

# **2022-UNAT-1297, Eman Abed & Osama Abed**

## **UNAT Held or UNDT Pronouncements**

The UNAT considered an appeal by the UNRWA staff members. The UNAT held that the UNRWA DT was incorrect in finding that the reminder letters were not reprimands for the purposes of Appellants being able to challenge the letters' placement in their official status files. This was because such a reminder could not be considered a neutral action, but rather a warning of any possible disregard of the Agency's regulatory framework. The UNAT found that to the eyes of an average person, such a reminder is undeniably akin to a reprimand.

The UNAT agreed with the Appellants that there is no UNRWA rule that authorizes the Agency to issue reminder letters unless they are interpreted as being a reprimand, that is, an administrative decision subject to judicial review, given its direct adverse impact on the staff member's terms or conditions of appointment. The UNAT observed that the direct legal consequence of the letters will be their placement in the Appellants' official status files with possible impact on their future career prospects. The Appeals Tribunal considered that the letters had the individual purpose of an admonition rather than a general purpose of a reminder.

Accordingly, the UNAT held that the UNRWA DT erred when it found that Mr. Abed and Ms. Abed's applications were not receivable *rationae materiae*. The UNAT remanded the case to the UNRWA DT for a decision on the merits of Appellants' challenge to the issuance of the reminder letters and placement of such letters in their official status files.

Given that the appeal succeeded, the UNAT rejected the Commissioner-General's requests for an award of costs against the Appellants for supposedly filing groundless and frivolous applications.

## **Decision Contested or Judgment/Order Appealed**

In Judgment No. UNRWA/DT/2021/068, the UNRWA Dispute Tribunal dismissed Mr. Abed and Ms. Abed's applications which contested the decision of UNRWA to place "reminder letters" in their official status files, where such letters referred to their obligations to fully adhere to the Agency's Regulations and Rules and to behave in a manner befitting their status as staff of UNRWA. The UNRWA DT dismissed the applications as not receivable *ratione materiae* on the grounds that the reminder letters were not appealable administrative decisions.

## Legal Principle(s)

The key characteristics of an administrative decision subject to judicial review is that the decision must produce direct legal consequences affecting a staff member's terms or conditions of appointment. What constitutes an administrative decision will depend on the nature of the decision, the legal framework under which the decision was made, and the consequences of the decision.

Reprimands are administrative measures not considered to be disciplinary measures, even though they undoubtedly contain an element of reproach, admonition or at least criticism in order to avoid further breaches of the applicable rules and regulations. Reprimands are used to address minor infractions and they contain all the key elements to characterize them as reviewable administrative decisions.

## Outcome

Appeal granted; Case remanded

## Full judgment

[Full judgment](#)

## Applicants/Appellants

Eman Abed & Osama Abed

## Entity

UNRWA

## Case Number(s)

2022-1647

## Tribunal

UNAT

## Registry

New York

## Date of Judgement

21 Dec 2022

## President Judge

Judge Murphy

Judge Colgan

Judge Halfeld

## Language of Judgment

English

## Issuance Type

Judgment

## Categories/Subcategories

Disciplinary matters / misconduct

Non-disciplinary/administrative measures

Jurisdiction / receivability (UNDT or first instance)

Subject matter (ratione materiae)

## Applicable Law

## UNRWA Area Staff Rules

- Rule 110.1

## UNRWA Personnel Directives

- PD A/10/Rev.3

## Related Judgments and Orders

2015-UNAT-528

2014-UNAT-460

2014-UNAT-404

2013-UNAT-365

2015-UNAT-557