

2016-UNAT-706, Gallo

UNAT Held or UNDT Pronouncements

UNAT held that there was no provision in the Staff Regulations or Rules stating that the Secretary-General's discretionary authority to issue a written reprimand as a non-disciplinary measure pursuant to Staff Rule 10.2(b) (i) was predicated upon and limited to the existence of an ongoing employment contract. UNAT found that to hold otherwise would render baseless those standards of conduct that survive active service. In addition, UNAT held that, from a practical perspective, it would stymie the Secretary-General's ability and discretionary authority to properly manage investigations and discipline staff. UNAT held that the Secretary-General's authority to administer the Organisation's records, including those of former staff members, and to ensure they reflect the staff member's performance and conduct during his or her period of employment, did not lapse upon the staff member's separation from service. Therefore, UNAT granted the appeal and vacated the UNDT judgment in part with respect to this holding and UNDT's order to remove the reprimand from the former staff member's Official Status File.

Decision Contested or Judgment/Order Appealed

A former staff member contested the decision to place a written letter of reprimand in his Official Status File, requesting rescission. UNDT found that it was unlawful for the Secretary-General to issue a written reprimand in connection with a former staff member's conduct while employed.

Legal Principle(s)

Imposition of non-disciplinary measure on former staff member is within the Secretary-General's discretion and lawful.

Outcome

Appeal granted

Full judgment

[Full judgment](#)

Applicants/Appellants

Gallo

Entity

OIOS

Case Number(s)

2016-940

Tribunal

UNAT

Registry

New York

Date of Judgement

28 Oct 2016

President Judge

Judge Felix

Language of Judgment

English

Issuance Type

Judgment

Categories/Subcategories

Disciplinary matters / misconduct

Non-disciplinary/administrative measures

Discretionary authority

Applicable Law

Staff Rules

- Rule 10.2(b)

Related Judgments and Orders

UNDT/2016/038