

2019-UNAT-923, Baramky

UNAT Held or UNDT Pronouncements

UNAT held that the first time the Appellant's claim for implementation of the sanction (an apology to the Appellant) was raised was on appeal and that it was therefore not receivable, however, UNAT held that the Appellant was not barred from requesting UNRWA to enforce its letter of censure. On the Appellant's claim for moral damages, UNAT found no error in UNRWA DT's order denying the Appellant's request for moral damages since there was no evidence of harm. UNAT dismissed the appeal and affirmed the UNRWA DT judgment.

Decision Contested or Judgment/Order Appealed

The Applicant filed two applications which contested: (1) the decision to transfer him permanently to the Cash for Work Programme; and (2) the disciplinary measures imposed on two staff members following the outcome of the investigations into the Applicant's complaints against them. UNRWA found that the Applicant's first application had become moot to the extent that the decision to permanently transfer him had already been rescinded. On the second application, contesting the disciplinary measures imposed on two staff members, UNRWA DT found that since the Applicant had not raised any further claim about the lack of apology, the apology was no longer an issue between the parties. UNRWA DT dismissed the Applicant's contention that the disciplinary measures were disproportionate. UNRWA DT dismissed the applications and made no award of damages.

Legal Principle(s)

Once a disciplinary measure had been imposed on the staff member, the victim of retaliation is entitled to know whether it is commensurate in gravity with the misconduct.

Outcome

Appeal dismissed on merits

Full judgment

[Full judgment](#)

Applicants/Appellants

Baramky

Entity

UNRWA

Case Number(s)

2018-1216

Tribunal

UNAT

Registry

New York

Date of Judgement

28 Jun 2019

Language of Judgment

English

Issuance Type

Judgment

Categories/Subcategories

Disciplinary matters / misconduct

Disciplinary measure or sanction

Ethics office

Retaliation

Reassignment or transfer

Applicable Law

UNAT Statute

- Article 2.1

UNRWA DT Statute

- Article 10.5(b)