



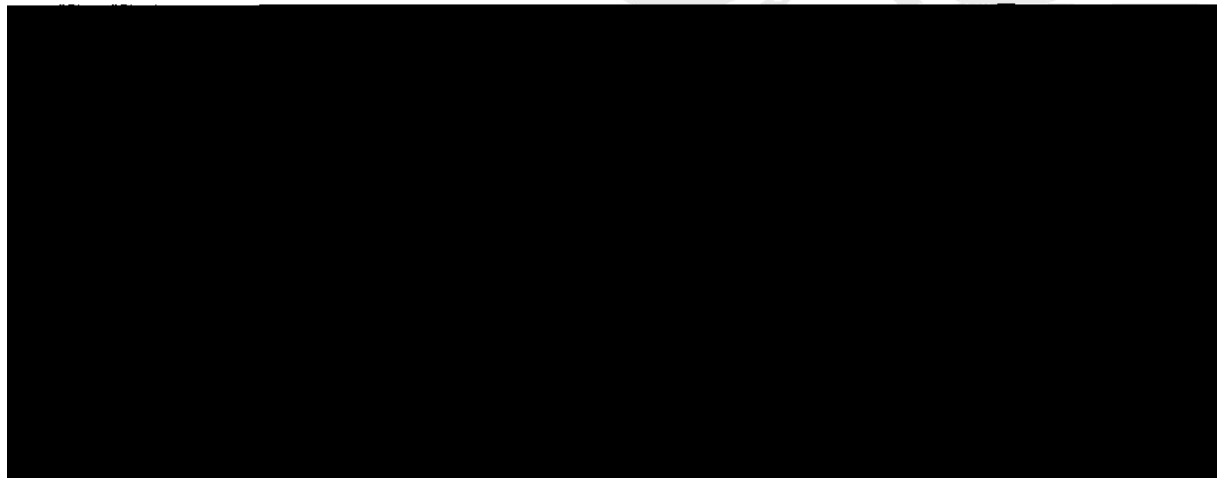
UNITED NATIONS APPEALS TRIBUNAL  
TRIBUNAL D 'APPEL DES NATIONS UNIES

Judgment No. 2015-UNAT-596

Musleh  
(Appellant)

v.

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



Counsel for Mr. Musleh:

Self-represented

Counsel for Commissioner-General:

Lance Bartholomeusz



7.

## Submissions

### Mr. Musleh's Appeal

15. The UNRWA Dispute Tribunal failed to exercise its jurisdiction, erred on questions of fact, as well as in procedure and was biased in favour of the Respondent. The UNRWA DT Judgment is biased and based solely on UNRWA's documented version of events, and fails to search for "the true facts". While UNRWA relied on Mr. Musleh's supervisor's report of 6 January 2013, his supervisor was neither neutral nor just.

16. Mr. Musleh requests an oral hearing which will help him prove his case. Mr. Musleh does not request that the Appeals Tribunal order any remedies.

### The Commissioner-General's Answer

17. In the absence of a brief explaining the basis for his grounds of appeal, as required by the UNRWA DT's Rules of Procedure, Mr. Musleh's appeal is not well founded. The Appellant merely asserts that the UNRWA DT Judgment is affected by errors, but fails to demonstrate how the UNRWA DT erred. The UNRWA DT did not err as a matter of fact or law when it dismissed the Appellant's applications. The Respondent therefore requests that the Appeal Tribunal dismiss the appeal.

## Considerations

### *Preliminary issue – request for an oral hearing*

18. Mr. Musleh has requested an oral hearing so as to help him prove his case. Oral hearings are governed by Article 8(3) of the Appeals Tribunal Statute (Statute) and Article 18(1) of the Appeals Tribunal Rules of Procedure (Rules), which envisage granting an oral hearing when it would "assist in the expeditious and fair disposal of the case". The Appeals Tribunal rejects Mr. Musleh's request since the appeal does not present any issues that require further clarification.

*Appeal on the merits*

19. Article 8(2) of the Rules provides that a party to an appeal shall provide a brief which explains the legal basis of any of the five grounds of appeal set out in Article 2(1) of the Statute, which an appellant relies upon. In this case, despite the Appeals Tribunal Registry's request to Mr. Musleh to file an appeal brief, he failed to do so.

20. We recall that the Appeals Tribunal's function is to determine whether the UNRWA Dispute Tribunal has made errors of fact or law, exceeded its jurisdiction or competence, or failed to exercise its jurisdiction, as prescribed in Article 2(1) of the Statute. An appellant has the burden of satisfying the Appeals Tribunal that the judgment he or she seeks to challenge is defective. It follows that the appellant must identify the alleged defects in the judgment and state the grounds relied upon in asserting that the judgment is defective.<sup>1</sup>

21. While Mr. Musleh broadly claims in his appeal form that the UNRWA DT erred in numerous respects, he fails to provide any details as to how. The only discernible complaint in his appeal form vis-à-vis the UNRWA DT Judgment is that it is "basic[al]ly false".

22. Nonetheless, having reviewed the UNRWA DT Judgment, we can discern no error in its conclusion that neither the initial six-month extension of Mr. Musleh's probationary period, nor the ensuing non-confirmation of his appointment, was unlawful.

23. The UNRWA Dispute Tribunal considered the applicable law relevant to probationary periods and their extension, namely Area Staff Personnel Directive A/4/Part VII/Rev. 7, as well as the terms of Mr. Musleh's letter of appointment. It correctly noted that Mr. Musleh was informed in his letter of appointment that his three-year term of employment "shall be subject to probationary service of twelve months effectively from the date of appointment."<sup>2</sup>

the additional six-month probationary period, he was not confirmed in the position. The

Original and Authoritative Version: English

Dated this 30<sup>th</sup> day of October 2015 in New York, United States.

*(Signed)*

Judge Thomas-Felix,  
Presiding

*(Signed)*

Judge Chapman

*(Signed)*

Judge Adinyira

Entered in the Register on this 18<sup>th</sup> day of December 2015 in New York, United States.

*(Signed)*

Weicheng Lin, Registrar