

# 2021-UNAT-1089, Van Khanh Nguyen

## UNAT Held or UNDT Pronouncements

UNAT held that the UN-ISA Special Agreement and the resulting ISA Staff Rules do not comply with the UNAT Statute and, consequently, UNAT is unable to exercise its jurisdiction as a second-level tribunal. The jurisdictional power of UNAT, *ratione personae*, and *ratione materiae* cannot be established or extended unilaterally by the litigating parties through a procedural contract, expressly or tacitly agreed.

## Decision Contested or Judgment/Order Appealed

The decision to reject Ms Nguyen's claim for her separation entitlements as a result of her shortened secondment from UNOPS to ISA.

## Legal Principle(s)

The JAB of ISA provides recommendations to the Secretary-General of ISA; it does not decide on an appeal. It is therefore not a neutral first instance process within the meaning of Article 2.10 of the UNAT Statute.

## Outcome

Case remanded

Outcome Extra Text

To ensure compliance with the jurisdictional requirements of the UN-ISA Special Agreement and Article 2.10 of the UNAT Statute, UNAT remands the matter to the JAB for reconsideration and decision by a neutral first instance process that produces a written decision and record that includes a statement of the relevant facts and law, with written reasons and analysis.

Full judgment

[Full judgment](#)

Applicants/Appellants

Van Khanh Nguyen

Entity

ISA

Case Number(s)

2020-1408

Tribunal

UNAT

Registry

New York

Date of Judgement

19 Mar 2021

President Judge

Judge Raikos

Language of Judgment

English

Issuance Type

Judgment

Categories/Subcategories

TEST -Rename- Benefits and entitlements-45

Jurisdiction / receivability (UNAT)

Appeal

Applicable Law

UNAT Statute

- Article 2.10

Related Judgments and Orders

2020-UNAT-983