



Judgment No. 2020-UNAT-1016



Counsel for Appellants: Amer Abu Khalaf, LOSA

Counsel for Respondent: Rachel Evers

JUDGE DIMITRIOS RAIKOS , PRESIDING .

1. The United Nations Appeals Tribunal (Appeals Tribunal) has before it an appeal filed by 247 Appellants against Judgment No. UNRWA/DT/2019/044

We are engaging donors very actively but we need to be crystal clear about the necessity for some internal measures in order to limit the threats to our core services to Palestine refugees.

The US funding cut is directly impacting our emergency interventions and we ran out of EA funding for the occupied Palestinian territory at the end of June. [...]

You can be certain that we will continue to fundraise for these activities but currently, we need to take some difficult measures that prioritize refugees with the most critical needs. This is our humanitarian responsibility.

Emergency interventions in the West Bank are, proportionately, the most heavily impacted because they have been supported almost entirely by the US for years, and those resources are no longer available in 2018. ...

In Gaza, poverty and unemployment rates are at very high levels, and almost a million refugees – more than 50 percent of the population – depend on food aid from UNRWA. Food assistance is an absolute humanitarian necessity and a priority. We are therefore taking all measures possible to protect this vital assistance, including advancing program budget funds. To successfully do so, we have to adjust some other interventions.

One of them is our community mental health program. We are determined to alleviate the impact on refugees who rely on our mental health services. We are looking at ways to preserve at least a part of that intervention. Our job creation – cash for work – intervention in Gaza will also need to be scaled down further, as funds are no longer available to continue it at the current level.

Transitional shelter cash assistance is also being reviewed. The scheduled payment at the end of July 2018 will proceed. Further payments would require additional, dedicated resources.

7. On 25 July 2018, all the Appellants individually received a letter signed by the DUO/G, informing them that their posts would be abolished. In these letters, some of the Appellants were offered new TIAs on a part-time basis, while others were only informed that they would be considered for new part-time positions.

8. For the Appellants who were offered new TIAs on a part-time basis, the impugned decisions of 25 July 2018 read, in relevant parts, as follows:

I regret to inform you that, for the reasons explained above, your post on a full-time basis will be abolished. This letter serves as notice of “provisional redundancy” effective the date of this letter, in accordance with Area Personnel Directive A/9/Rev.10. In line with the Agency’s obligation to make reasonable efforts to find a suitable placement for you as well as programme needs, you are hereby offered a new

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that we have been able to maintain the intervention after an immense loss of income is a very big achievement.

Today, I wish to announce my decision to open UNRWA schools for 524,000 students in the West Bank, including East Jerusalem, Gaza, Jordan, Lebanon and Syria. This is another major priority. It reflects UNRWA's deep commitment to
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UNRWA DT, after having reviewed the above list and the requests for decision review e 1
annexed to the relevant applications, identified the applications of Nabila El Hawajir,
Rasem Shamiya, Muna Qasem, Najat Abu Ghawish, Shirin Mousa, Niveen El Masri,
Mustafa El-Mudalal, Mohammad Safi, Nabil Abu Warda and Alaa Husain as not receivable
either because they had failed to establish that they had submitted a timely decision review
request or because their requests for decision review were not dated.² On appeal, the said
Appellants take issue with this finding of the UNRWA DT, however unsuccessful.7 (a)JTJ 0.002Tc 0.094 Tw

departments or units, including the abolition of posts, the creation of new posts, and the

33. The argument advanced by the Appellants that the UNRWA DT totally disregarded Personnel Directive No. A/9/Rev.10 on redundancy or that it ignored the entire regulatory framework that guides the contractual relationship between the Appellants and the Agency is not correct. The UNRWA DT dealt with this issue and held correctly that the Administration had acted in good faith and fulfilled its obligation under the said provisions by offering the Appellants new TIAs, albeit on a part-time basis, and later, by announcing their reinstatement to full-time employment, effective as early as 1 May 2019.⁴

34. With regard to the Appellants' contention that their acquired rights were violated, it must be kept in mind that their contractual status is subject to the provisions of the staff regulations and issuances which allow, under the aforementioned circumstances, for the restructuring by the Administration of its departments or units, including abolishing posts. Moreover, as the CG correctly argues, no Staff Regulations were amended in this instance and thus Area Staff Regulation 12.1 has no application. In so far as an offer of future employment on a different basis might be construed substantively as an amendment of contractual rights (which formally it is not), in the circumstances of this case such "amendment" was reasonable and did not involve the confiscation or spoliation of any right or benefit of the Appellants. The decision of the CG to abolish, reclassify and offer the Appellants part-time positions was based on a precise assessment of the situation in issue. The proposed change was necessary and reasonably related to the objective of prioritizing and securing the core activities of the Agency. The decision, moreover, in keeping with the principle of proportionality, sought to minimize harm to the Appellants. Therefore, the contention about the acquired rights is without merit.

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

⁴ Impugned Judgment. para. 71.

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36. The appeal is dismissed and Judgment No. UNRWA/DT/2019/044 is affirmed.

Original and Authoritative Version: English

Dated this 26th day of June 2020.

(Signed)

Judge Raikos, Presiding
Athens, Greece

(Signed)

Judge Knierim
Hamburg, Germany

(Signed)

Judge Murphy
Cape Town, South Africa

Entered in the Register on this 16th day of July 2020 in New York, United States.

(Signed)

Weicheng Lin, Registrar