

UNDT/2012/135, Manco

UNAT Held or UNDT Pronouncements

The UNDT found that the policy or practice had no legal basis in any of the norms of the Organization and was thus unlawful. The Tribunal ordered the rescission of the policy in relation to the Applicant and moral damages of three months' net base salary. Enforcement of an unlawful policy or practice: Reports of the Fifth Committee do not carry the same legal force as General Assembly Resolutions. The Secretary-General is also not mandated, in the absence of an express statutory provision, to incorporate into a staff member's terms of employment any policy or recommendation from a Committee. Terms of employment must reflect the content of the Staff Regulations and Staff Rules, and more generally the hierarchy of norms laid down in Villamoran.

Decision Contested or Judgment/Order Appealed

The Applicant contested a policy which would have required him to either renounce his permanent residence status in New Zealand or apply for citizenship there, should he wish to take up a promotion with OIOS.

Legal Principle(s)

N/A

Outcome

Judgment entered for Applicant in full or in part

Full judgment

[Full judgment](#)

Applicants/Appellants

Manco

Entity

UNON

Case Number(s)

UNDT/NBI/2011/021

Tribunal

UNDT

Registry

Nairobi

Date of Judgement

11 Sep 2012

Duty Judge

Judge Boolell

Language of Judgment

English

Issuance Type

Judgment

Categories/Subcategories

Appointment (type)

Jurisdiction / receivability (UNDT or first instance)

Subject matter (ratione materiae)

Applicable Law

Administrative Instructions

- ST/AI/2000/19
- ST/AI/294

GA Resolutions

- A/Res/66/106

Information Circulars

- ST/AFS/SER.A/238

Secretary-General's bulletins

- ST/SGB/2009/6
- ST/SGB/2011/1

Staff Regulations

- Regulation 1.1

Staff Rules

- Rule 1.5(c)
- Rule 11.2(c)
- Rule 4.3
- Rule 4.5(d)

UN Charter

- Article 101
- Article 97

UNDT RoP

- Article 9

UNDT Statute

- Article 2.1
- Article 8.3

Related Judgments and Orders

UNDT/2012/104

UNDT/2011/126

UNDT/2012/004

UNDT/2009/016