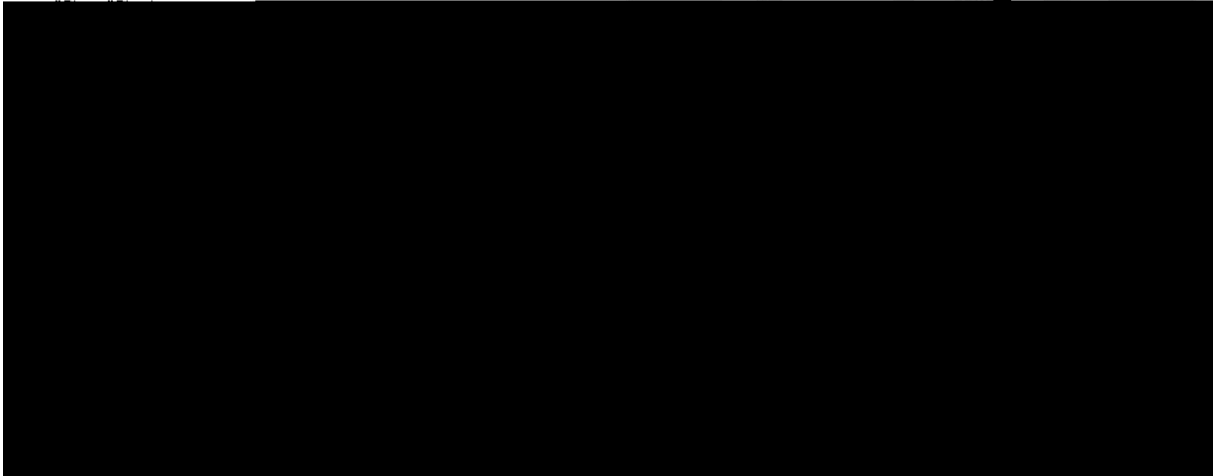


Judgment No. 2015-UNAT-606



Counsel for Mr. Hayek:

Self-represented

Counsel for Commissioner-Gen

JUDGE ROSALYN CHAPMAN , PRESIDING .

1. The United Nations Appeals Tribunal (Appeals Tribunal) has before it an appeal by Mr. Mohammad Saleh Hayek of Judgment No. UNRWA/DT/2015/022, rendered by the Dispute Tribunal of the United Nations Relief and Works Agency for Palestine Refugees in the Near East (UNRWA DT or Dispute Tribunal and UNRWA or Agency, respectively) in Amman on 16 March 2015, in the case of *Hayek v. Commissioner-General of the United Nations Relief*

seek review by the former Administrative Tribunal of the Commissioner-General's adoption of the JAB report.

6. On 3 August 2014, Mr. Hayek filed an application before the UNRWA DT. On 25, 26 and 27 November 2014, Mr. Hayek filed additional submissions, which included new documents. The UNRWA DT granted the Commissioner-General an extension of time to respond to the application and additional submissions, and on 23 January 2015, the Commissioner-General timely replied to the application.

7. On 16 March 2015, the UNRWA DT issued Judgment No. UNRWA/DT/2015/022, dismissing the application as not receivable *ratione materiae* and *ratione temporis*.

8. On 29 March 2015, Mr. Hayek filed an appeal of Judgment No. UNRWA/DT/2015/022, and on 8 June 2015, the Commissioner-General filed his answer to the appeal.

9. On 11 July 2015, Mr. Hayek filed a motion to file additional pleadings, which he submitted with his motion. On 17 August 2015, the Commissioner-General timely filed a motion to dismiss the Appellant's motion to file additional pleadings, with comments.

Submissions

Mr. Hayek's Appeal

10. Mr. Hayek challenges the decision to terminate him from service, as well as the JAB report. He claims that the JAB "is the second face of the administration" and did not discuss the reasons for the decision to terminate his services. Thus, he applied to the UNRWA DT for redress, but did not get any assistance. The reasons for his termination were invalid and contrary to the Agency's laws and regulations. Unfortunately, the UNRWA DT unfairly relied only upon the "deadline" for filing his application, wi

a deficit, the Commissioner-General does not seek an award of costs in that amount, but rather leaves the amount of the award of costs to the discretion of the Appeals Tribunal.

18. The Commissioner-General requests that the Appeals Tribunal reject Mr. Hayek's claims and dismiss the appeal in its entirety. Additionally, the Commissioner-General requests that the Appeals Tribunal award costs against Mr. Hayek for manifestly abusing the appeals process.

Considerations

Preliminary matter

19. On 11 July 2015, Mr. Hayek filed a motion to file a reply to the Commissioner-General's answer, asserting that the reply would assist his appeal by clearly explaining the full import of annexes 12 and 16 to his appeal. On 17 August 2015, the Commissioner-General filed a motion for dismissal of Mr. Hayek's motion to file an additional pleading.

20. The Rules of Procedure of the Appeals Tribunal (Rules) provide for the parties to file appeals, answers, cross-appeals and answers to cross-appeals. They do not provide for an appellant to file a reply to an answer. Nevertheless, the filing of additional pleadings may be allowed under Article 31(1) of the Rules, as well as Practice Direction No. 1,¹ which pertain to the filing of documents. Under Section II.A.3 of Practice Direction No. 1, an appellant may bring "[a] motion requesting the permission of the Appeals Tribunal to file a pleading after the answer to the appeal", and the Appeals Tribunal may grant the motion "if there are exceptional circumstances justifying the motion".

21. This Tribunal finds there are no "exceptional circumstances" to warrant the granting of Mr. Hayek's motion for leave to file a reply to the Commissioner-General's answer. The additional pleading proposed by Mr. Hayek is intended to further explain the import of two annexes to his appeal. These documents are already part of the record and need no additional explanation. Thus, Mr. Hayek's motion to file a reply to the answer is denied.

¹ Practice Direction on Filing of Documents and Case Management, 26 June 2014.

Receivability of the UNRWA DT application

22. Article 8(4) of the UNRWA DT Statute, which Area Staff Regulation 11.3 encompasses into the Area Staff Regulations, provides that “[n]otwithstanding paragraph 3 of the present article, an application shall not be received if it is filed more than three years after the applicant’s receipt of the contested administrative decision”. Article 3(5) of the UNRWA DT’s Rules of Procedure, integrated into the Area Staff Regulations through Area Staff Rule 11.4, provides the same.

23. The UNRWA Dispute Tribunal found that Mr.

Original and Authoritative Version: English

Dated this 30th day of October 2015 in New York, United States.

(Signed)

Judge Chapman, Presiding

(Signed)

Judge Adinyira

(Signed)

Judge Thomas-Felix

Entered in the Register on this 30th day of December 2015 in New York, United States.

(Signed)

Weicheng Lin, Registrar