

# **UNDT/2011/116, Guimaraes**

## UNAT Held or UNDT Pronouncements

Outcome: The Tribunal found that the Applicant's due process rights were observed by the Organization in its handling of the complaint and rejected the application in its entirety. The Tribunal found that the actions of the Organization in handling the complaint, both individually and in aggregate, met the requirements of due process.

## Decision Contested or Judgment/Order Appealed

The Applicant contested the Organization's handling of a complaint of sexual harassment made against him by another staff member.

## Legal Principle(s)

Discretionary decisions relating to the assignment and relocation of staff membersThe Respondent enjoys a broad discretion with regard to assigning his workforce, both in location and in function, in the best interests of the Organization. The Tribunal will give due deference to such decisions, unless they are illegal, irrational or procedurally flawed, or in exceptional cases, where a measure is disproportionate.Organization's involvement in disputes of a personal natureWhile the Respondent should not, as a matter of course, get involved in disputes of a personal nature, where allegations relate to sexual harassment and have an implication for safety and security, the Organization must be particularly cautious and it seems reasonable for the Respondent to take more assertive action where both parties to the dispute are staff members.

## Outcome

Dismissed on merits

## Full judgment

[Full judgment](#)

## Applicants/Appellants

Guimaraes

## Entity

UN Secretariat

## Case Number(s)

UNDT/NY/2010/036/UNAT/1685

## Tribunal

UNDT

## Registry

New York

## Date of Judgement

28 Jun 2011

## Duty Judge

Judge Kaman

## Language of Judgment

English

## Issuance Type

Judgment

## Categories/Subcategories

Disciplinary matters / misconduct

Sexual harassment

Due process

Investigation

Reassignment or transfer

Discretion

## Applicable Law

Administrative Instructions

- ST/AI/371
- ST/AI/379

## Related Judgments and Orders

UNDT/2011/046

UNDT/2010/001

2010-UNAT-012

2010-UNAT-025