

# **2018-UNAT-888, Al Saleh**

## UNAT Held or UNDT Pronouncements

UNAT considered the Appellant's request for an oral hearing and claims for moral damages and reinstatement. UNAT held that the factual and legal issues arising from the appeal have already been clearly defined by the parties and did not find that an oral hearing would "assist in the expeditious and fair disposal of the case. " To that end, UNAT denied the Appellant's request for an oral hearing. UNAT found no fault with UNRWA DT's conclusion that it was highly probable that the Appellant had a leadership role in the armed clashes of 18 June 2015. UNAT held that there was no evidence to suggest that the Commissioner-General's decision was absurd, arbitrary or tainted by extraneous reasons or bias. UNAT agreed with UNRWA DT's findings that the Appellant's conduct in outside activities caused serious reputational damage to the Agency. UNAT dismissed the Appellant's appeal.

## Decision Contested or Judgment/Order Appealed

The Applicant contested the decision to terminate his appointment for misconduct. UNRWA DT found that it was highly probable that the Applicant was involved with the group which conducted the armed clashes. UNRWA DT held that these facts constituted misconduct under the applicable UNRWA Area Staff Regulations and Rules. UNRWA DT held that the disciplinary measure of termination with full termination indemnity was proportionate to the gravity of the misconduct and the sanction was neither absurd nor arbitrary.

## Legal Principle(s)

Disciplinary measures imposed by the Agency are within the discretion of the Commissioner-General. It is important for staff not to engage in any outside activities that are incompatible with the proper discharge of their duties with the Agency, as they can impact the integrity and reputation of the Organisation. The

appellant has the burden on appeal to establish that the impugned judgment is defective and may not repeat on appeal arguments that failed before the first instance tribunal. The appellant must demonstrate that the first instance tribunal has committed an error of fact or law warranting the intervention by the Appeals Tribunal.

## Outcome

Appeal dismissed on merits

## Full judgment

[Full judgment](#)

## Applicants/Appellants

Al Saleh

## Entity

UNRWA

## Case Number(s)

2018-1181

## Tribunal

UNAT

## Registry

New York

## Date of Judgement

26 Oct 2018

## Language of Judgment

English

## Issuance Type

Judgment

## Categories/Subcategories

Disciplinary matters / misconduct

Disciplinary measure or sanction

Dismissal/separation

Termination (of appointment)

Disciplinary sanction

## Applicable Law

UNAT RoP

- Article 18.1

UNAT Statute

- Article 2.1
- Article 8.3

UNRWA Area Staff Regulations

- Regulation 1.4
- Regulation 1.7