

2020-UNAT-1060, Abu Rabei

UNAT Held or UNDT Pronouncements

UNAT considered that the 1994 and 2018 requests made by the Appellant to change his date of birth were essentially the same requests. UNAT recalled that the reiteration of an original administrative decision if repeatedly questioned, does not reset the clock with respect to the statutory timeline. UNAT held that the statutory period during which the Appellant had to file a challenge to the 1994 decision expired in 1997. UNAT held that UNRWA DT did not err in dismissing the application. On consideration of the Respondent's claim to award costs, UNAT was not satisfied that the pursuit of the appeal by the Appellant was a clear abuse of the appeal process. UNAT dismissed the appeal and the claim for costs and affirmed the UNRWA DT judgment.

Decision Contested or Judgment/Order Appealed

The Applicant challenged the decision of the Administration not to change his official date of birth in their records from 1958 to 1959. This decision was made and communicated to him in November 1994, with reasons, and was not contested at that time. Subsequent to that, the Applicant received a number of communications from UNRWA showing his date of birth as 1958 without challenge. In 2018, having been informed that he would be separated from service on grounds of age, the Applicant again requested his date of birth to be changed, which was refused. UNRWA DT found that the Application was not receivable as the application was filed many years after the first decision to refuse to change his date of birth and more than the statutory maximum of three years within which such proceedings must be brought.

Legal Principle(s)

Reiteration of an original administrative decision, if repeatedly questioned by a staff member, does not reset the clock with respect to statutory timelines; time starts to run from the date on which the original decision was made. Costs may only be awarded by UNAT if it considers that a party has manifestly abused the appeals process, which is a high threshold and, as such, the order is rarely made and usually only after a party is warned of such a consequence if the party's abuse of process continues. On deciding whether to award costs, UNAT may take into account other considerations, such as whether the Appellant was represented or whether there is an issue in the case which was not clear-cut.

Outcome

Appeal dismissed on merits

Outcome Extra Text

No relief ordered; No relief ordered.

Full judgment

[Full judgment](#)

Applicants/Appellants

Abu Rabei

Entity

UNRWA

Case Number(s)

2020-1381

Tribunal

UNAT

Registry

New York

Date of Judgement

30 Oct 2020

President Judge

Judge Colgan

Language of Judgment

English

Issuance Type

Judgment

Categories/Subcategories

Administrative decision

Notification

Jurisdiction / receivability (UNDT or first instance)

Temporal (ratione temporis)

Applicable Law

UNAT Statute

- Article 9.2

UNRWA DT Statute

- Article 8.4

Related Judgments and Orders

2015-UNAT-521

2018-UNAT-824

2015-UNAT-557

2018-UNAT-854