UNITED NATIONS APPEALS TRIBUNAL
TRIBUNAL D'APPEL DES NATIONS UNIES

Judgment No. 2022-UNAT-1296

Deema Jarallah
(Respondent/Applicant)

v.

Commissioner-General
of the United Nations Relief and Works Agency
for Palestine Refugees in the Near East
(Appellant/Respondent)

JUDGMENT

Before:	Judge Dimitrios Raikos, Presiding Judge John Raymond Murphy Judge Martha Halfeld
Case No.:	2021-1634
Date of Decision:	28 October 2022
Date of Publication:	21 December 2022
Registrar:	Juliet Johnson

Counsel for Ms. Jarallah:	Self-represented
Counsel for Commissioner-General:	Hannah Tonkin

JUDGE DIMITRIOS RAIKOS, PRESIDING.

1. The United Nations Appeals Tribunal (Appeals Tribunal or UNAT) has before it an appeal against Judgment No. UNRWA/DT/2021/045, rendered by the Dispute Tribunal of the United Nations Relief and Works Agency for Palestine Refugees in the Near East (UNRWA DT or UNRWA Dispute Tribunal and UNRWA or Agency, respectively) on 30 September 2021, in the case of *Jarallah v. Commissioner-General of the United Nations Relief and Works Agency for Palestine Refugees in the Near East*. The UNRWA DT rescinded the decision of the Administration to pay Ms. Jarallah a Special Professional Officer Allowance (SPOA) of 25 per cent instead of a Special Occupation Allowance (SOA) of 35 per cent and ordered it to pay to Ms. Jarallah the differences between the salaries and associated entitlements she would have been paid, had she been paid an SOA of 35 per cent of her salary, effective 1 January 2020.

2. For the reasons set out below, we dismiss the appeal.

Facts and Procedure

3. Effective 30 December 2011, Ms. Deema Jarallah was employed by UNRWA on a Fixed-Term Appointment (FTA) as Programme Support Officer, Grade 15, Step 1, at the West Bank Field Office.

4. On 5 April 2019, the Agency published internally and externally a vacancy announcement (VA) for the position of Monitoring & Evaluation Team Leader, Grade 16 (M&E/TL), Field Office Jerusalem, Programme Support Office. The VA indicates that internal candidates would be offered *inter alia* an FTA with a basic salary of 1,137.10 Jordanian Dinars, as well as a Special Occupation Allowance (SOA) equivalent to 35 per cent of base salary.

5. Ms. Jarallah applied for the M&E/TL post, and, following a competitive recruitment process, on 2 December 2019, the Acting Head, Field Human Resources Office, West Bank informed her, along with a Letter of Appointment (LoA), that she was selected for the post and that she would be promoted to Grade 16.

6. On 5 December 2019, Ms. Jarallah accepted the appointment and signed the LoA and a copy of the VA, which was attached to the LoA.

7. Ms. Jarallah's payslip for January 2020 indicates that Ms. Jarallah was paid an SPOA of 25 per cent instead of an SOA of 35 per cent.

8. By e-mail to the Human Resources Career Management Officer (HRCMO) dated 12 February 2020, Ms. Jarallah noted the discrepancy in her payslip and requested the HRCMO to make the necessary amendments for future salary payments and to compensate her for the difference in her January 2020 salary payment.

9. By e-mail dated 12 February 2020, the HRCMO requested advice from the Head, Compensation & Benefits Section (H/C&B).

10. By e-mail dated 5 April 2020, the HRCMO transmitted the H/C&B's response to Ms. Jarallah and informed her that her post was only eligible for an SPOA of 25 per cent, while only the post of Monitoring Evaluation Officer located in Microfinance Department was eligible for an SOA of 35 per cent.

11. On 3 May 2020, Ms. Jarallah submitted her request for decision review.

12. On 17 June 2020, she submitted an application with the UNRWA DT against the decision of UNRWA to pay her SPOA of 25 per cent instead of an SOA of 35 per cent for the duration of her assignment in the post of M&E/TL as of 1 January 2020.

13. The Agency replied stating that, in view of Area Staff Personnel Directive A/21 on SPOA dated 1 October 2000 (Senior Professional Officer Allowance (SPOA)) (PD A/21) and Annex A to PD A/21, effective 18 March 2000 (Annex A/Amend. 12), Ms. Jarallah's LoA erroneously stipulated that she was entitled to an SOA of 35 per cent; and that this "anomaly" was caused by the fact that there was a post of Monitoring and Evaluation Officer in the Microfinance Department entitled to an SOA of 35 per cent. In accordance with PD A/21 and its Annex A/Amend. 12, an SPOA of 25 per cent was instead applicable to the post of M&E/TL at Grade 16.

14. On 30 September 2021, the UNRWA DT issued Judgment No. UNRWA/DT/2021/045. The UNRWA DT found that, in accordance with ASR 103.1(2), the Commissioner-General exercised his discretionary authority and considered it appropriate that, effective 1 January 2020, Ms. Jarallah was entitled to a "Monthly basic salary JD 1,137.1, plus 35% of base salary as [SOA]", as stipulated in the copy of the VA that she was asked to sign in order to accept the offer of employment. Therefore, the Agency could not argue before the UNDT that the Agency's

contractual commitment was an error, particularly, not with an unreasonable justification contending that it was due to an "anomaly". The UNRWA DT further found that Annex A/Amend. 12 was not yet in force at the time of the issuance of Ms. Jarallah's LoA, let alone during the period the VA was published. Rather, Annex A/Amend. 11 was in force at these relevant times, and it did not include a reference to the post of M&E/TL.

15. The UNRWA DT concluded that the Agency's contentions that Ms. Jarallah's LoA erroneously stipulated that she was entitled to an SOA of 35 per cent and that the Agency was entitled to remedy such a commitment were unreasonable, had no legal basis and, as such, were without merit. The UNRWA DT granted the application by rescinding the decision to pay Ms. Jarallah an SPOA of 25 per cent instead of an SOA of 35 per cent of her salary; and ordering the Administration to pay to Ms. Jarallah the differences between the salaries and associated entitlements she would have been paid, had she been paid an SOA of 35 per cent of her salary, effective 1 January 2020.

16. On 26 November 2021, the Agency filed an appeal, and on 25 January 2022, Ms. Jarallah filed her answer.

Submissions

The Commissioner-General's Appeal

17. The UNRWA DT erred in law and fact when it held that the Administration's contentions that the LoA erroneously stipulated that Ms. Jarallah was entitled to an SOA of 35 per cent and that the Agency was entitled to remedy such a commitment were unreasonable and without legal basis and thereby rescinded the contested decision.

18. The Agency requests that UNAT allow the appeal and vacate the UNRWA DT Judgment.

19. The UNRWA DT erred in law and fact in its holding that the Agency's contentions that her LoA was erroneous (in as far as it stipulated entitlement to an SOA of 35 per cent) and that the Agency was entitled to remedy such a commitment were unreasonable and had no legal basis. The UNRWA DT invoked the doctrine of estoppel based on two considerations, namely: the consideration that pursuant to ASR 103.1(2) the Commissioner-General exercised his discretionary authority and considered it appropriate that, effective 1 January 2020, Ms. Jarallah

was eligible for payment of 35 per cent SOA. The UNRWA DT also considered that the justification provided by the Agency was unreasonable.

20. The UNRWA DT erred in law and fact when it considered ASR 103.1 (2) and found that the Commissioner-General exercised his discretion to grant Ms. Jarallah SOA of 35 per cent. Pursuant to ASR 103.1, the Commissioner-General has the authority to specify salary and allowances payable to staff members. In this regard, the Commissioner-General exercised his authority and provided rates of SOA payable to staff in the West Bank. The applicable rates were published in the Budget Technical Instruction (BTI) No. 05 of 2020 dated 15 March 2020 with an effective date of 1 January 2020 and therefore applicable to the instant case. Grade 16 posts are not included among the posts eligible for the payment of SOA.

21. In its reply on record, the Agency referenced to the BTI – the impugned Judgment, however, makes no reference to it. Had the UNRWA DT referred to the BTI – it would have found that: i) Grade 16 posts are not entitled to SOA; ii) as such, the VA was issued in error and iii) the reason furnished by the Agency was reasonable.

22. By ordering the Agency to pay Ms. Jarallah SOA of 35 per cent, the UNRWA DT in effect substituted its decision for that of the Administration. In addition, the UNRWA DT ignored relevant matters – the published SOA rates payable to UNRWA staff. As contended above, if the UNRWA DT had reviewed the BTI, it would have reached a different conclusion. As such, it stands to reason that the characterization of the Appellant's justification as unreasonable was patently incorrect. At any rate, the UNRWA DT improperly applied the test of reasonableness. The test for reasonableness is whether a contested decision was a decision which a reasonable decision-maker would have made based on the information before them. In the instant case, a reasonable decision-maker would have come to the conclusion that the VA was issued in error and that SOA was not payable to Grade 16 posts given the published rates in the BTI.

23. With regard to the applicable instrument, the Agency concedes that Annex A to PD No. A/21/Rev.3. Amend. 11 was applicable and maintains that the post of M&E/TL was included in Grade 16 posts eligible for 25 per cent SPOA.

24. The crux of the Agency's case before the UNRWA DT was that the Agency had made an illegal commitment and was entitled to remedy the error. The expectation created by the Agency – entitlement to 35 per cent SOA - was in error, and the Agency had a duty to correct the error.

25. The contention that the Agency was entitled to remedy its erroneous commitment was therefore within the ambit of the law. As such, the UNRWA DT erred in holding that the contentions of the Appellant were unreasonable – on the contrary, the contentions were legal as established by UNAT's consistent jurisprudence on correcting errors. To concede to the UNRWA DT's position would render the established jurisprudence recognising that the Administration is entitled to correct illegal commitments or errors nugatory. There would be no situations where errors committed by management can be rectified.

26. The UNRWA DT also referenced the import of an appointment letter as a controlling document. However, the issue of 35 per cent SOA was only referenced in the VA and crucially was not mentioned in the offer letter of 2 December 2019. The import of the Agency's signature on the VA is doubtful. First, there was no evidence – apart from Ms. Jarallah's only assertion that she was asked to sign the VA in order to accept the offer of appointment. Secondly, apart from the signature appearing in the VA, there was no signature of any Agency official on the VA – while the offer letter was signed by both the Agency and Ms. Jarallah. As such, the UNRWA DT erred in relying on the signature on the VA to support the invocation of estoppel.

27. The Agency requests the Appeals Tribunal to allow the appeal and vacate the UNRWA DT Judgment.

Ms. Jarallah's Answer

28. The UNRWA DT did not err in law in its application of the doctrine of estoppel. Annex A/Amend. 12, referred to by the Agency was not yet in force, neither at the time of the issuance of Ms. Jarallah's LoA, nor during the period when the VA was published. The UNRWA DT pointed out that Annex A/Amend. 11 was in force at these relevant times, and it includes no reference to the post of M&E/TL. The UNRWA DT took into consideration the signed LoA between the Agency and Ms. Jarallah which is a binding legal document and which includes a signed copy of the VA with the job description. According to Staff Rule 111.1 by breaching the contractual commitment, the terms of appointment have been violated by the Agency.

29. There is no merit to the Agency's claim that BTI No. 05 dated 15 March 2020 with an effective date of 1 January 2020 is applicable to the instant case. The LoA was signed in December 2019 and therefore before the effective date of 1 January 2020, and the LoA (contract) is a binding legal document because it states the roles and responsibilities of both parties.

Moreover, the Agency's claim that Grade 16 posts are not included among the posts eligible for the payment of SOA, is false, because the post of Monitoring and Evaluation Officer in the Microfinance Department which was referred to by the Agency in its appeal to explain the cause of the confusion that resulted in the error in the contract, was a Grade 16 post with a 35 per cent SOA.

30. The Agency is introducing a new argument on appeal, which in addition is also false and misleading, when it claims that had the UNRWA DT referred to the BTI, it would have found that Grade 16 posts are not entitled to SOA and that as such, the VA was issued in error and the reason furnished by the Agency was reasonable. The SOA of 35 per cent was neither an anomaly nor an exception but rather applicable as there were five other posts with Grade 16 already granted an SOA of 35 per cent in the system, one of which was the M&E Officer in the Microfinance Department. In support of her contention, Ms. Jarallah attaches an e-mail sent by HR to Ms. Jarallah which reflects a list of Grade 16 posts that have an SOA of 35 per cent. On page 3 of this Annex, at the top of the page, HR provided a screen shot of the BTI 05 with the list of Grade 16 posts that were at the time eligible for 35 per cent SOA. Therefore, the Agency's argument in that regard is false and misleading.

31. Contrary to the Agency's contention, the UNRWA DT is not substituting its decision for that of the Administration. The Agency is trying to mislead the court. Ms. Jarallah has a legally binding contract with the Agency and as per Staff Rule 111.1 her contract of employment/terms of appointment have been violated. Ms. Jarallah filed an application to reinstate her rights and the UNRWA DT Judgment was based on the provided facts as well as the rules, regulations and legal precedents.

32. Moreover, the UNRWA DT did not ignore relevant matters, i.e. the published SOA rates payable to UNRWA staff which were referred to by the Agency. In fact, the UNRWA DT in its Judgment referred to all the relevant Area Staff Personnel Directives referred to by the Agency, with all the SOA rates, and therefore based its Judgment on those that were in force at the relevant time of the issuance of the LoA, and the time the LoA was signed, as stated in the Judgment.

33. The UNRWA DT did not err in holding that the Agency's contentions were unreasonable. While the Agency is entitled to rectify an error for a future employment, it may not do so for an already awarded contract. In addition, rectifying an error done by the Agency should not be at the expense of the staff member, in this case Ms. Jarallah, whose main reason for applying to this post was that this post was designated with a 35 per cent SOA. Correcting errors should not violate

staff's terms of appointment. Moreover, the Agency had several opportunities to rectify the SOA error before signing of the LoA (contract). This could have been flagged and rectified any time after the issuance of the VA on 5 April 2019, including at the time of the invitation to the written test, during the interview (selection board process), and up to any time before the issuance of the offer on 2 December 2019 for Ms. Jarallah's acceptance and signature.

34. The Agency is intentionally misleading the court by stating that the issue of 35 per cent SOA is only referenced in the VA and crucially was not mentioned in the offer letter of 2 December 2019. In the first paragraph on page 2 of the contract/offer it states: "If the above conditions are acceptable to you then please sign the bottom portion of the copy of this letter, the relevant post Job Description together with the form of designation, change or revocation of beneficiary and return them to me as soon as possible, but not later than one week as from the date of this letter." Therefore, Ms. Jarallah had to sign both the LoA and the copy of the VA which includes the post Job Description as part of the process of accepting the LoA. In addition, at the bottom of the last page of the VA which contains the job description and which was attached to the contract, HR added: "I have seen the above and have been informed about the duties and responsibilities attached to the post which I occupy and have been given a copy of this post description." By adding these lines, HR adapted the VA/job description to become an integral part of the LoA. HR also added to the VA a line requesting the incumbent's name, signature and date. The Agency provided only the first two pages in Annex 2, and therefore Ms. Jarallah is adding it in Annex 6. The Agency is intentionally ignoring the clear evidence in the LoA which mentions signing the Job Description (VA). In addition, the Agency has left out the signed Job Description (VA) and did not attach it in Annex 2 although it is, was and remains an integral part of the signed contract/offer letter. The signed Job Description (VA) was originally annexed by Ms. Jarallah in her application.

35. Moreover, the Agency is introducing a new argument on appeal by stating that the import of the signature on the VA is doubtful. The Agency is intentionally omitting and overlooking the clear evidence in the contract/offer letter which mentions signing the Job Description (VA) as can be seen in the contract/offer letter in Annex 2, page 2, first paragraph, lines 1-2. As clarified above, these lines are clear evidence that Ms. Jarallah was requested in the contract to sign the post Job Description. In fact, these lines are present in all UNRWA job offers to staff up until then, and not only in her case. By ignoring the above-mentioned lines in the contract/offer letter and stating that Ms. Jarallah is the only one asserting that she had been asked to sign the VA in order to accept

the offer of appointment, the Agency is misleading the court and unjustifiably doubting Ms. Jarallah's credibility. As such, the Agency's argument to prove that the UNRWA DT erred in relying on the signature on the VA to support the invocation of estoppel, is without merits. Furthermore, the fact that the post Job Description (VA) was only signed by the staff member is a regular procedure by UNRWA and not only for the present case.

36. Ms. Jarallah requests that UNAT dismiss the appeal and affirm the UNRWA DT Judgment.

Considerations

37. The UNRWA DT did not err in its decision. This Tribunal is in agreement with its findings and conclusions as set out below.

Legal framework

38. ASR 103.1(2) provides: "The Commissioner-General may set conditions of service including specific salary and allowances payable to staff members under particular occupational groups in accordance with their respective levels, qualifications and duty stations."

39. PD A/21 provides, in relevant parts, as follows:[1]

> 3. The Directive shall apply to all staff members at grade 16 and above as follows:
>
> a) All posts in the following grades shall be entitled to SPOA based on percentage of base salary:
>
> - **Grade 16** 15% of base salary *[However, posts at Grade 16 with managerial responsibilities (as per Annex "A" attached) shall be entitled to SPOA of 25 % of base salary]*

40. Annex A to PD A/21, effective 8 August 2019 (Annex A/Amend. 11), in force at the time of the issuance of Ms. Jarallah's LoA, only includes the post of "M&E/TL, FPSO Gaza Field" and not the post of M&E/TL. While Annex A/Amend. 12, which includes the post of M&E/TL only entered into force on 18 March 2020.

[1] Original emphasis.

41. In the present case, the UNRWA DT considered the litigated issues as follows in its Judgment:[2]

> … In the present case, it is clear that, in accordance with ASR 103.1 (2), the Commissioner-General exercised his discretionary authority and considered it appropriate that, effective 1 January 2020, the Applicant is eligible to a "Monthly basic salary JD 1,137.1, plus 35% of base salary as [SOA]", as stipulated in the copy of the VA that she was asked to sign in order to accept the offer of employment. Therefore, the Respondent cannot now argue before the Tribunal that the Agency's aforementioned contractual commitment was an error, particularly, not with an unreasonable justification contending that it was due to an "anomaly".
>
> … Moreover, Annex A/Amend. 12, referred to by the Respondent, was not yet in force at the time of the issuance of the Applicant's LoA, let alone during the period the VA was published. Rather, Annex A/Amend. 11 was in force at these relevant times, and it is the version applicable to the Applicant's case, and it does not include a reference to the post of M&E/TL at all.

42. Based on these legal and factual findings, the UNRWA DT concluded that the Administration's contentions that Ms. Jarallah's LoA had erroneously stipulated that she was entitled to an SOA of 35 per cent and that the Agency was entitled to remedy such a commitment were unreasonable, had no legal basis and, as such, were without merit.[3] Accordingly, the UNRWA DT rescinded the decision of the Administration to pay Ms. Jarallah an SPOA of 25 per cent instead of an SOA of 35 per cent and ordered it to pay to Ms. Jarallah the differences between the salaries and associated entitlements she would have been paid, had she been paid an SOA of 35 per cent of her salary, effective 1 January 2020.

43. The UNRWA DT's conclusion is correct on both prongs of its underpinning reasoning. It is a matter of the record that the published VA for the M&E/TL, Grade 16 position indicated that internal candidates would be offered *inter alia* an FTA with a basic salary of 1,137.10 Jordanian Dinars, as well as an SOA, equivalent to 35 per cent of base salary. Ms. Jarallah, being the successful candidate, was selected for the post, she accepted the Agency's offer of employment and an LoA was issued by the competent official.

[2] Impugned Judgment, paras. 24-25.
[3] *Ibid.*, para. 28.

44. As the Appeals Tribunal has consistently held, the issuance of an LoA signed by the appropriate United Nations official or someone acting on his or her behalf is more than a mere formality.[4] Rather, the LoA governs the conditions of the employment relationship, along with the Regulations and Rules of the Organization which are incorporated into the contract.[5]

45. In these circumstances, a valid contract of employment existed between Ms. Jarallah and the Agency and Ms. Jarallah's LoA,—an integral part of which was the Job Description contained in the VA with a reference to the 35 per cent SOA—, was the controlling documentary evidence. The language of the Job Description in the VA and concomitantly Ms. Jarallah's LoA was clear, unambiguous and easy to understand. It established that Ms. Jarallah, *inter alia*, was entitled to an SOA, equivalent to 35 per cent of base salary for her FTA.

46. Where a clear and unambiguous contractual undertaking has been made which forms part of the concluded relevant employment contract, as in the case at hand, the authority undertaking the contractual commitment will not be allowed to depart from it. The Agency was under an obligation to honour its contractual obligations to Ms. Jarallah. It was clearly inscribed in Ms. Jarallah's contract of employment that she was entitled to a 35 per cent SOA and this unequivocal contractual commitment of the Agency to pay her that SOA was capable of immediate implementation.

47. In this respect, we recall our jurisprudence that the Administration has an obligation to act in good faith and comply with applicable laws. Mutual trust and confidence between the employer and the employee are implied in every contract of employment. Both parties must act reasonably and in good faith.[6] Thus, the Agency was bound to implement the specific terms

[4] *Badawi v. Commissioner-General of the United Nations Relief and Works Agency for Palestine Refugees in the Near East*, Judgment No. 2012-UNAT-261, para. 28; *Gabaldon v. Secretary-General of the United Nations*, Judgment No. 2011-UNAT-120; *El-Khatib v. Commissioner-General of the United Nations Relief and Works Agency for Palestine Refugees in the Near East*, Judgment No. 2010-UNAT-029.

[5] *Muwambi v. Secretary-General of the United Nations*, Judgment No. 2017-UNAT-780, para. 46; *Badawi op. cit.*, para. 28, citing *Abboud v. Secretary-General of the United Nations*, Judgment No. 2010-UNAT-100.

[6] *Jafari v. Commissioner-General of the United Nations Relief and Works Agency for Palestine Refugees in the Near East*, Judgment No. 2019-UNAT-927, para. 31; *Abu Lehia v. Commissioner-General of the United Nations Relief and Works Agency for Palestine Refugees in the Near East*, Judgment No. 2018-UNAT-814, para. 17, citing, *inter alia*, *Dibs v. Commissioner-General of the United Nations Relief and Works Agency for Palestine Refugees in the Near East*, Judgment No. 2017-UNAT-798, para. 24; *Anshasi v. Commissioner-General of the United Nations Relief and Works Agency for Palestine Refugees in the Near East*, Judgment No. 2017-UNAT-790, para. 40; *Pérez-Soto v. Secretary-General of the United Nations*, Judgment No. 2013-UNAT-329; *Bertucci v. Secretary-General of the United Nations*, Judgment No. 2011-UNAT-121.

of employment in accordance with the principle of good faith by which international organisations are bound and with their duty to treat their staff members with consideration and fairness, which constitute in their specific application an inextricable part of the parties' compliance with the "terms of appointment".[7]

48. On appeal, the Commissioner-General contends that the UNRWA DT erred in its holding that Ms. Jarallah's LoA was erroneous, in as far as it stipulated an entitlement to an SOA of 35 per cent, and that the Agency was not entitled to remedy such a commitment. Specifically, the Commissioner-General submits that, pursuant to ASR 103.1, he has the authority to specify salary and allowances payable to staff members. In this regard, the Commissioner-General exercised his authority and provided rates of SOA payable to staff in the West Bank. The applicable rates were published in BTI No. 05 of 2020 dated 15 March 2020 with an effective date of 1 January 2020 and they were therefore applicable to the instant case. Grade 16 posts—Ms. Jarallah's was at a Grade 16 post—were not included among the posts eligible for the payment of SOA.

49. The Commissioner-General asserts, further, that since the Agency had made an illegal commitment it was entitled to remedy the error. In this context, the Commissioner-General makes reference to the Appeals Tribunal's jurisprudence that the Administration has a duty to rectify errors and that not even the creation of legitimate expectations resulting from such an error could compel the Organization to act contrary to the legal framework. In the instant case, he argues, the expectation created by the Agency, namely the entitlement to 35 per cent SOA, was in error and the Agency had a duty to correct the error. Therefore, the Commissioner-General claims that to concede to the UNRWA DT's position that he was not entitled to rectify such an error would render the established jurisprudence recognising that the Administration is entitled to correct illegal commitments or errors nugatory.

50. We do not agree. The Commissioner-General's understanding of our jurisprudence is misconceived. The UNRWA DT properly reviewed the contested decision in accordance with the applicable law and addressed the concerns identified by the Administration by establishing the critical facts. It was cognizant of the Appeals Tribunal's relevant jurisprudence governing the revocation or variation of favourable administrative decisions and applied correctly the right test that the exercise of discretion by the Administration in this regard was not lawful.

[7] Comp. *Al Hallaj v. Secretary-General of the United Nations*, Judgment No. 2018-UNAT-810, para. 39.

51. The Appeals Tribunal recalls its settled jurisprudence that, pursuant to the principle of legality of the Administration, where the Administration commits an irregularity or error in the exercise of its competencies, then, as a rule, it falls to the Administration to take such measures as are appropriate to correct the situation and align itself with the requirements of the law, including the revocation of the possibly illegal administrative act.[8] Thus, if a favorable decision is void or erroneous, it may be revoked or varied, especially where the granting of a right or benefit has to be properly authorised or where changed circumstances—had they been known and taken into account at the time—would have affected the outcome of the decision differently.[9] However, if the staff member has acted in good faith,[10] he or she is entitled to compensation for the damage suffered as a result.[11]

52. Nevertheless, the principle of revocation of unlawful administrative acts the tenor of which is favourable to the persons concerned is not applicable to the circumstances of the present case. Notably, as the UNRWA DT correctly held, the undisputed facts on record compel a finding that the Commissioner-General had exercised his discretionary authority and communicated his favorable decision, indicated in the relevant LoA, which was accepted by Ms. Jarallah on 5 December 2019, that, effective 1 January 2020, Ms. Jarallah was entitled to a monthly basic salary of 1,137.10 Jordanian Diners, plus 35 per cent of base salary as SOA. Thus, at the time it was made and communicated, this favorable administrative decision was an *intra vires* and lawful decision of the competent administrative authority, which was binding on the Agency. Consequently, there is no merit in the Commissioner-General's claim to the contrary that the UNRWA DT erred in finding that the Agency's aforementioned contractual commitment was an error giving him the right to correct it because "the applicable rates were published in the Budget Technical Instruction (BTI) No. 05 of 2020 dated 15 March 2020 with an effective date of 1 January 2020 and therefore applicable to the instant case", as this legal framework was not in force at the above material time.

[8] *Kauf v. Secretary-General of the United Nations*, Judgment No. 2019-UNAT-934, para. 21; *Kule Kongba v. Secretary-General of the United Nations*, Judgment No. 2018-UNAT-849, para. 30; *Neocleous v. Secretary-General of the United Nations*, Judgment No. 2016-UNAT-635, para. 32; *Cicek v. Secretary-General of the United Nations*, Judgment No. 2016-UNAT-636, para. 32, citing *Cranfield v. Secretary-General of the United Nations*, Judgment No. 2013-UNAT-367, para. 36.
[9] *Leobard Antoine Houenou v. Secretary-General of the United Nations*, Judgment No. 2021-UNAT-1091, para. 26.
[10] Comp. *Castelli v. Secretary-General of the United Nations*, Judgment No.2010-UNAT-037, para. 23.
[11] Comp. *Wang v. Secretary-General of the United Nations*, Judgment No. 2011-UNAT-140, para. 66; *Castelli op. cit.*, para. 26.

53. Hence, the UNRWA DT's finding that the Agency was estopped from reconsidering the issue of Ms. Jarallah's entitlement to an SOA of 35 per cent and remedying such a contractual commitment *a posteriori*, as it unlawfully did by paying her a SPOA of 25 per cent instead of an SOA of 35 per cent, is correct. Again, the Appeals Tribunal notes that revocation or variation of administrative decisions which "create rights" may cause legal uncertainty, disappointment of reasonable expectations as well as adversely affect the legal position of a person who was previously the beneficiary of a favorable act of the administrative authorities, which granted that person an individual right or benefit. It is a serious matter subject to the principle of legality, which is the cornerstone of the rule of law, and the principle of certainty which prescribes that a person should be able to rely and safely act upon an administrative decision.

54. In the case at bar, it is clear from the foregoing that the granting of an entitlement to an SOA of 35 per cent to Ms. Jarallah was not legally devoid or defective. Therefore, the Administration was constrained in its authority to reconsider the undertaken contractual commitment and revoke or vary such an entitlement of Ms. Jarallah's, which was final. Put it another way, in the circumstances, the Commissioner-General was *functus officio* in this respect and it would be unfair for Ms. Jarallah, who had relied on such percentage of allowance designated to the post to apply for it and accept the relevant offer of appointment, to be deprived of her entitlement to an SOA of 35 per cent that has already contractually vested for the period of her FTA.

55. In conclusion, the Appeals Tribunal affirms the UNRWA DT's findings and conclusions that the impugned decision was unlawful. The UNRWA DT conducted a thorough judicial review of the contested administrative decision. It did not erroneously substitute itself for the Administration by ordering it to pay Ms. Jarallah a SOA of 35 per cent, as argued by the Commissioner-General. It simply examined the facts and their interpretation led to the correct conclusion that the decision-maker had not exercised his discretionary power properly, in that it unlawfully had paid Ms. Jarallah an SPOA of 25 per cent instead of an SOA of 35 per cent which was stipulated in her contract of employment.

56. In the premises, the appeal must be dismissed.

Judgment

57. The appeal is dismissed, and Judgment No. UNRWA/DT/2021/045 is affirmed.

Original and Authoritative Version: English

Decision dated this 28th day of October 2022 in New York, United States.

(Signed)	*(Signed)*	*(Signed)*
Judge Raikos, Presiding	Judge Murphy	Judge Halfeld

Judgment published and entered into the Register on this 21st day of December 2022 in New York, United States.

(Signed)

Juliet Johnson, Registrar