



**Before:** Judge Thomas Laker

**Registry:** Geneva

**Registrar:** Víctor Rodríguez

ALLEN

v.

SECRETARY-GENERAL  
OF THE UNITED NATIONS

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**JUDGMENT**

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**Counsel for Applicant:**  
Ammal Oummih, OSLA

**Counsel for Respondent:**  
Bettina Gerber, UNOG

## **The issues**

1. By application filed on 25 August 2010, the Applicant sought review by the United Nations Dispute Tribunal (“UNDT”) of the decision to reassign him from the position of Officer-in-Charge (“O-i-C”), Human Resources Management Section (“HRMS”), United Nations Conference on Trade and Development (“UNCTAD”), to that of Chief, General Services and Travel Unit (“GSU”), UNCTAD, dated 14 April 2010 and effective the following day, 15 April 2010.

## **Facts**

2. The Applicant entered the service of the United Nations on 14 August 1989, as a Clerk in New York. He served from May 1992 to December 1995 in the Procurement Division. He was then redeployed to the Staff Development Service until December 2001. After serving in various functions, in April 2007, the Applicant was appointed as Human Resources Officer in UNCTAD and promoted to the P-3 level, step 1.

3. Effective 2 October 2007, the Applicant was designated O-i-C against the post of Chief, HRMS, UNCTAD. This was a P-5 position temporarily vacant as its regular incumbent was provisionally assigned to the Department of Peacekeeping Operations. On 12 February 2008, the Applicant was granted a Special Post Allowance (“SPA”) to the P-4 level retroactively effective from 2 October 2007.

4. On 19 September 2008, the Acting Deputy Secretary-General of UNCTAD sent, by an all UNCTAD staff email, a memorandum announcing the reassignment of four staff members, including that of the Applicant, with his P-3 post, to the position of Chief, GSU, UNCTAD, at the P-3 level, effective 6 October 2008. This was presented as “further staff redeployment”, with reference to a series of previous like measures which affected a significant number of staff members.

5. On 21 November 2008, the Applicant contested the above decision. The Tribunal decided upon the case by Judgment UNDT/2010/009, dated 22 January 2010. It found there to be a breach of section 3 of ST/SGB/172 and section 5 of

ST/SGB/274, which prescribe mandatory consultations with the relevant staff representatives before implementing decisions affecting an important number of staff in a unit, as well as “a lack of good faith in the Administration’s dealings with the Applicant”, demonstrated mainly in the manner the Applicant was made aware of his redeployment. Accordingly, the Tribunal ordered, *inter alia*, in paragraph 52(1) of the judgment, that:

The decision to redeploy the Applicant as per the memorandum of the Acting Deputy Secretary-General of UNCTAD dated 19 September 2008 be rescinded.

6. Whereas no appeal was lodged, on 11 March 2010, the Respondent submitted to the Tribunal a request for interpretation of paragraph 52(1) of Judgment UNDT/2010/009, pursuant to article 30 of the UNDT Rules of Procedure.

7. By Order No. 42 (GVA/2010), dated 9 April 2010, the above request was rejected as irreceivable, inasmuch as the concerned passage “is not obscure or misleading, nor suffers of any ambiguity as to its sense and practical implications”. The Tribunal stressed that it “clearly means that the *status quo ante* existing on the date the decision was made needs to be restored. In other words, the Applicant has to be placed on the position he fulfilled on 19 September 2008, i.e., that of O-i-C, HRMS, UNCTAD”. The decision specified:

The foregoing is obviously without prejudice of the Administration’s prerogative to subsequently modify the position to which the Applicant is assigned by means of a new decision, provided the latter is reached in observance of the applicable rules and principles.

8. On 13 April 2010, in the course of a meeting on how the said Judgment would be implemented, the Deputy Secretary-General, UNCTAD, handed a memorandum to the Applicant which read:

In compliance with paragraph 52(1) of [J]udgment No. UNDT/2010/009, the decision to redeploy you as per the memorandum of the Acting Deputy Secretary-General of UNCTAD dated 19 September 2008 is rescinded.

You are hereby reassigned to HRMS effective today and placed as OiC, HRMS, UNCTAD with immediate effect.

9. Also on 13 April 2010, the Applicant summarized his understanding of the conversation held earlier that day in an email addressed to the Deputy Secretary-General, UNCTAD. He reported having been told, *inter alia*, that “[he was] being designated O-I-C HRMS, however, [he would] continue to work in ... GSU ...”.

10. By email dated 14 April 2010, the Deputy Secretary-General, UNCTAD, answered that the Applicant’s recapitulation was not accurate and complete; he stated that the purpose of the meeting was twofold: (1) to inform the Applicant about the implementation of paragraph 52(1) of the judgment, and (2) to have the opportunity to consult with him as regards his future assignment. He further pointed out that the position of Chief, GSU, UNCTAD, was commensurate with the Applicant’s qualifications and skills and that “such assignment would be in the best interest of the Organization”.

11. In reply, the Applicant qualified the Administration’s course of action as “an attempt ... to disregard or nominally implement UNDT’s judgement” and requested that the Deputy Secretary-General, UNCTAD, clarify the final decision regarding his assignment.

12. By memorandum dated 14 April 2010, the Deputy Secretary-General, UNCTAD, informed the Applicant that “[f]ollowing [their] consultations on 13 April 2010, [he was] assigned to the position of the Chief, General Services and Travel Unit effective 15 April 2010”.

13. On 31 May 2010, the Applicant requested management evaluation of the decision of 14 April 2010 to redeploy him to the position of Chief, GSU, UNCTAD, as of 15 April 2010. The Management Evaluation Unit transmitted its response to the Applicant by letter dated 15 July 2010, stating that “the contested administrative decision did not violate [his] contract of employment or terms of appointment and should be upheld”.

14. On 25 August 2010, the Applicant filed his application before the Tribunal.

15. The Respondent served his reply on 27 September 2010.

16. On 1 October 2010, the parties were convoked to a hearing held on 18 October 2010.

17. On 20 October 2010, the Respondent submitted clarifications on the Personnel Actions (“PAs”) issued regarding the decisions in question, as the parties expressed different views thereon during the oral hearing. Counsel for the Respondent thereby confirmed that a PA dated 13 April 2010 was issued following the memorandum of the Deputy Secretary-General, UNCTAD, of the same date; this PA stated “Reassign w/in RMS from GSU to HRMS. Change in funct. title: OIC, HRMS. Ref. para 52 (1) Judgment No. UNDT/2010/009 and memorandum ... of 13.04.10.” The memorandum dated 14 April 2010—the contested decision—was reflected in another PA dated 15 April 2010, stating “Reassign w/in RMS from HRMS to GSU. Change of funct. title: Chief, General Services and Travel Unit. Ref. memorandum ... of 14.04.10.” However, this last PA was rescinded on 15 April 2010 pending clarifications from the Director of Administration and the matter remained unapproved due to an oversight. This PA was finally approved on 19 October 2010.

18. Counsel for the Applicant submitted additional comments on 1 November 2010. On 3 November 2010, the Respondent requested leave to submit further comments thereon. By letter dated 4 November 2010, the Tribunal rejected the Respondent’s request, considering that no further input was needed to determine the issues at stake.

### **Parties’ Contentions**

19. The Applicant’s contentions are:

a. The purported implementation of Judgment UNDT/2010/009 was nothing more than a “token implementation”, showing propensity to contempt for the Tribunal’s authority. The Administration has sought to circumvent the Tribunal’s order in an attempt to deny the Applicant effective relief, thereby treating him without good faith;

b. Evidence relating to the circumstances and procedures followed by UNCTAD at the time of its purported implementation of Judgment UNDT/2010/009, and confirmed to the Applicant on or after the oral hearing, supports that: (i) the Applicant was reassigned back and forth between HRMS and GSU while remaining on the same post; (ii) a PA

placing the Applicant against the post of Chief, HRMS, UNCTAD, was never issued, instead a notation was made on a PA drawn against the Applicant's own post; (iii) no email was sent to UNCTAD staff notifying them of the Applicant's designation as O-i-C, HRMS, UNCTAD, as customary in similar circumstances; (iv) on 14 April there were in fact two O-i-Cs, HRMS, UNCTAD, at the same time; (v) UNCTAD management took no steps to allow the Applicant to assume functions as O-i-C, HRMS, and during his brief reassignment, he was not provided with access to relevant functionalities in IMIS and Galaxy, making it impossible for him to perform his functions; (vi) no PA or other written notification was provided to the incumbent of the post of Chief, HRMS, UNCTAD, advising her of her replacement. In failing to take these procedural steps, the Administration did not restore the *status quo* of 19 September 2008, and, therefore, did not implement paragraph 52(1) of the Judgment;

c. In addition, there have been undue delays in the decisions taken to implement paragraph 52(1) of Judgment UNDT/2010/009. Having become executable after the statutory forty-five-day period for appeal, the Judgment should have been fully implemented "by no later than 9 March 20[10]". Yet, on 11 March 2010, the Respondent presented a request for interpretation and, to date, the Applicant's redeployment as per memorandum dated 19 September 2008 has not been properly rescinded;

d. The Applicant's reassignment back to GSU on 14 April 2010 was not in conformity with the applicable rules. Section 2.4 of ST/AI/2006/3/Rev.1 provides: "Heads of departments/offices retain the authority to transfer staff members within their departments or offices to vacant posts at the same level." It is hence clear that the transfer authority of the heads of department is limited to *vacant* posts. The term "vacant post" is defined in article 1 of ST/AI/2010/3 (in effect as of 22 April 2010), as "post approved for one year or longer that is not blocked for the return of a staff member on mission detail, special leave, secondment, temporary assignment or loan". However, the Applicant was

never transferred to a vacant post, but was again reassigned using his current P-3 post, which was occupied by him throughout the whole process. Although the Applicant's reassignment against the post of Chief, HRMS, was to a vacant post, his reassignment back to P-3 post of Chief, GSU, was not, the post being encumbered by the Applicant himself. In this connection, the relevant PAs show identical post number at all relevant times of the Applicant's movement;

e. ST/SGB/172 and ST/SGB/274 are applicable. The contested decision was based on the originally contested decision of 2008, which was taken in breach of the said administrative issuances. In this regard, the contested decision is not a new one with respect to the originally impugned reassignment of 2008;

f. The Administration failed to enter into consultations with the staff member prior to his redeployment, thereby committing fresh breaches of section 3 of ST/SGB/172 and section 5 of ST/SGB/274. To be meaningful, a consultation must "be entered into with an open mind as to the other parties' views and with a commitment to considering those views prior to taking any action". However, the meeting between the Applicant and the Deputy Secretary-General was not a meaningful consultation. The 13 April 2010 meeting was only subsequently referred to as consultation. It lasted around 20 minutes, during which the Applicant was informed that he would be sent back to the post of Chief, GSU, the following day; only upon the Applicant's questioning it was clarified that this was "merely a proposal". Moreover, the Applicant was reassigned to his previous position on the day following his designation as O-i-C, HRMS;

g. The sequence of events demonstrates that it is highly likely that a decision to transfer the Applicant back to the position of Chief, GSU, UNCTAD, had been made prior to the meeting. The decision having already been made, any discussions could not have been entered into with an open mind on the management's side. There was not a sincere attempt to establish the Applicant's views. It is clear that there was never any real

intention to consider the Applicant's views prior to making a decision or to allow him to work as O-i-C, HRMS;

h. Beyond the contested decision in itself, the way the Applicant's was treated violated his rights to be treated fairly and with dignity and smacks bad faith and unfair dealings. In this connection, the former UN Administrative Tribunal, in Judgment No. 1389 (2008), made a distinction between the substance of a decision and its application and found there to be a violation of the staff member's rights at the time of the implementation, as the Administration's conduct created at least an appearance of bad faith. In the present case, the lack of good faith of UNCTAD is illustrated by (i) the short period between his reassignment to implement the Court's order and his reassignment back to GSU; (ii) the misleading of the Applicant during the 13 April 2010 "consultation" that his reassignment back to GSU was a "proposal" whereas it proved to be a *fait accompli*; (iii) the failure to carry out the required consultation in good faith, as the decision had been made prior to the meeting; (iv) the misrepresentation by UNCTAD that the memorandum designating the Applicant as O-i-C, HRMS, sufficed as implementation of the Tribunal's ruling; (v) the fact that his designation led to having two heads of the same unit during the time the Applicant was reassigned to HRMS, which is contrary to sound management and was a deliberate and premeditated action; (vi) the withholding of critical evidence prior to the hearing; (vii) the resort to delaying tactics regarding the implementation of the Judgment; (viii) the violation of the Applicant's rights in substituting an illegal decision by another illegal decision;

i. The Applicant's right to the SPA difference from 6 October 2008 to the present date has not been respected.

20. For the above reasons, the Applicant requests:

a. Rescission of the decision to reassign him to the post of Chief, GSU, UNCTAD;



- b. Proper implementation of the UNDT order in paragraph 52(1) of Judgment UNDT/2010/009;
- c. Compensation for breach of rights and process and for moral damage and damage to professional reputation;
- d. Compensation from 2008 for denial of his right to appropriate relief as was awarded by the Judgment;
- e. That costs be awarded against the Respondent for abuse of proceedings in accordance with article 10.6 of the Statute.

21. The Respondent's contentions are as follows:

- a. After the Applicant was placed on the post of O-i-C, HRMS, UNCTAD, and, therefore, the *status quo ante* existing on 19 September 2008 had been restored, the Administration had the right to "change this decision by means of taking and implementing a new administrative decision provided that this new administrative decision respects the applicable rules and principles";
- b. The Organization enjoys broad discretion in assigning its employees to different functions. Under staff regulation 1.2(c) and provisional staff rule 1.2(a), and similarly under section 2.4 of former ST/AI/2006/3/Rev.1, it falls within the Administration's discretionary power to assign every staff member where he or she is more needed, provided that the functions attributed are not at odds with his or her skills and qualifications; in this respect, the Administration is not bound by the preferences of the staff member;
- c. There is no provision requiring the consent of the concerned staff member or of his or her direct supervisor to assign a staff member to a different function. It is for the Organization to determine whether a transfer decision is in its interest or not, provided there is no abuse of discretion or a violation of procedures;
- d. Section 3 of ST/SGB/172 and section 5 of ST/SGB/274 are not applicable. In the present case, a new administrative decision of the same

tenor—reassignment—has been taken, but under different circumstances. The above-referred provisions prescribe respectively that consultations be conducted when taking decisions involving major organizational changes or relocations of groups of staff and where an issue or policy should affect the entire department or office or at least a significant number of staff in a particular unit or service of the department or office. In the case at hand, only one staff member, i.e., the Applicant, was reassigned;

e. Contrary to the Applicant's contention, the 14 April 2010 reassignment is a new administrative decision. Otherwise, the application would be inadmissible as already passed judgment upon (principle of *res judicata*);

f. Concerning the Applicant's allegation that no meaningful consultation took place prior to his reassignment, no provision exists in the Staff Regulations and Rules requiring such a consultation. Consultation with the staff member before the decision is officially communicated is good managerial practice and should be guided by the principles of good faith and fair dealing;

g. The consultation which took place in the present case fulfilled the requirements of good faith and transparency. A meeting was held between the Applicant, his supervisor and the Deputy Secretary-General, UNCTAD, in order to inform the Applicant of the implementation of paragraph 52(1) of the Judgment. The Applicant was furthermore given the possibility to share his views on his subsequent transfer back to GSU. The Deputy Secretary-General informed him promptly and personally of the decision to reassign him back to the post of Chief, GSU;

h. Regarding the fact that the Applicant was O-i-C, HRMS, UNCTAD, only for one day, from a legal point of view, the Administration was only requested to rescind the illegal decision. After complying with the order, it was within its discretionary power to reassign the Applicant again, subject to compliance with the applicable law. The Administration was not bound by any time frame in this respect;

i. The immediate reassignment of the Applicant to his former post was in the interest of UNCTAD, because his services as O-i-C, HRMS, were not operationally required in April 2010, as another staff member had been appointed to perform those functions and it was planned that she would continue to do so. Moreover, the Applicant's services were required for the post of Chief, GSU, in order to ensure proper discharge of the responsibilities of this position by a qualified staff member. These functions are commensurate with the Applicant's qualifications and skills; indeed, they correspond to his personal level (P-3) and the Applicant never questioned his suitability for this position. Besides, as a general remark, an assignment to temporarily perform higher-level functions does not entitle the assigned staff member to perform these functions until someone has been formally appointed to the post;

22. In light of the foregoing, the Respondent requests that the Tribunal reject the present application as unfounded.

### **Considerations**

23. In view of certain arguments raised, it seems necessary to delimitate precisely the material scope of the case at hand.

24. It is explicitly stated in relevant part of the application that the contested decision is the Applicant's reassignment to the position of Chief, GSU, UNCTAD, as of 15 April 2010, formally communicated to him by memorandum dated 14 April 2010. Moreover, this was the decision that the Applicant had previously contested in his request for management evaluation dated 31 May 2010. There is no doubt, hence, that such is the decision constituting the subject of the instant case.

25. This decision must not be equated with the formerly contested decision dated 19 September 2008. Although both decisions concern the Applicant's reassignment to the same position, they were taken at different times and under different circumstances. Furthermore, the decision dated 19 September 2008 is *res judicata*, since it was decided upon by the Tribunal's—executable—Judgment

UNDT/2010/009. Accordingly, the Applicant's first reassignment is not to be examined.

26. Lastly, the issue of the proper and/or timely implementation of Judgment UNDT/2010/009 is not presently under review. Article 12.4 of the Statute provides for a specific procedure which either party may instigate in the event a given judgment has not been duly executed. The Applicant, nevertheless, did not avail himself of this procedure and, at this point, the conditions are no longer met for him to do so, for the Administration did implement the above-mentioned Judgment by restoring, through its decision dated 13 April 2010, the *status quo ante* existing before the Applicant's redeployment. In this regard, the somehow disrupted issuance of the PAs reflecting the decisions taken in April 2010 is irrelevant in assessing whether they were effectively implemented, as PAs are not constitutive steps, but mere internal administrative formalities.

27. Turning now to the legality of the contested decision as defined above, the Applicant contends that it violates his terms of appointment on various grounds. After careful review, the Tribunal finds no impropriety in the contested transfer.

28. On the one hand, the Applicant submits that he was not transferred to a vacant post, as required by section 2.4 of ST/AI/2006/3/Rev.1, since he remained appointed against the same post throughout the entire process, while he was reassigned to different functions together with this post.

29. Nevertheless, the impugned decision does not contravene section 2.4 of ST/AI/2006/3/Rev.1. In fact, this provision does not apply to the contested transfer. Indeed, section 2.4 envisages only lateral transfers to vacant posts, but it does not preclude other kinds of transfer to be lawfully made. The foregoing simply entails that transfer decisions not matching the hypothesis of lateral transfers to vacant posts, such as the one presently challenged, do not fall within the purview of section 2.4 of ST/AI/2006/3/Rev.1.

30. Furthermore, it is pertinent to put the above-referred section 2.4 in context by recalling that it comes within an administrative instruction establishing the staff selection system and, thus, primarily focused on the procedures to fill vacant posts. More precisely, this section is part of the "[g]eneral provisions" of

ST/AI/2006/3/Rev.1; it follows section 2.3 which outlines the competitive procedure of staff selection, and it is at this juncture that section 2.4 specifies:

Heads of departments/offices retain the authority to transfer staff members within their departments or offices to vacant posts at the same level.

31. Hence, when making a systemic reading, it appears that the main purpose of this section is to make clear that ST/AI/2006/3/Rev.1, while introducing the new general procedure to fill vacant posts, does not override the power of heads of departments/offices to transfer staff members by executive decision. This interpretation is coherent with the use of the word “retain” in this provision. It is also corroborated by the wording of Annex I, paragraph 1(a), of the said administrative instruction, in recapitulating the “[r]esponsibilities of the head of department/office”, which omits any mention to “vacant posts” for the purpose of lateral transfers, as it reads:

The head of department/office has the authority ... [t]o transfer staff laterally within his or her department/office.

32. On the other hand, the Applicant argues as well that the Administration failed to conduct meaningful consultations with him on his future assignments, committing fresh breaches of relevant provisions of ST/SGB/172 and ST/SGB/274. No such violation occurred in the present case. Not only was the Organization under no obligation to carry out such consultations in this occasion, but it actually proceeded to consult with the Applicant prior to issuing the contested decision.

33. Section 3 of ST/SGB/172 (Decentralization of consultation procedure) prescribes that heads of departments or offices hold consultations regarding questions such as the implementation of “decisions involving major organizational changes or relocation of groups of staff”. In the same vein, section 5 of ST/SGB/274 (Procedures and terms of reference of the staff management consultation machinery at the departmental or office level) requires consultations to be conducted, *inter alia*, whenever an “issue or policy should affect the entire department or office or at least a significant number of staff in a particular unit or service ...”. Unlike the initial reassignment to GSU of 19 September 2008, the decision impugned in the present application concerned exclusively the Applicant.

Consequently, the conditions which trigger the application of the above-cited provisions were not met in the present case.

34. In any case, although not legally bound to carry out consultations, the Deputy Secretary-General, UNCTAD, held a meeting with the Applicant aimed at addressing the implementation of Judgment UNDT/2010/009 on 13 April 2010, followed-up by email exchange. The Applicant was thereby given the opportunity to convey his views on the subject.

35. The Applicant also argues that the Organization failed to act in good faith in its dealings with him and to observe the standards of fairness and respect for dignity that any staff member is entitled to expect from it. This contention has no merits.

36. The Tribunal understands that the Administration's course of action engendered considerable disappointment and frustration for the Applicant; all the more since Judgment UNDT/2010/009 happened to create high expectations on his side that he might effectively resume his former functions as O-i-C, HRMS, UNCTAD, and be allowed to stay. However, the Judgment limited itself to rescinding the initial redeployment only because of procedural irregularities. In no manner did it entail a right for the Applicant to be maintained in a certain position for any specific duration. The Tribunal even went onto spelling out, first in the Judgment and later in Order No. 42 (GVA/2010), that nothing prevented the Respondent from adopting a new decision modifying the situation again. This is exactly what the Administration did. The strikingly quick reversal of the situation that arose after the execution of Judgment UNDT/2010/009, by means of a new decision, does not change the fact that technically speaking the Administration complied with the Tribunal's order to re-establish the *status quo ante*.

37. Furthermore, the Tribunal considers that in the present case the contested decision is in conformity with the applicable rules.

38. As consistently reiterated in relevant case law,

staff regulation 1.2 grants the Secretary-General the discretionary power to assign staff members to any of the activities or offices of the Secretariat. That power is, of course, subject to the usual limitations: namely, respect for due process, and the absence of bias, discrimination, arbitrariness, or other extraneous motivations

(UN Administrative Tribunal Judgment No. 1069, *Madarshahi* (2002)).

39. Judgment UNDT/2010/009 already pointed out, referring to the transfer dated 19 September 2008, that, on the substance, the reassignment of the Applicant to the position of Chief, GSU, constituted a proper exercise of the Organization's discretionary power. Indeed, this position is at the Applicant's personal grade and the responsibilities involved correspond to this level, the functions to be performed are commensurate with the Applicant's competencies and skills, and he has substantial professional experience in the field of procurement. Moreover, by April 2010 the Applicant had been successfully fulfilling the duties of this particular position for one year and a half, demonstrating that he is qualified to discharge them. If his initial reassignment to GSU was rescinded, it was due to flaws in the decision-making process. The transfer presently contested does not suffer from such irregularities, inasmuch as ST/SGB/172 and ST/SGB/274 do not apply, for the reasons explained above.

40. Neither the contested decision, nor the circumstances surrounding same reveal bad faith on the part of the Administration. In spite of not having a legal duty to do so, the Applicant's supervisors consulted him on the course of action to be taken. The Administration was not bound then to follow his opinion, or to obtain his consent to the decision at issue. While being aware that the final decision was at the opposite of the Applicant's expressed preference, the Tribunal notes that the degree of adherence to the Applicant's preferences is not a criterion against which the correctness of the resulting decision should be measured.

41. Concerning the manner in which the Applicant was treated, no manifest unfairness or lack of respect transpires from the Organization's actions. The means chosen to notify the Applicant of the decision were adequate, very far from the all-staff email used on 19 September 2008. Also, it is the Tribunal's view that the Administration, in requesting interpretation of Judgment UDNT/2010/009, did not engage in dilatory manoeuvres with the aim of harming to the Applicant.

42. In sum, no breach of any applicable rule or principle has been found with respect to the decision to reassign the Applicant from the position of O-i-C, HRMS, UNCTAD, to that of Chief, GSU, UNCTAD, dated 14 April 2010 and effective 15 April 2010.

43. Finally, in the above-described circumstances, there is cause to determine that, contrary to the Applicant's claim, the Respondent did not abuse the proceedings before the Tribunal. Accordingly, the request for costs to be awarded against the Organization pursuant to article 16.2 of the Statute is hereby rejected.

**Conclusion**

44. In view of the foregoing, the Tribunal DECIDES:

The application is rejected.

*(Signed)*

Judge Thomas Laker

Dated this 8<sup>th</sup> day of December 2010

Entered in the Register on this 8<sup>th</sup> day of December 2009

*(Signed)*

Víctor Rodríguez, Registrar, UNDT, Geneva