

2022-UNAT-1251, Secretary-General

UNAT Held or UNDT Pronouncements

UNAT considered an appeal by the Secretary-General. UNAT held that Ms. Caucci's situation differed from the UNDT Judgment in Tran Nguyen (UNDT/2015/002) and therefore it was erroneous for the UNDT to apply such jurisprudence to find that Ms. Caucci had a general service lien with MINUSMA during and after her service with DPO. UNAT held that the rights of staff members on secondment under the Inter-Organization Agreement concerning Transfer, Secondment or Loan of Staff among the Organizations applying the United Nations Common System of Salaries and Allowance, which was at issue in Tran Nguyen, was not applicable to Ms. Caucci who was not on secondment and only held a fixed-term appointment (not a permanent appointment). UNAT held that all Ms. Caucci had was the specific lien on her former post with MINUSMA which was extended until 30 April 2019. UNAT held that, in entering into the Memorandum of Understanding (MoU) on 20 April 2019, Ms. Caucci gave up the specific lien to this or any other MINUSMA post. UNAT held that such MoUs are common and have been deemed lawful and binding by UNAT. UNAT held that as the content and meaning of the MoU was plain and clear, and there was no allegation of duress, there was no reason why the MoU should not have been enforced. UNAT held that it followed from the MoU that Ms. Caucci was estopped from taking legal action against any administrative decision related to its implementation. UNAT held that the subsequent separation decision implemented the MoU. UNAT granted the Secretary-General's appeal, reversed the UNDT Judgment and dismissed Ms. Caucci's application.

Decision Contested or Judgment/Order Appealed

Before UNDT, Ms. Caucci contested the decision to separate her from MINUSMA following completion of a temporary assignment with the UN Secretariat Department of Peace Operations (DPO). UNDT allowed the application, rescinded the contested decision and awarded in lieu compensation of one year's net base salary. The Secretary-General appeals the UNDT Judgment.

Legal Principle(s)

A memorandum of agreement signed by a staff member will normally be enforced. Fixed-term and temporary appointments cannot create a service lien beyond the expiration dates of such appointments as they do not carry any expectancy of renewal.

Outcome

Appeal granted

Full judgment

[Full judgment](#)

Applicants/Appellants

Secretary-General

Entity

UN Secretariat

Case Number(s)

2021-1579

Tribunal

UNAT

Registry

New York

Date of Judgement

12 Aug 2022

President Judge

Judge Knierim

Language of Judgment

English

Issuance Type

Judgment

Categories/Subcategories

Reassignment or transfer

Separation from service

Applicable Law

Administrative Instructions

- ST/AI/2010/3
- ST/AI/2010/4/Rev.1

Agreements, conventions, treaties (etc.)

- Inter-Organization Agreement Concerning Transfer, Secondment or Loan of Staff among Organizations applying the United Nations Common System of Salaries and Allowances

Staff Regulations

- Regulation 4.5
- Regulation 4.13(c)

Staff Rules

- Rule 4.12(c)

Related Judgments and Orders

2010-UNAT-002

2017-UNAT-777

2010-UNAT-017