

2020-UNAT-1029, El Madhoun

UNAT Held or UNDT Pronouncements

UNAT considered an appeal by the Commissioner-General. UNAT held that UNRWA DT correctly concluded that UNRWA had failed to provide sufficiently clear, precise, and intelligible reasoning and had not acted lawfully, reasonably, and fairly. UNAT held that once a staff member was eligible for EVR in accordance with paragraph 8 of Area Staff Rule 109. 2, paragraph 9 became applicable and its text was clear. UNAT held that Mr. El Madhoun was eligible for EVR and it was not established that budgetary constraints were either ground for rejecting his request for EVR or for not withdrawing his notice of termination of his appointment. UNAT dismissed the appeal and affirmed the UNRWA DT judgment.

Decision Contested or Judgment/Order Appealed

The Applicant contested the decision to terminate his appointment in the interest of UNRWA. UNRWA had failed to adduce any evidence in support of its generic reasoning that the staff member's requests for early voluntary retirement were rejected due to lack of funds and/or budgetary constraints. UNRWA DT found the termination decision to be illegal and ordered rescission or payment of compensation.

Legal Principle(s)

The discretion of the Commissioner-General of UNRWA to reject a request for Early Voluntary Retirement (EVR) on grounds of budgetary constraints is not unfettered. UNRWA must use its discretion reasonably and properly, taking into account all relevant considerations. The reasoning for a harmful administrative decision must be sufficiently clear, precise, and intelligible. Generic reasoning befitting every case is insufficient and renders the decision unlawful.

Outcome

Appeal dismissed on merits

Outcome Extra Text

Reinstatement or financial compensation; Reinstatement or financial compensation

Full judgment

[Full judgment](#)

Applicants/Appellants

El Madhoun

Entity

UNRWA

Case Number(s)

2019-1340

Tribunal

UNAT

Registry

New York

Date of Judgement

26 Jun 2020

President Judge

Judge Neven

Language of Judgment

English

Issuance Type

Judgment

Categories/Subcategories

Separation from service

Termination of appointment (see also, Termination of appointment)

Applicable Law

Laws of other entities (rules, regulations etc.)

UNRWA Area Staff Rules

- Rule 109.2

Related Judgments and Orders

2018-UNAT-853