UNITED NATIONS APPEALS TRIBUNAL
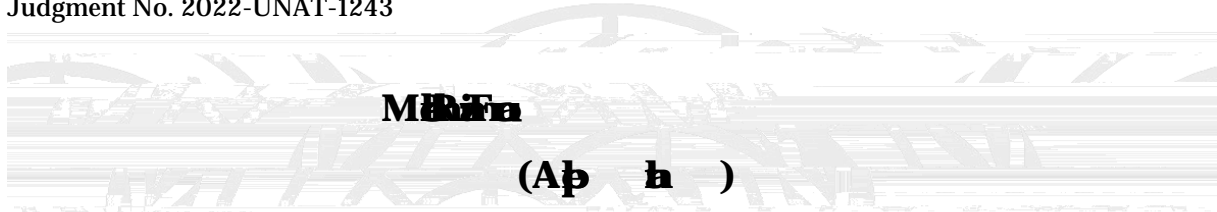# TRIBUNAL D'APPEL DES NATIONS UNIES

Judgment No. 2022-UNAT-1243

(Appellant)

v

(Respondent)

Counsel for Appellant: Self-represented

Counsel for Respondent: Hannah Tonkin

JUDGE GRAEME COLGAN, PRESIDING.

1.   Mohammed Faour (Appellant) appeals against the judgment of the United Nations Relief and Works Agency for Palestine Refugees in the Near East Dispute Tribunal (respectively UNRWA or Respondent, and UNRWA DT) dismissing his appeal as not receivable. His appeal turns on the question whether Mr. Faour requested management evaluation of the impugned decision within the time allowed for doing so and which was a necessary precondition of the receivability by the UNRWA DT of his challenge to the non-extension of his fixed term appointment (FTA). For the reasons set out in this Judgment, we dismiss the appeal and affirm the UNRWA DT's Judgment No. UNRWA/DT/2021/030.

decision review on 17 December 2018. The Commissioner-General, however, asserted that Mr. Faour submitted the request on 17 December 2019.

6.   If Mr. Faour is correct that he requested a decision review before the expiry of the 60-day period allowed for doing so, the UNRWA DT would have erred in fact or in law bID 8 25p-(,)-9.7

Procedure Before the Appeals Tribunal

9.   On 22 August 2021, Mr. Faour filed an appeal against the impugned Judgment and on 5 November 2021, the Commissioner-General filed his Answer.

Considerations

12.   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.

13.   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.

14.   The case therefore turns on whether the UNRWA DT erred in fact or in law in determining that Mr. Faour did not request decision review on 17 December 2018 as he now claims he did, or at least no more than 60 days after 31 January 2019 being the date of his last e-mail to the Organisation expressing his dissatisfaction with, and appealing, the administrative decision conveyed to him.

15.   The UNRWA DT acknowledged, correctly, that while such a request may be made relatively informally, it must nevertheless be an unambiguous written request which clearly identifies the staff member and the contested decision (see *Lemonnier* 2016-UNAT-679).

16.   Mr. Faour's e-mail of 17 December 2018 was addressed to Salem Deeb, the C/FEP/LFO and Mr. Faour's superior in the Field Office. It was an omnibus letter criticising the allegations that had been made against him, the investigation of the alleged misconduct committed by him, his performance evaluation, as well as the decision to not renew his contract. Although the letter did contain a request for a review, this was of his performance review, and it did not contain a request to review the now contested decision.

17.   As the UNRWA DT also found, the response to Mr. Faour's letter of 17 December 2018 did not interpret it as a request to review the contested decision. That was in contrast to Mr. Faour's 17 December 2019 letter which was clearly a request to review the contested decision, and the Agency's recognition of it as such, albeit that it was also well out of time.

18.   However, we consider that Mr. Faour's correspondence about this matter warrants closer examination that the UNRWA DT gave it in its summary of its content. The 17 December 2018 letter is headed "Grievance Letter 'Seeking Justice'" and while it does indeed address several complaints by Mr. Fr,s Na444-5.9 (g)-8s44ssr

legal representation organisation, upon which there was an arguably high expectation of knowledge and compliance, and not by a litigant in person as in this case.

23.   There is nothing in principle that requires it to be a stand-alone grievance that is identified in a management review request, although combining it with a number of other grievances runs the risk that it may be overlooked. But it is arguable for Mr. Faour if its multi-grievance nature e86a .

...

(d) The application is filed within the following deadlines:

(i) Within 90 calendar days of the applicant's receipt of the response by management to his or her submission; or

(ii) Within 90 calendar days of the expiry of the relevant response period for the decision review if no response to the request was provided. The response period shall be 30 calendar days after the submission of the decision to decision review;

27.   If it is 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.

28.   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 so decided correctly.

29.   In these circumstances, it is unnecessary for us to go on and decide the second issue raised on the appeal, whether the request for decision review made to the wrong person in the Agency was nevertheless also a valid exercise of that jurisdictional prerequisite step.

Jh

30. We dismiss the appeal and affirm UNRWA DT's Judgment No. UNRWA/DT/2021/030.

Original and Authoritative Version: English

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