.

A. >, ema%\$ of 2A ?e-)ua), 2013 to t"e A)-%t)at%on Comm%ttee and t"e Po\$\$%ng
ff%&e)! t"e A##S%&ant noted t"at t"e enfo)%ement of t"e tem \$%m%t of)eso\$ut%on
A/+ = 2/51/226 does not fa\$\$ unde) t"e not%on of a)t. 2.17a8 of t"e T)%-una\$Cs
2tatute! and t"at e\$e&t%ons a)e not de&%s%ons made - , t"e Adm%nist)ation.

B. n : 6 a, 2013! t"e A##S%&ant ')ote to t"e Ass%stant of t"e A2G/ 4 + 6 ! to

Use the following information to assist you in your review of the documents. The information is provided for your reference only and does not constitute an opinion or a recommendation of the Tribunal. The information is provided for your reference only and does not constitute an opinion or a recommendation of the Tribunal.

11. On 16 June 2013, the Council of the UNJ2P? (hereinafter referred to as the "Council"), of the President of the Association of (some) international C/2e)ants, noting that the 'old' de e&tions of e#)esentat/es of the United Nations #a)t&#ants

22. On 6 August 2013, the Applicant filed a motion for leave to refile, in substance, facts and evidence of the respondent's submission on the (re)submission, determination of relevance to the "and" the head, added "the additional comments.

23. On 3 July 2014 of B January, 2014, the Tribunal informed the parties that it would decide the case on the basis of the parties' written pleadings.

Parties' submissions

24. The Applicant's contentions are:

a. The respondent is not contesting the facts to determine the respondent's, and dates in the respondent's motion to the respondent - but the respondent refused to answer, the respondent's submissions on dates to the facts - , the facts to answer the respondent's, of dates is relevant to the administrative decision "the respondent's name, the decision to grant time release and administrative assistance to the respondent and dates in excess of the time limit set - , Geneva Assembly, resolution A/52/51/226H the facts the proof of the respondent's motion of the facts, to determine legitimate staff representation means.

b. The decision was made - , the facts and not the standing Committee of the Pension Fund as such! It is the Dispute Tribunal and not the Appeals Tribunal that is competent to hear the case - est! The respondent is a decision of the UN2PC that the respondent's staff representation would continue to serve the UN2PC despite the respondent's, under Geneva Assembly, resolution 51/226! see. 99! para. 10512! and the conflict of interest and related provisions of one of the respondent's.

c. The respondent's motion is not time-barred - the respondent's motion to grant time release and related administrative decision on, on 16 August, 2013.

d. The decision of " " " "e soug"t management e/a\$uat%on %s t"e same one "e &"a\$\$enged -efo)e t"e T%-una\$H t"e a##\$%&at%on %s)e&e%/a-\$e

and H

e. ne of t"e t")ee staff)e#)esentat%/es &omm%tted e\$e&to)a\$ /%o\$at%ons!
! "e fa\$\$ed to #)o#e)\$, d%\$&\$ose "%s &onf\$%&t of %nte)est as a .d%)e&t
A2G/ 4 + 6)e#o)t3 to t"e e\$e&to)ateH

f. T"e ma%n %ssue %n t"%s &ase %s t"e &om#\$%an&e ' %t" Gene)a\$ Assem-\$,)eso\$ut%on 51/226! se&t. 99! #a)a. 10512! ' "%&" %s &\$ea)\$, a##\$%&a-\$e to a\$\$ e\$e&t&ed staff)e#)esentat%/es at t"e UN and %ts se#a)ate\$, funded o)gansH t"e 2e&)eta),5Gene)a\$ -ea)s t"e u\$%mate)es#ons%- %\$%t, fo) t"e fa)%ness and)egu\$a)%t, of #o\$\$s and to ensue t"at a\$\$ staff)%g"ts a)e)es#e&t&ed! %n&\$ud%ng t"e .)g"t to t"e %ntege))e#)esentat%on of t"e%) %nte)ests %n t"e Pens%on ?und3H

g. T"oug" "e e<"austed a\$\$ out5of5&ou)t)emed%es and made e/e), effo)t to %nfo)m t"e Adm%nist)at%on a-out t"e %))egu\$a)%ties! t"e Adm%nist)at%on!
' "%&" "ad %m#)o#e) mot%/es! d%ld not)ea&tH

". T"e A)-)at%on Comm%ttee d%ld not ma*e an, #)onoun&ement on "%s &om#\$a%ntH one of t"e mem-e)s of t"e A)-)at%on Comm%ttee "as e@ua\$\$, a &onf\$%&t of %nte)est! s%ne s"e %s a \$a ',e) ' %t"%n 4 + 6 H

%. 4e)e@uests t"e T%-una\$.to o)de) t"e)es#ondent and t"e)e\$ated agen&%es to den, t%me)e\$ease and an, ot"e) fo)m of adm%nist)at%/e ass%stan&e K %n &onne&t%on ' %t" UN2PC and Pens%on >oad a&t%/)ties to t"ose t")ee staff)e#)esentat%/es on t"e UN 02PC1 %n e<&ess of t"e%) te)m \$%m%ts unt%\$ t"e end of t"e 20135201: te)m3 and moneta), &om#ensat%on of U2D 5!166 fo) t"e t%me s#ent %n #)e#a)%ng t"e /a)%ous su-m%ss%ons and e<"%-)ts.

25. T"e +es#ondentCs #)%n&%#a\$ &ontent%ons a)eJ

a. T"e a##\$%&at%on %s not)e&e%/a-\$e -e&ause t"e %ssue)a\$\$ed %n t"e

terms of appointment and does not constitute an administrative decision under the terms of art. 2.1 of the Treaty-UNSCs Statute. The "rights but for" - , the AAS&ant e(t) do not constitute do not AAS, H

- . Also! the composition and the determination of the members of the UN2PC and of the United Nations Joint Staff Pension Board are not a term of condition of employment of staff members and the UN Staff Regulations and Rules do not apply, to the UNJ2P and on the members of the UN2PC and of the Pension Board and are excluded - , the "undCs #a)t%#antsH)at"e)! the composition and determination of the members of the UN2PC and the Board are excluded, governed - , the Rules and Regulations of the UNJ2P (more specifically, - , art. 6.7a of the UNJ2P RegulationsH

&. The "tion for a decision to -e an administrative decision for the #u)#ose of art. 2.1 of the Treaty-UNSCs Statute is that it must -e taken - , the 2e&eta),5Gene)aH the 2e&eta),5Gene)aS "as no use in the administration of the UNJ2P?H

d. The AAS&ant does not contest that the "tions to the UN2PC and to the UNJ2P Board 'e)e &nducted - , the UN2U Position ff&e)sH the 2e&eta),5Gene)aS "ad no use in these "tionsH as such"! "e does not contest an administrative decision taken - , the 2e&eta),5Gene)aSH

e. The AAS& T)-UNSC! and not the D#ute T)-UNSC! "as limited Iu)sdt&t on o/e) &e)tain matters relating to the administration of the UNJ2P?H

f. The A2G/ 4+6 "as no Segas -as and is not in a position to AAS, the term "rights but for" in Gene)aS Assem-), resolution 51/226 to the terms of office of the members of the UN2PC and as such of the UNJ2P BoardH the "atte) "as the "e<&us%/e aut"o)t, to administrate the "und unde) "ts +egulations and RulesH the email to the A2G/ 4+6 see*ing &S)f&at on the Regulations of the UN2PC &annot se)/e to &eate an "m#S&ed o) aff)mat%/e decision - , the 2e&eta),5Gene)aS on es%g - %\$t, of the members of the UN2PCH it &annot "ange the fact that the 2e&eta),5Gene)aS "as no

sa, in the sections of UNJ2P? #a)tt&#ants to the UN2PC! n&#uding the
enfo)ement o) m#sementat%on of tem \$m%ts o) ot"e))est)%&t%ons ' %t"
)es#e&t to the &and%da&, o) se)/%&e on the UN2PC#

g. Also! the adm%nist)at%/e su##o)t #)o/%ded to e#e&ted mem-e)s of the
UN2PC -, the 2e&)eta),5Gene)a\$ does not &)eate an %nde#endent\$,
a##ea\$a-\$e de&%s%on#)at"e)! %t %s a #)ed%&ta-\$e and natu)a\$ out&ome of the
UN2PC e#e&t%ons ' "%&" does not &"ange the sega\$ o)de)#

". In "%s)e@uest fo) management e/a\$uat%on! the A##\$&ant did not
&ontest the g)ant%ng of time)e#ease and ot"e))e#ated adm%nist)at%/e
ass%stan&e to the e#e&ted mem-e)s of the UN2PC! an, &\$a%ms aga%nst the#e
de&%s%ons a)e the)efo)e not)e&%/a-\$e# mo)eo/e)! "e does not "a/e stand%ng
to &ontest the time)e#ease o) adm%nist)at%/e su##o)t g)anted to ot"e) staff

Consideration

26. As a member, the Tribunal, in its decision, has taken into account the request for disclosure of documents and the /ofsuminous documents and submissions on file /of the 't' motion to admit the case.

2. The Tribunal did not consider it necessary, to entertain the Applicant's motion on an filing of 21 June 2013. It did not find the submission made - , the Applicant in a /of) application /e/ant and did not use it to decide upon the /esent case.

2A. The Tribunal, in its decision, took into account the Applicant's additional comments of 6 August 2013. Thus, granting the motion of the same day, .

2B. The Tribunal notes that as to determine the scope of the /esent case. The Tribunal has noted that the Applicant's Tribunal "e" in 2012 UNAT 523A! name, that

2. The duties of a Judge /of) to taking a decision include the adequate /nte/etation and /om/ens/on of the /at/ons submitted - , the /a/tes! /ate/e) the) names! /ods! st/ut/ue o)

t"e A##\$&ant &\$a)%fied t"at "e d%id not &ontest .0 4 + 6 1 fa%\$u)e to dete)m%ne t"e e\$%g%-%\$%t, of &and%dates #)%o) to t"e e\$e&t%on on 11 De&em-e) 20123 -ut .t"e fa&t

35. In view of the scope of the arbitration determined above, the Tribunal was to examine if the decision to grant the retired members' presence at the UNJ2P? #a) t–ants time release and related administrative support to attend to matters of the UN2PC and the Pension Board might amount to an, unduly disregard of the Arbitration under the terms of appointment and conduct of employment. It is obvious that this is not the case. Therefore, the Arbitration's legal standing 't' is relevant to the first claim. Hence, this arbitration is not relevant/a-see in this case.

36. The Tribunal was to assess the Arbitration's second claim. The Tribunal

regulations. The "ad" referred to in the submitted request for management evaluation, submitted by the respondent on 30 June 2013, did not address the issue. The Tribunal finds that the Applicant did not request the respondent to submit another request for management evaluation since 30 June 2013.

41. The Tribunal notes that as to determine whether the decision, the
2012), Geneva) not to take action on the alleged violations in the sections
and content of interest as a result. According to art. 4 of the UNJ2P?
+regulations! the Pension Fund as a member-organization! is administered - ,
the Pension Board a staff Pension Committee for each member-organization! and a
secretariat to the Board and to each "su" Committee. As such! the UN2PC is an
integral part of the administration of the Fund and its governance structure.
Articles 6, 7 and 8 of the Fund's Regulations provide for the composition of the
UN2PC and the duration of the term of its elected members and alternate
members. The Tribunal notes that the actual election, of candidates to present
candidates at the UN2PC! including an, content 3.84766 (n)-203". 16797 ()-20 (&)3.84766 (onf)3

58

00 (n) 4 11067898 not-21 (s) ent m " e) se (ed 78) (ots) e 2011 8.18 (4) 6 6 J D 1.52 13.09781 (0) 4 20 (6-727.120 (6) 3684766 ((rs)) -01.88983

a. The attachment is deleted

- The respondent's claim for a - use of proceedings and costs against the Applicant is deleted.

7 8

Judge Jean-Pierre Cousin

Dated this 20th day, of January, 2014

entered in the register on this 20th day, of January, 2014

7 8

pen

N