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JUDGE JOHN AYMOND MURPHY RESIDING

1. Alaa Abu Skheileh (Mr. Abu Skheileh) appealed the decision of the United Nations Relief and Works Agency for Palestine Refugees in the Near East (UNRWA or Agency) not to reimburse him for medical expenses he incurred in Germany.
2. By Judgment No. UNRWA/DT/2020/017, the UNRWA Dispute Tribunal (UNRWA DT) rescinded the administrative decision not to reimburse Mr. Abu Skheileh and directed the Agency to reimburse the latter upon production of evidence substantiating his claim.
3. The Agency now appeals, and for reasons set out below, t

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17. Mr. Abu Skheileh argued that the Agency was fully aware of his medical situation and that through correspondences, it was clear that the Agency's Health Coordinator himself recommended that the operation be performed in Germany. He also submitted that he acted with "clean hands and in good faith as he took into consideration the urgency of his health situation". As such, all the elements of estoppel were met.

18. Mr. Abu Skheileh argued further that the delay in granting approval (more than one month) in light of the emergency situation was unreasonable on the part of the Administration.

19. Mr. Abu Skheileh does not address the main issue raised by the Agency - the application of Area Staff Rule 106.4 (15), which requires staff members to assign to the Agency any right of action acquired against a third-party following death or injury.

20. Area Staff Rule 106.4 sets out the principles of compensation for area staff members in the event of death, injury or illness, which is determined by the Agency to be attributable to the performance of official duties. It provides in relevant part as follows:

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21. This provision construed purposely favours the interpretation of the Agency that

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authorises other arrangements. That provision clearly requires that an injured staff member who needs hospital treatment will be expected to attend an Agency-operated hospital before being entitled to reimbursement. However, it also permits reimbursement of the costs of medical treatment in other hospitals, including in countries other than Syria, only with prior authorisation. It is common cause that Mr. Abu Skheileh did not obtain authorisation before seeking medical assistance in Germany.

25. The decision of the UNRWA DT was that the refusal to give retrospective authorisation was unreasonable and thus unlawful. That line of reasoning is not sustainable. At the time Mr. Abu Skheileh incurred the medical costs in Germany, the expenditure was unauthorised. This denied the Agency the prior opportunity to interrogate the proposed expenditure and to consider alternatives before granting or refusing authorisation. But more importantly, an administrative decision to reimburse Mr. Abu Skheileh after he had incurred the unauthorised expenditure would have been illegal because a mandatory and material condition prescribed by the empowering provision was not complied with.

26. Added to that, and most decisively in this case, the UNRWA DT erred in not considering and upholding the main argument of the Agency. It is not disputed that Mr.

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28. The appeal is upheld, and the Judgment of the UNRWA DT is reversed and set aside.

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