

2012-UNAT-248, Iskandar

UNAT Held or UNDT Pronouncements

UNAT held that the Appellant had accepted the conditions of the RLA, which stated that “the loaned employee shall return to the releasing agency upon completion or termination of his assignment with UNAMID and that no offer of continuing employment shall be made to him by UNAMID without consulting the releasing agency”. UNAT held that the Appellant had had a valid employment contract with WFP, and he did not fulfil the conditions for termination under that same agreement. UNAT noted that the Appellant did not formally initiate the transfer procedure and/or termination. UNAT held that UNDT had not erred in finding that the Appellant was still on loan from WFP and that he could not be promoted to a UNAMID post unless he resigned from WFP. UNAT dismissed the appeal.

Decision Contested or Judgment/Order Appealed

The Applicant contested the decision denying him the opportunity to transfer from WFP to UNAMID as Principal Officer and refusing to remunerate him retroactively at the D-1 level from the time he had assumed his functions initially as Principal Officer and subsequently as Deputy Director (D-1) at UNAMID until his retirement. UNDT rejected the application finding that the Applicant had failed to establish that UNAMID had committed any fault. UNDT rejected the argument that during the period from 1 July 2009 to 26 January 2010 the Applicant was no longer on loan to UNAMID but was working for UNAMID under a secondment arrangement. UNDT found that the same reimbursable loan agreement (RLA) governed his relationship with UNAMID during the entire period of his service. UNDT also found that any possible confusion created by UNAMID about whether the Applicant had been selected for the D-1 level post was clarified by an email of 8 June 2009, which made it clear that the Applicant could not be promoted to a UNAMID post unless he resigned from WFP. UNDT further found that the Applicant had not formally requested UNAMID to initiate the transfer procedure provided in the Inter-Organisation Agreement.

Legal Principle(s)

A contract is formed by an unconditional agreement between the parties on the terms and conditions for the appointment, before issuance of the letter of appointment, if all the conditions for the offer are met by the candidate. The conditions for an offer should be understood as all those mentioned in the offer, those arising from the relevant rules of law for the appointment of staff members of the Organisation and those necessarily associated with constraints in the implementation of public policies entrusted to the Organisation.

Outcome

Appeal dismissed on merits

Full judgment

[Full judgment](#)

Applicants/Appellants

Iskandar

Entity

UNAMID

Case Number(s)

2011-268

Tribunal

UNAT

Registry

New York

Date of Judgement

29 Jun 2012

Language of Judgment

English

Issuance Type

Judgment

Categories/Subcategories

Appointment (type)

TEST -Rename- Benefits and entitlements-45

Reassignment or transfer

Discretion

Applicable Law

Administrative Instructions

- ST/AI/2006/3

Agreements, conventions, treaties (etc.)

- Inter-Organization Agreement between UNAMID and WFP

Related Judgments and Orders

UNDT/2011/166

2011-UNAT-120

2011-UNAT-111