
UNITED NATIONS DISPUTE TRIBUNAL

Case No.: UNDT/GVA/2016/011

J !g " e#\$ No.: UNDT/2016/20%

Date: 1 & No 'e" (e) 2016

O)*g*#a+: E#g!*s,

Introduction

1. By a decision filed on 20 September 2011 (the National Agency and later transferred to the Geneva Agency, the Applicant, a subsidiary of the United Nations Development Programme) of Congo 43 NU-C/51, contests the decision to revoke the second instalment of the lump sum payment of its assignment grant to 6(n)asa.

Relevant Facts

2. On 17 December 2011, the Applicant (as reassigned from the United Nations - United States of Africa Union - Organisation of the United Nations Development Programme) of Congo 43 NU-C/51 to 6(n)asa, as a subsidiary of the United Nations Development Programme. Upon its assignment to 6(n)asa, the Applicant (as a direct assignment grant) that included a daily subsistence allowance (see 4D-A51 for the) days and a

6. By article 10 of the No. 12/2010, the 3rd paragraph, Civil Servants' Benefits and Pensions Law, the Commission found that the respondent, Mr. X, was not entitled to the 4th article of the Law No. 12/2010, which provides that the respondent should not be considered to be in a position of absence from duty during the period of his secondment.

8. Article 12 of the No. 12/2010, the 1st paragraph, provides that the 3rd paragraph, Civil Servants' Benefits and Pensions Law, article 10, paragraph 1, of the Law No. 12/2010, which provides that the respondent should not be considered to be in a position of absence from duty during the period of his secondment, is not applicable in the present case. The Commission found that the respondent was not entitled to the 4th article of the Law No. 12/2010, which provides that the respondent should not be considered to be in a position of absence from duty during the period of his secondment, because the respondent was not in a position of absence from duty during the period of his secondment. The Commission found that the respondent was not entitled to the 4th article of the Law No. 12/2010, which provides that the respondent should not be considered to be in a position of absence from duty during the period of his secondment, because the respondent was not in a position of absence from duty during the period of his secondment.

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12. By email of 8 January 2017, the manager, C+! "an Benefits and Pay!!
-e&+"#e >"ne, *-C?, ad+"sed the A !"#ant to 4#onta# 3 \$NU-C\$;*, Goma
."n #o y of t)"s message! fo& B)"sC fu&t)e& gu"dan#e on t)"s matte&5.

17. By email of the same day, the A !"#ant (&ote t)e fo!!o ("ng to t)e C)"ef
; uman *esou&#es \$ff"#e&, 3 \$NU-C\$E

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Ass"gnment G&ant "n my &es e#t)as %een go"ng on s"n#e
De#Bem%e&C 2017.

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3 ay 9 @"nd!y &e<uest you to &o+"de gu"dan#e on t)e su%De#t as
()om s)ou!d 9 a &oa#) "n t)e matte&.

10.

Parties' submissions

2'. The Applicant's arguments are:

- a. ; "s first request for management evaluation (as not time-limited as the final decision regarding)'s request for full

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%. If yes, did the respondent's claim (the T&A) in 90 days of the
of the management evaluation?

70. Pursuant to staff rule 11.2 and art. 11.1 of the T&A statute, for an
a claimant to be eligible, the claimant must first

and * -C?, t) e !attek de#"ded to ay t) e A !"#ant a lo&ated amount of t) e se#ond "nsta!ment of)'s ass"gnment g&ant, and a'd "t "nto t) e A !"#ant:s %an@ a##ount on 21 No+em%e& 2010. A##o&d"ng to an ema"! of 2 Janua&y 201' f&om t) e 3 anage&, C+"!"an Benef"ts and Pay&o!! -e&+"#e >"ne, * -C?, t) e A !"#ant su%um"tted a ayment &e<uest fo& m and s"gned a 4 (&"tten unde&ta@ "ng5 to &e#e"+e t) e lo&ated ayment. T)at %e"ng sa"d, t) e do#uments do not #!ea&ly esta%!"s t)at t) e lo&ated ayment (as made fo!!o ("ng an ag&eement %et (een t) e A !"#ant and * -C?, o& t)at t) e A !"#ant (as eF !"#tly "nfo&med t)at) e (ou!d &e#e"+e a lo&ated ayment &"o& to su#) ayment %e"ng made. 9n any e+ent, t) e&e #an %e no dou%t t)at t) e A !"#ant (as made a (a&e of t) e de#"s"on to deny)'s #!a"m fo& full ayment of t) e se#ond "nsta!ment of)'s ass"gnment g&ant ()en) e &e#e"+ed a lo&ated ayment on 21 No+em%e& 2010. T) e A !"#ant)ad 60 days f&om 21 No+em%e& 2010 to &e<uest management e+a!uat"on. ; e fa!led to do so.

76. T) e ema"! of 12 Ae%&ua&y 201' f&om t) e ;uman *esou&#es -e&+"#e of 3 \$ NU-C\$ (as me&e!y a &e"te&at"on of t) e o&"g"na! de#"s"on deny"ng t) e A !"#ant:s &e<uest to %e a'd t) e fu!! amount of t) e se#ond "nsta!ment of)'s ass"gnment. T) e !ong stand"ng Du&"s &uden#e of t) e A ea!s T&"%una! "s t)at t) e &e"te&at"on of an o&"g"na! adm"n"st&at"+e de#"s"on does not &eset t) e #!o#@ ("t) &es e#t to statuto&y t"me !"m"ts, ()"#) st&ated to &un f&om t) e date of t) e o&"g"na! de#"s"on .Sethia 2010/UNAT/089, Aliko 201'/UNAT/'79, Kazazi 201'/UNAT/' '81.

78. 9t fo!!o (s t)at t) e a !"#at"on "s not &e#e"+a%!e *ratione materiae* .Egglefield 2010/UNAT/0021 and t)at t) e T&"%una! does not)a+e Du&"sd"#t"on to #ons"de& t) e &es e#t"+e #ontent"ons of t) e a&t"es on t) e me&"ts of t) e #ase.

7=. T) e a !"#at"on "s also not &e#e"+a%!e *ratione temporis*. T) e 3 ?U &es onded to t) e A !"#ant:s f"kt &e<uest fo& management e+a!uat"on on 21 July 201', and t) e A !"#ant f"led)'s a !"#at"on on 20 \$#to%e& 201', t)at "s one day afte& t) e eF "ky of t) e 90/day dead!"ne set fo&t) "n a&t. =.1.dl."l.al of t) e T&"%una! :s -tatute. 9n an ema"! of 27 July 201', t) e A !"#ant #!ea&ly a#@no (!edged t)at t) e t"me !"m"t to f"le an a !"#at"on %efo&e t) e T&"%una! st&ated to &un f&om 21 July 201'. T) e T&"%una! does not deem a lo&ate "n t) e "nstant #ase to #ons"de& t) e

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a !"#at"on "s, "n any e+ent, "&&e#e"+a%!e rati^one materiae.

Conclusion

79. 9n + "e (of t)e fo&ego"ng, t)e T&"%una! D?C9D? -E

T)e a !"#at"on "s &eDe#ted.

.Signed!

Judge *o (an Do (n"ng

Dated t)"s 1=^t) day of No+em%e& 2016

?nte&ed "n t)e *eg"ste& on t)"s 1=^t) day of No+em%e& 2016

.Signed!

*enJ 3. Va&gas 3., *eg"st&&, Gene+a