UNITED NATIONS APPEALS TRIBUNAL
TRIBUNAL D'APPEL DES NATIONS UNIES

Judgment No. 2024-UNAT-1458

Islam Isam Hafiz Said
(Appellant)

v.

Commissioner-General
of the United Nations Relief and Works Agency
for Palestine Refugees in the Near East

(Respondent)

JUDGMENT

Before:	Judge Nassib G. Ziadé, Presiding Judge Kanwaldeep Sandhu Judge Leslie F. Forbang
Case No.:	2023-1839
Date of Decision:	28 June 2024
Date of Publication:	26 July 2024
Registrar:	Juliet E. Johnson

Counsel for Appellant:	Muhammad Mustafa Abdullah
Counsel for Respondent:	Stephen Margetts

closing Investigation #101 because Ms. Said was "not solely responsible for the misconduct and the published documents were not confidential".[4]

8. On 9 February 2020, the DUA/J approved the FLO/J's recommendations, and Investigation #101 was closed. However, Ms. Said was never informed of the outcome of the

19. On 2 January 2021, Ms. Said submitted a request for decision review of the Agency's decision to issue her a letter of reprimand for publishing confidential documents on social media. By letter dated 24 January 2021, the DUA/J upheld the contested decision.[16]

20. On 16 November 2021, Ms. Said submitted a request for decision review of "the Agency's decision to place adverse materials in [her] OSF at the end of [a] properly authorised investigation into a complaint filed against [her] for an alleged violation of neutrality". The Agency did not respond to her request.[17]

21. Ms. Said challenged both decisions before the UNRWA DT.

manifest abuse of proceedings. In the alternative, Ms. Said asks that the Appeals Tribunal remand the case to the UNRWA DT to be heard by a different judge.

The Commissioner-General's Answer

34. The Commissioner-General contends, in relation to the first application, that the UNRWA DT properly exercised its jurisdiction and correctly dismissed the request for damages. The UNRWA DT recalled that an award of compensation for harm must be supported by evidence. In the present case, there was only Ms. Said's own testimony about her alleged damages which was insufficient to establish that she had suffered compensable harm. In the absence of sufficient evidence of harm, it would not be appropriate to award any compensation.

35. The UNRWA DT's consideration of the issue of moral and material damages was correct. Effective January 2018, the UNRWA DT Statute was amended to include the requirement that, to

may be awarded, there must generally be a medical or psychological report or other evidence of the harm.[25]

42. Ms. Said produced no such evidence of harm, much less harm caused by the illegality. Absent such a showing, an award for damages would be in effect an award of exemplary or punitive damages, which we do not have authority to award.[26] Accordingly, the request for damages must be denied.

43. With regard to her second application, which contested the outcome of Investigation #101, Ms. Said challenges the UNRWA DT's failure to address her motions seeking translation of documents before adjudicating the case, and also appeals the determination that this application was not receivable *ratione materiae*. Ms. Said seeks reversal of the finding regarding receivability, an award of compensation for damages, and an order referring responsible individuals to the Commissioner-General to enforce accountability.

44. We agree with Ms. Said that the UNRWA DT erred, as a matter of procedure, in adjudicating the case without first ruling on her motions seeking translation of documents. Fundamental principles of fairness and equality of access to the internal justice system lead to the conclusion of determining such issues and providing translations, if called for, prior to resolving the merits of the matter. However, we do not find any ground to conclude that this procedural error seriously affected the substance of the decision, implicating Article 2(1)(*d*) of the UNAT's Statute. As we discuss below, the UNRWA DT was correct in finding that the second application was not receivable *ratione materiae*, and Ms. Said has presented no basis for this Tribunal to find that her access to translated material would have affected the outcome of the matter.

45. With respect to that substantive determination of receivability, Investigation #101 had been closed with no action taken, and no adverse material from that Investigation was placed in Ms. Said's Official Status File.[27] An application is receivable only if it contests an administrative decision that produces direct legal consequences affecting a staff member's terms or conditions of appointment.[28] No such administrative action occurred here in

[25] *Claude Cahn v. Secretary-General of the United Nations*, Judgment No. 2023-UNAT-1329, para. 69;
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connection with Investigation #101. That investigation was dismissed, and no adverse action was taken against Ms. Said. We find Ms. Said's claim in this respect to be speculative. To the extent that Investigation #101 was cited as an aggravating factor in Investigation #303, the letter of reprimand resulting from Investigation #303 was rescinded. The UNRWA DT was correct in finding that the second application was not receivable *ratione materiae*.

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Judgment

48. Ms. Said's appeal is dismissed, and Judgment No. UNRWA/DT/2023/015 is hereby affirmed.

Original and Authoritative Version: English

Decision dated this 28th day of June 2024 in New York, United States.

(Signed)	*(Signed)*	*(Signed)*
Judge Ziadé, Presiding	Judge Sandhu	Judge Forbang

Judgment published and entered into the Register on this 26th day of July 2024 in New York, United States.

(Signed)

Juliet E. Johnson, Registrar