

Case No.

UNDT/GVA/201 /016

C. I% ,&s ! "#g\$e%& Ademagic et al. 20167UNAT76C< of 22 A"g"s& 20169 & .e

"%-Be-+ &.ak &.e staff \$e\$)e*sD se*0,3es / o"-#)e *eG",*e#)+ &.e O*ga%,Eak,o%)e+o%# &.e e%# of 201< o* ea*-+ 201A9 / .e% &.e ICT 6 / as s3.e#" -e# &to 3-ose9 a%# a 3a*ee* a88o,%&\$e%& / as #ee\$e# "%;"s&,f,e#. Ea3. A88-,3a%& *e3e,0e# a% ,%#,0,#"a- -e&&e* *e0,e / ,%g &.e,* 8*ofess,o%a- G"a-,f,3ak,o% s a%#)a3Bg*o"%#9 / ,&. a s,\$,-a* 3o%3-"s,o% as fo--o / s:

I% -,g. & of +o"* G"a-,f,3ak,o% s a%#)a3Bg*o"%#9 / e .a0e *e0,e / e# &.e %ee#s of &.e O*ga%,Eak,o% ,% Se8&e\$)e* 2011 fo* &*a% s-a&,o% se*0,3es a%# o)se*0e &.ak &.e*e / e*e %o o%go,%g 8os,&,o% s fo* &*a% s-a&to*s f*o\$ E%g-,s. &to BCS. ("*&.e*9 a 8*e7*eG",s,&e fo* &.e e\$ 8-o+\$e%& of 8*ofess,o%a- -a%g"age staff ,% &.e Se3*e&a*,ak ,s &.ak &.e+ 8ass &.e La%g"age Co\$ 8e&,k,0e E:a\$,,%ak,o% =LCE@. As ak Se8&e\$)e* 20119 +o" .a# %o& 8asse# &.e LCE.

Tab,%g ,%&to a33o"%& +o"* ,%#,0,#"a-)a3Bg*o"%#9 G"a-,f,3ak,o% s a%# sB,-s9 as ak Se8&e\$)e* 20119 ,& / as "%-,Be-+ &.ak +o"* se*0,3es / o"-#)e *eG",*e#)+ &.e O*ga%,Eak,o%)e+o%# &.e e%#s fo* +o"* se*0,3es ak &.e ICT 6. S8e3,f,3a--9 ,& / as %o& e:8e3&e# &.e O*ga%,Eak,o% / o"-#)e ,% a 8os,&,o% &to *e&a,% +o" &to 8e*fo*\$ &.e f"%3&,o% s +o" / e*e 8e*fo*\$,%g)e+o%# &.e e%# of &.e +ea* 201</ea*-+ 201A9 / .e% &.e ICT 6 / as s3.e#" -e# &to 3-ose. 4 .e* eas &. ,s 8e*,o# \$a+ .a0e e:&e%#e# fo* \$o*e &.a% &.e *ee +ea*s9 ,& #oes %o& ;"s&,f+ a 3a*ee* a88o,%&\$e%&. (o* &.ese *easo% s9 I #o %o& 3o% s,#e* &.ak +o"* ,%#,0,#"a- G"a-,f,3ak,o% s a%# sB,-s \$aBe +o" s",&a)-e fo* 3o%0e*s,o% &to 8e*\$a%e%& a88o,%&\$e%&.

1'. I% &""*%9 1A2 A88-,3a%& s ,% &.e Ge%e*a- Se*0,3e 3akego*+ / e*e ,%fo*\$e#)+ ,%#,0,#"a- -e&&e*s #a&e#)e&/ee% 1A &to 1C No0e\$)e* 2016 f*o\$ &.e O,C ASG/O5R 2 &.ak &.e+ .a#)ee% #e%,e# a 8e*\$a%e%& a88o,%&\$e%&. A #,s&,3&,o% ,% &.e *easo% s fo* &.ese #e3,s,o% s / as \$a#e)e&/ee% 23 A88-,3a%& s / .o a*e -a%g"age staff =>Ge%e*a- Se*0,3e -a%g"age A88-,3a%& s?@ a%# &.e *e\$a,% ,%g 12' %o%7-a%g"age A88-,3a%& s =>Ge%e*a- Se*0,3e %o%7-a%g"age A88-,3a%& s?@.

20. Ea3. of &.e 12' Ge%e*a- Se*0,3e %o%7-a%g"age A88-,3a%& s / e*e fo"%# &to .a0e &.e G"a-,f,3ak,o% s a%#)a3Bg*o"%# &.ak / o"-# \$aBe &.e\$ s",&a)-e fo* 8os,&,o% s ,% #"&+ s&ak,o% s o"&s,#e T.e 5ag"e as ak Se8&e\$)e* 2011. 5o / e0e*9 &.e+ / e*e #e%,e# a 8e*\$a%e%& a88o,%&\$e%& o% &.e g*o"%# &.ak &.e+ 3o"

22. T.e 1 ' A88-,3a%&s ;o,%&-+ *eG"es&e# \$a%age\$e%& e0a

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! "# \$ % & ' () * + , - . / : ; < = > ? @ A B C D E F G H I J K L M N O P Q R S T U V W X Y Z [\] ^ _ ` a b c d e f g h i j k l m n o p q r s t u v w x y z { | } ~ ¡ ¢ £ ¤ ¥ ¦ § ¨ © ª « ¬ ® ¯ ° ± ² ³ ´ µ ¶ · ¸ ¹ º » ¼ ½ ¾ ¿ À Á Â Ã Ä Å Æ Ç È É Ê Ë Ì Í Î Ï Ñ Ò Ó Ô Õ Ö × Ø Ù Ú Û Ü Ý Þ ß à á â ã ä å æ ç è é ê ë ì í î ï ð ñ ò ó ô õ ö ÷ ø ù ú û ü ý þ ÿ

.. T.e A#\$,%,s&*a&,o% #,# %o& 3o%s,#e*)" #ge&a*+ 3o%s&t*a,%&s ,% &.e
3o%&es&e# #e3,s,o%# a%# &.e*e ,s %o ,%# ,3a&,o% ,% &.,s *es8e3&F a%#

.. T.e Res8o%#e%& *eG"es&s &.e T*,)"%a- &to #,s\$,ss &.e a88-,3a&,o%#s.

Consideration

Legal framework

3<. T.e sta*k&, %g 8o, %& fo* &.e T*,)"%a-Dis *e0,e / of &.e -ega-,&+ of &.e 3o%&es&e#
#e3,s,o%# ,s &.e 3o%s,#e*a&,o%# of &.e A88ea-s T*,)"%a- ,% ,&s !"#g\$e%&s Ademagic
et al. and McIlwraith 20137UNAT73A' a%# Ademagic et al. 20167UNAT76C<9
/ ..,3. *e\$a%#e# &.e #e3,s,o%# o% &.e 3o%0e*s,o% of &.e A88-,3a%&sD f,:e#7&e*\$

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! "# \$ % & ' () * + , - . / : ; < = > ? @ A B C D E F G H I J K L M N O P Q R S T U V W X Y Z [\] ^ _ ` a b c d e f g h i j k l m n o p q r s t u v w x y z { | } ~ ¡ ¢ £ ¤ ¥ ¦ § ¨ © ª « ¬ ® ¯ ° ± ² ³ ´ µ ¶ · ¸ ¹ º » ¼ ½ ¾ ¿ À Á Â Ã Ä Å Æ Ç È É Ê Ë Ì Í Î Ï Ñ Ò Ó Ô Õ Ö × Ø Ù Ú Û Ü Ý Þ ß à á â ã ä å æ ç è é ê ë ì í î ï ð ñ ò ó ô õ ö ÷ ø ù ú û ü ý þ ÿ

3'. I% a88-,3a&,o% of & .,s 8*o0,s,o%9 & .e ASG/O5R 2 a#o8&e# o% 2' !a% "a*+ 2010
G",#e-,%es o% 3o%s,#e*a&,o% fo* 3o%0e*s,o% &o 8e*\$a%e%& a88o,%&\$e%& of staff
\$e\$)e*s of &.e Se3*eka*,a& e-,g,)e &o)e 3o%s,#e*e# as a& 30 !"e 200'
=>G",#e-,%es?@9 / .,3. *e-e0a%&-+ 8*o0,#e ,% se3s. &o 10:

. I% #e&e*\$,%,%g &.e ,%&e*ests of &.e O*ga%,Ea&,o% fo* &.e
8"*8ose of g*a%&,g a 8e*\$a%e%& a88o,%&\$e%& &.e o8e*a&,o%a-
*ea-,&,es of &.e O*ga%,Ea&,o% s.a--)e &aBe% ,%&o a33o""%&9 ,%
a33o*#a%3e / ,&. Se3&,o% 2 of ST/SGB/200' /10.

C. I% #e&e*\$,%,%g / .e&.e* &.e staff \$e\$)e* .as \$e& &.e .,g.
s&a%#a*#s of eff,3,e%3+ a%# 3o\$8e&e%3e9 &.e \$os& *e3e%& f,0e

<6. T.e A88ea-s T*,) "%a- .e-# ,% ,&s !"#g\$e%& Ademagic et al. 20167UNAT76C<
 &.a& >&.e ASG/O5R2 / as e%&, &-e# &o &aBe ,%&o 3o%&s, #e*at, o% ICT6Ds f, %, &e \$a%#ake
 a%# #o / %s, E, %g s, &"a&, o%?9 ,% a33o*#a%3e / , &. fo*\$e* staff *"-e 10<.13 a%#
 se3. 2 of ST/AI/200' /109 / ., 3. 8*o0, #e -ega-)ases fo* g, 0, %g # "e / e, g. & &o >a--
 , %&e*esks of &.e O*ga%, Ea&, o%? =8a*a. A1@. T.e A88ea-s T*,) "%a- fo" %9 .o / e0e*9
 &.a& &.e A#\$, %, s&*a&, o% 3o"-# %o& so-e-+ *e-+ o% &.e f, %, &e \$a%#ake of &.e ICT6 &o
 #e%+ 8e*\$a%e%& a88o, %&\$e%&s &o &.e A88-, 3a%&s a%# .a# &o 3o%&s, #e* >&.e,*
 *es8e3&, 0e G"a-, f, 3a&, o%&s9 3o \$8e&e%3, es9 3o%# "3&a%# &*a%&sfe**a)-e sB, --s? =8a*a. A3@.

< . l& fo--o / s &.a& &.e A88ea-s T*,) "%a- 3-ea*-+ a--o / e# &.e A#\$, %, s&*a&, o% &o
 es&a)-, s. a #, s&, %3&, o%)e& / ee% staff \$e\$)e*s se*0, %g ,% #o / %s, E, %g e%&, &, es a%#
 &.ose / .o #o %o&. T.e 3o%&s, #e*at, o% of >&*a%&sfe**a)-e sB, --s? fo* staff \$e\$)e*s
 se*0, %g ,% #o / %s, E, %g e%&, &, es ste\$ s f*o\$ &.e,* \$o*e -, \$, &e# , \$ \$e#, a&e 3a*ee*
 8*os8e3&s / , &. , % &.e e%&, &+ / .e*e &.e+ a*e 3"*e%&+ se*0, %g. T.e A88ea-s T*,) "%a-
 , %s, s&e# &.a& &.e *e3o%&s, #e*at, o% "8o% *e\$a%# .a# &

A0. T.e A88ea-s T*,) "%a- &.e% *efe**e# &o &.,s %o&,o% aga,% ,% ,&s !"#g\$e%&
Ademagic et al. 20167UNAT76C< /.e*e ,& ,%s,ste# &.a& &.e ASG/O5R 2

sB,--s9 so ,& 3a% &aBe a3&,o% &o f,-- &. ose staff,%g %ee#s.? Be& / ee% &. e e%# of 2010
a%# 20119 O5R 2 "%#e*oB a f"-- \$a88,%g of a-- 8os&s ,% &. e Se3*eka*,a&9 3-ass,f,e#
) + o33"8a&,o%a- g*o"8s a%# / ,&. s8e3,f,3s fo* ea3.9 as &es&,f,e#) + &. e fo* \$e* C . ,ef9
Se3&,o% III9 O5R 2 .

A<. I& ,s %o& #,s8"e# &.a& &.e A#\$,%s&*a&,o% -, \$,e# ,&s e:a\$,%a&,o% of &.e
A88-,3a%&sD &*a%se**a)-e sB,--s &o e: ,s&, %g 8os,&,o% s ,% &. e Se3*eka*,a& as of 2011
o"ts,#e &.e ICT6 a%# &.e 2 ICT9 "s,%g &.e \$a88,%g e:e*3,se \$e%&,o%e#
a)o0e =see 8a*a. A3@. No 3o% s,#e*a&,o% / as g,0e% &o &.e 8oss,) ,-&, &+ &o *e&a,% &.e
A88-,3a%&s9 o* so \$e of &.e \$9 ,% &.e ICT69 o* &o &*a%se* &.e \$ &o &.e 2 ICT.

AA. I& a88ea*s f*o\$ &.e 3o%&este# #e3,s,o% s &.a& &.e A#\$,%s&*a&,o% / as of &.e
0,e / &.a& &.e A88-,3a%&sD 3a*ee* 8*os8e3&s a& &.e ICT6 / e*e &oo -, \$,e# &o)e &aBe%
,%&o a33o"%& g,0e% ,&s e:8e3&e# 3-os"*e a& &.e e%# of 201<. I% &. ,s 3o%%e3&,o%9 &.e
3o%&este# #e3,s,o% s st&e:

TaB,%g ,%&o a33o"%& +o"* ,%# ,0,#"a-)a3Bg*o"%#9 G"a-,f,3a&,o% s a%#
sB,--s9 as a& Se8&e \$)e* 20119 ,& / as "%-,Be-+ &.a& +o"* se*0,3es / o"-#
)e *eG",*e#) + &.e O*ga%,Ea&,o%)e+o%# &.e %ee#s fo* +o"* se*0,3es
a& &.e ICT6. S8e3,f,3a--9 ,& / as %o& e:8e3&e# &.e O*ga%,Ea&,o%
/ o"-#)e ,% a 8os,&,o% &o *e&a,% +o" &o 8e*fo*\$ &.e f"%3&,o% s +o"

T. e f,*st) "#ge& of &.e 2 ICT fo* 201272013 8*o0,#e# fo* 13 P*ofess,o%a- 8os,&,o%
a%# 10 Ge%e#a- Se*0,3e 8os,&,o%
8*o0e% &o)e "%*ea-,st,3 ,% ., %s,g. &9)" &s,%3e &.e+ / e*e &.e o%-+ o%es *e3o*##e# o%
&.e off,3,a- *e8o*%s a%#) "#ge&s a0a,-a)-e a& &.e &, \$e9 ,& / as %o& a% e**o* fo* &.e
A#\$,%,s&*a&,o% &o *e-+ o% &.e \$.

6<. I% &.ese 3,*3" \$s&a%3es9 &.e T*,) "%a- f,%#s &.a& ,& / as %o& a% "%*easo)a)-e
e:e*3,se of #,s3*et,o% %o* 3o%&*a*+ &o &.e A88ea-s T*,) "%a-Ds #,*e3&,o%
A#\$,%,s&*a&,o% &o e:3-"#e 8os,&,o%
8os,&,o% >*eG",*e# o% a% o%go,%g)as,s? &aBe% ,%&o a33o"%& fo* assess,%g &.e
A88-,3a%&sD &*a%fe**a)-e sB,-s #"* ,%g &.e *e3o%
e:e*3,se.

6A. T. e T*,) "%a- ,s a-so of &.e 0,e / &.a&)+e: 8a%#,%g ,&s *e0,e / of &.e A88-,3a%&sD
3a*ee* 8*os8e3&s)e+o%# &.e ICT69 &.e A#\$,%,s&*a&,o% f"-f,-e# ,&s o)-,g& ,o% &o &aBe
,%&o 3o%
/ .o \$ee& >&.e . .g. est s&a%#a*#s of eff,3,e%3+9 3o \$8e&e%3+ a%# ,%&eg* ,&+ es&a)-,s. e#
,% &.e C.a*%e*? &o 3a**+ o" &, &s \$a%#a&e9 as #,*e3&e#)+ &.e A88ea-s T*,) "%a- ,% ,&s
!"#g\$e%& Ademagic et al. 20167UNAT76C< =see 8a*a. A3@. T. e A88ea-s T*,) "%a-Ds
s&ake \$e%& #,# %o& per se 3*ea&e a% o)-,g& ,o% o% &.e A#\$,%,s&*a&,o% &o e:a \$,%e &.e
A88-,3a%&sD 3a*ee* 8*os8e3&s / ,&. ,% &.e ICT6 o* &.e 2 ICT9)" &*a&.e* &o 3o%
,% &.e e:e*3,se of ,&s #,s3*et,o% &.e)e%ef,&s &.a& \$eas"*es a, \$e# a& *e&a,% ,%g s&aff
\$e\$)e*s "%&,- 3o \$8-e&. 4 / 4 1. %A3-e %

id the Administration err or abuse its discretion in taking into account the limitations in the Staff +ules related to the recruitment of staff in the , eneral Ser!ice category%

66. Ik ,s %ok #,s8"te# k. ak a-- Ge%e*a- Se*0,3e A88-,3a%ks / e*e #e%,e# 8e* \$a%e%k a88o,%k \$e%ks o% k. e)as,s9 inter alia9 k. ak k. e+ 3o"-# %ok)e 3o%s,#e*e# fo* 8os,k,o% s o"ks,#e T. e 5ag"e # "e ko k. e,* -o3a- *e3*",k \$e%k skak"s9 a%# k. ak k. e*e / as %o e%k,k,+ of k. e Se3*eka*,ak ,% T. e 5ag"e / .e*e k. e+ 3o"-#)e k*a%sfе**e# af&e* k. e 3-os"e of k. e ICT6.

6 . T. e A88ea-s T*,)"%a-Ds !"#g\$e%& #oes %ok 3o%ka,% a%+ s8e3,f,3 ,%sk*"3k,o% as ko .o / k. e k*a%sfе**a)-e sB,--s of Ge%e*a- Se*0,3e A88-,3a%ks .a# ko)e assesse# ,% k. e *e3o%s,#e*a%k,o% e:e*3,se9 ,% 8a*k,3"-a* / .ek. e* k. e,* skak"s as -o3a- *e3*",ks .a# ko)e kaBe% ,%ko 3o%s,#e*a%k,o% ,% e:a\$,%g a-ke*%ak,0e 8os,k,o% s ko / .,3. k. e+ 3o"-#)e k*a%sfе**e#. T. e D,s8"te T*,)"%a- #,# %ok a##*ess ,k e,k. e*9 sa0e fo* a)*,ef *e\$a*B / .e% ,k 3o%s,#e*e# k. e ge%e*a- -, \$,kak,o% of k. e A88-,3a%ksD a88o,%k \$e%k ko se*0,3e / ,k. k. e ICT6. T. e D,s8"te T*,)"%a- .e-# k.

e3",&e# s&ak"s &o ,%&e*%&ak,o%a--+ *e3*",&e#9 %O* 3a% &.e T*,)"%a- , \$8ose a% o)-,ga&ak,o% o% &.e O*ga%,Eak,o% &o g*a%& ,&.

<. T.e A88-,3a%&ks a-so a*g"e &.ak staff *-e <.1C / o"-# 3o%&sk,&"&e a%ok .e* -ega-a0e%"e &o o0e*3o \$e &.e 8"*8o*%&e#)a** ,e* *a,se#)+ &.e A# \$,% ,s&ak*ak,o% ,% *eG" ,% ,%g se*0,3e s")seG"e%& &o &.e ICT6. T.e A88-,3a%&ks 3-a, \$ &.ak ,f &.e+ /e*e *eG" ,*e# &o *es,g% f*o\$ &.e,* 8os,&,o% ak &.e ICT6 ,% o*#e* &o)e *e7e\$ 8-o+e# ak a%ok .e* #"%&+ s&ak,o%9 as asse*%&e#)+ &.e Res8o%#e%&9 staff *-e <.1C / o"-# a--o / fo* &.e 8oss,) ,-&+ &o *e,%s&ake &.e \$9 *es"-&,g ,% 3o%& ,% "o"s se*0,3e.

A. Staff *-e <.1C 8*o0,#es &.ak >HaI fo*\$e* staff \$e\$)e* / .o .e-# a f,:e#7&e*\$ o* 3o%& ,% ,%g a88o,%&\$e%& a%# / .o ,s *e7e\$ 8-o+e# "%#e* a f,:e#7&e*\$ o* a 3o%& ,% ,%g a88o,%&\$e%& / ,&. ,% 12 \$o%& .s of se8a*a&,o% f*o\$ se*0,3e \$a+)e *e,%s&ake# ,f &.e Se3*eta*+7Ge%e*a- 3o%& ,%#e*s &.ak s"3. *e,%s&ake \$e%& / o"-#)e ,% &.e ,%&e*est of &.e O*ga%,Eak,o%?.

6. T.e T*,)"%a- a3B%o / -e#ges &.ak staff *-e <.1C 3o"-# ,%#ee#)e a 8oss,) ,-&+ &o a0o,# a)eaB ,% se*0,3e a%# e%#s"*e &.ak Ge%e*a- Se*0,3e A88-,3a%&ks Bee8 &.e,* s&ak"s as 8e*\$a%e%& a88o,%&ees ,f &.e+ a*e *e-o3ake# &o a%ok .e* #"%&+ s&ak,o%. 5o / e0e*9 &.e ,s #oes %ok so-0e &.e ,ss"e of &.e ,%&e*%&ak,o%a- &*a%sf* of &.e Ge%e*a- Se*0,3e A88-,3a%&ks ,% 3ase of a)o-,&,o% of &.e,* 8os&s. T.e A# \$,% ,s&ak*ak,o% 3o"-# %O& fo*3e &.e Ge%e*a- A 2 . 6 6 5 2 3 (*) 13 . 2 6 0 5 5 () 4 &# 5 0 5 \$ (\$) 3 &# 4 (5) 3 6 5 . 7 8 (1) 0 5 (2) 7 9 2 2 8 2 .. 5 3 3 1 4 (. 8 5)

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! "#g\$e%& No. UNDT/201' /022

. T.e T*,) "%a- f,%#s & .a& &.e -ega- f*a \$e / o*B go0e*%,

C2. I% 0,e / of &.e fo*ego,%g9 &.e T*,) "%a- f,%#s &.ak &.e A#\$,%s&*ak,o% #,# %O&
e** o* a)"se ,ks #,s3*ek,o% ,% #e3,#,%g &.ak ,& / as %ok ,% &.e ,%ke*esks of &.e
O*ga%,Eak,o% &to g*a%& &.e Ge%e*a- Se*0,3e A88-,3a%ks 8e* \$a%e%& a88o,%& \$e%&
)ase# o% &.e,* -a3B of 3a*ee* 8*os8e3&s & &.e,* #"+ sk&,o%9 / .,3. ,% &.e 3o%&e:&
a \$o"%&s &to a -a3B of (&a%sfе**a)-e sB,--s.

Case No. UNDT/GVA/201 /016

! "#g\$e%& No. UNDT/201' /022

*eG",*e \$e%&ls fo* P*ofess,o%-a%g"age staff ,% &.e Se3*ela*,a& as &.e+ a88-,e# ,%

Case No. UNDT/GVA/201 /016

! "# \$ % & ' () * + , - . / : ; < = > ? @ A B C D E F G H I J K L M N O P Q R S T U V W X Y Z [\] ^ _ ` a b c d e f g h i j k l m n o p q r s t u v w x y z { | } ~ ¡ ¢ £ ¤ ¥ ¦ § ¨ © ª « ¬ ® ¯ ° ± ² ³ ´ µ ¶ · ¸ ¹ º » ¼ ½ ¾ ¿ À Á Â Ã Ä Å Æ Ç È É Ê Ë Ì Í Î Ï Ñ Ò Ó Ô Õ Ö × Ø Ù Ú Û Ü Ý Þ ß à á â ã ä å æ ç è é ê ë ì í î ï ð ñ ò ó ô õ ö ÷ ø ù ú û ü ý þ ÿ

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