

# 2022-UNAT-1243, Mohammed Faour

## UNAT Held or UNDT Pronouncements

UNAT noted that UNRWA DT's analysis of whether Mr. Faour had timely requested review of the decision not to renew his contract, the UNRWA DT focused on Mr. Faour's omnibus letter (of 17 December 2018) to his superior containing many complaints, including a request for review of his performance review, but no request for review of the contested decision (the non-renewal of his contract). UNAT found, however, that other correspondence from Mr. Faour that was within the statutory 60 days to request a decision review did fulfill the minimum criteria required by UNAT judgments: it identified the staff member and the decision complained about (that is his severance from service), and, albeit by a narrow margin, it requested unambiguously a review of that decision. UNAT expressed the foregoing as being "arguable cases" for Mr. Faour on the issue of whether he had timely filed for decision review. However, UNAT concluded that there was a further jurisdictional impediment to his success on appeal. Even if the challenge to the decision was timely by taking account of all of the relevant correspondence, there is a further time limit applicable in the event of management evaluation not being undertaken, and Mr. Faour breached this limit by a very wide margin. If it was assumed in his favour that Mr. Faour's application for decision review was lodged on 31 January 2019 and was not responded to by the Agency, Mr. Faour then had the period of 120 days from 31 January 2019 to file his challenge to the administrative decision with the UNRWA DT, that is until 31 May 2019. He did not do so until 27 February 2020, some 9 months out of time. So even at best for Mr. Faour assuming that he did seek decision review within time, his claim must fail because his proceedings in the UNRWA DT were filed out of time. The UNRWA DT was thus correct to dismiss his appeal as not receivable.

## Decision Contested or Judgment/Order Appealed

UNRWA/DT/2021/030 dismissed Mr. Faour's application as not receivable for failure to timely request review of the decision not to extend his fixed-term appointment.

## Legal Principle(s)

UNRWA's Area Staff Rule 111.2 provides that a staff member wishing to formally contest an administrative decision shall first submit a written request for decision review to the UNRWA Field Office Director of the particular Field Office in which the staff serves. The Rule's time limit for submitting such a request is 60 calendar days from the date on which the staff member received notification of the contested administrative decision. Article 8(3) of the UNRWA DT's Statute allows the Tribunal to extend, suspend or waive some temporal deadlines but not those for decision review. While a request for decision review may be made relatively informally, it must nevertheless be an unambiguous written request which clearly identifies the staff member and the contested decision.

## Outcome

Dismissed on merits

## Outcome Extra Text

UNAT dismissed the appeal and affirmed UNRWA DT's Judgment No. UNRWA/DT/2021/030.

## Full judgment

[Full judgment](#)

## Applicants/Appellants

Mohammed Faour

## Entity

UNRWA

## Case Number(s)

2021-1582

## Tribunal

UNAT

## Registry

New York

## Date of Judgement

1 Jul 2022

## President Judge

Judge Colgan

## Language of Judgment

English

## Issuance Type

Judgment

## Categories/Subcategories

Jurisdiction / receivability (UNDT or first instance)

## Applicable Law

UNRWA Area Staff Rules

- Rule 111.2

UNRWA DT Statute

- Article 8.3

UNRWA Area Staff Regulations

- Regulation 8

## Related Judgments and Orders

2016-UNAT-679