

UNDT/2012/078, Perez-Soto

UNAT Held or UNDT Pronouncements

The Respondent was required to act in the best interests of the Organization, when reassigning the Applicant, and it was principally for the Respondent as the Chief Administrative Officer of the Organization, pursuant to art. 97 of the United Nations Charter, to define what those interests were in the context of the administration of the Organization Outcome: For respondent (merits).

Decision Contested or Judgment/Order Appealed

Reassignment.

Legal Principle(s)

Bad faith. It is for the Applicant who raises such allegations of ulterior motives to prove them. Consultations. As a matter of good staff relations and courtesy, it would be usual for a manager to discuss the possibility of reassignment with a staff member before making the final decision; however, there is no requirement in the relevant legal instruments for the Respondent to consult a staff member about a proposed reassignment. Delegation of authority. The decision to transfer the Applicant was taken by the appropriate person, namely the USG for Management. Decision not taken in the best interests of the Organization. Under former regulation 1.2(c), the Respondent had a broad discretion to assign any staff member to any of the activities or offices of the United Nations. Such discretion was not unfettered.

Outcome

Judgment entered for Applicant in full or in part

Full judgment

[Full judgment](#)

Applicants/Appellants

Perez-Soto

Entity

UN Secretariat

Case Number(s)

UNDT/NY/2010/061

Tribunal

UNDT

Registry

New York

Date of Judgement

30 May 2012

Duty Judge

Judge Shaw

Language of Judgment

English

Issuance Type

Judgment

Categories/Subcategories

Reassignment or transfer
Discretion

Applicable Law

Administrative Instructions

- ST/AI/2002/4

Former Staff Regulations

- Regulation 1.2(c)

Former Staff Rules

- Rule 101.2(b)

UN Charter

- Article 97

UNDT Statute

- Article 2.1
- Article 8.1

Related Judgments and Orders

UNDT/2011/156

2010-UNAT-035

2010-UNAT-049

2010-UNAT-061

2010-UNAT-012

2010-UNAT-081