

# **2013-UNAT-281, Pacheco**

## UNAT Held or UNDT Pronouncements

UNAT held that the Appellant did not identify any evidence that contradicted the findings of UNDT regarding the abolition of her post. UNAT recalled the broad discretion of UNDT to determine the admissibility of evidence and the discretion of UNDT to decide whether the presence of witnesses is required and to limit oral evidence. UNAT held that the Appellant failed to demonstrate that UNDT erred in declining to hear the proffered evidence. UNAT held that UNDT erred in law in allowing testimony to be given at its hearing that was neither sworn, affirmed, nor made under a promise to tell the truth. However, UNAT held that the Appellant failed to satisfy UNAT that the UNDT judgment had one or more of the five defects provided for in Article 2.1(a) to (e) of the UNAT Statute. UNAT dismissed the appeal.

## Decision Contested or Judgment/Order Appealed

The Applicant contested the decision to abolish her post and separate her from service. UNDT rejected the application, finding that the Applicant had failed to present evidence that persuaded it that the abolition of post was manifestly unreasonable, motivated by ill-will or a calculated scheme to remove her from the office and that warranted the UNDT's interference with the Respondent's discretion.

## Legal Principle(s)

An international organisation necessarily has the power to restructure some or all its departments or units, including the abolition of posts, the creation of new posts and the redeployment of staff. UNDT has broad discretion to determine the admissibility of evidence and the weight to be attached thereto.

## Outcome

Appeal dismissed on merits

## Full judgment

[Full judgment](#)

## Applicants/Appellants

Pacheco

## Entity

OCHA

## Case Number(s)

2012-305

## Tribunal

UNAT

## Registry

New York

## Date of Judgement

28 Mar 2013

## Language of Judgment

English

## Issuance Type

Judgment

## Categories/Subcategories

Abolition of post  
Termination

Separation from service

Termination of appointment (see also, Termination of appointment)

Termination (of appointment)

Abolition of position

## Applicable Law

UNAT Statute

- Article 2.1

UNDT RoP

- Article 17.1
- Article 17.3
- Article 18.1
- Article 18.5

## Related Judgments and Orders

UNDT/2012/008

2010-UNAT-081

2011-UNAT-110

2012-UNAT-236