

# 2019-UNAT-957, Spinardi

## UNAT Held or UNDT Pronouncements

UNAT was not satisfied that the essential elements were present to enable the IMO SAB to take a decision within the meaning of Article 2(10) of the UNAT Statute. UNAT held that, even if the SAB issuance was a decision, it was only advisory or recommendatory. UNAT noted that the SAB gave advice to the Secretary-General of IMO, who could not be regarded as a neutral part of the process as he is both the employer's representative and the original decision-maker. UNAT held that it was the Secretary-General of IMO, who was not neutral in the first instance process, who took the final decision. UNAT remanded the matter of the appeal to the IMO SAB under Article 2(10) of the UNAT Statute for reconsideration and decision. UNAT also noted that the Respondent must comply with its due process obligations.

## Decision Contested or Judgment/Order Appealed

The individual contested the decision of the Secretary-General of the International Maritime Organisation (IMO) not to reclassify her post, which was taken upon the recommendation of the Classification Committee and the subsequent recommendation from the Staff Appeals Board (SAB).

## Legal Principle(s)

UNAT is competent to hear appeals from an international organization or other entities participating in the common system of conditions of service where a special agreement has been concluded which accepts the jurisdiction of UNAT; however, such a special agreement may only be concluded where the organization or entity utilizes a neutral first instance process that includes a written record and written decision providing reasons, fact, and law.

## Outcome

Appeal granted

## Full judgment

[Full judgment](#)

## Applicants/Appellants

Spinardi

## Entity

IMO

## Case Number(s)

2019-1255

## Tribunal

UNAT

## Registry

New York

## Date of Judgement

25 Oct 2019

## President Judge

Judge Colgan

## Language of Judgment

English

## Issuance Type

Judgment

## Categories/Subcategories

Jurisdiction / receivability (UNAT)

Appeal

## Applicable Law

IMO Staff Regulations and Rules

- Rule 111.1(a)
- Rule 111.1(b)

UNAT Statute

- Article 2.10

## Related Judgments and Orders

2017-UNAT-761