

2018-UNAT-839, Hamdan

UNAT Held or UNDT Pronouncements

UNAT considered the appeal. UNAT noted that UNRWA's disciplinary system provides that the Commissioner-General may only impose such disciplinary measures on current staff members. UNAT accordingly found that UNRWA DT erred in finding that the Commissioner-General was entitled to impose the disciplinary measure of a fine after the Appellant's employment ended and held that the disciplinary measure had to be rescinded. With respect to the Appellant's request for compensation, UNAT noted that it may only award compensation for harm in cases where the individual presented evidence, other than their own, testimony that they suffered a pecuniary or moral injury due to the contested administrative decision. UNAT held that the Appellant did not suffer any pecuniary injury and did not present any evidence showing that he suffered mental distress, anxiety, or another moral injury during the investigation and/or the proceedings. UNAT accordingly could not award compensation to the Appellant. UNAT partially upheld the appeal and vacated UNRWA DT's judgment insofar as it dismissed the Appellant's application for rescission of the disciplinary measure of a fine. UNAT dismissed the appeal and affirmed UNRWA DT's judgment to the extent that it dismissed the Appellant's application for compensation for moral and reputational damage. UNAT ordered rescission of the disciplinary measure, directed the Commissioner-General to retribute to the Appellant the amount of the fine with interest payable from 24 August 2016, and ordered the removal of the disciplinary measure from the Appellant's official status file.

Decision Contested or Judgment/Order Appealed

The Applicant contested the Agency's decision to impose on him the disciplinary measure of a fine equivalent to two months' net base salary. UNRWA DT found that the Applicant engaged in actions that constituted misconduct. UNRWA DT noted that the misconduct was particularly serious in light of the Applicant's senior managerial position and that the contested sanction was neither absurd nor perverse. UNRWA

DT dismissed the application in its entirety.

Legal Principle(s)

The Commissioner-General's authority is restricted to imposing disciplinary measures on current staff members. UNAT may only award compensation for harm in cases where the staff member has presented evidence other than his own testimony that he or she suffered pecuniary or moral injury due to the contested administrative decision.

Outcome

Appeal granted in part

Full judgment

[Full judgment](#)

Applicants/Appellants

Hamdan

Entity

UNRWA

Case Number(s)

2017-1134

Tribunal

UNAT

Registry

New York

Date of Judgement

22 Mar 2018

President Judge

Judge Knierim

Language of Judgment

English

Issuance Type

Judgment

Categories/Subcategories

Compensation

Disciplinary matters / misconduct

Abuse of authority

Disciplinary measure or sanction

Applicable Law

UNAT Statute

- Article 9

UNRWA Area Staff Regulations

- Regulation 10.2

UNRWA Area Staff Rules

- Rule 110.1

UNRWA DT Statute

- Article 3

UNRWA Personnel Directives

- PD A/10/Rev.1