

UNDT/2014/112, Couquet

UNAT Held or UNDT Pronouncements

The Tribunal rescinded the decision finding that, in accordance with the plain meaning of ST/AI/2007/3, service with the United Nations Organization does not need to be continuous for a staff member to be eligible to receive ASHI. Staff Rule 4.17 is not applicable to the question of ASHI.

Decision Contested or Judgment/Order Appealed

The Applicant contests the decision to find her ineligible for after-service health insurance (ASHI) on the grounds that although she had 7.2 years of service with the Organization, her service was not continuous. The Tribunal rescinded the decision finding that, in accordance with the plain meaning of ST/AI/2007/3, service with the United Nations Organization does not need to be continuous for a staff member to be eligible to receive ASHI.

Legal Principle(s)

Literal or plain meaning rule of construction: A provision must be interpreted in accordance with its plain meaning unless such meaning is specifically inconsistent with other rules set out in the same context or higher norms in hierarchy, in which case the spirit of the provision may be consulted. The plain meaning of a provision is to be established in the context of the document as a whole, and only in the face of ambiguity should the Tribunal have recourse to other documents or external sources as an aid to interpretation. *Lex Specialis*: A law governing the specific subject matter overrides one which governs general matters. Where there is any conflict in the application of a staff rule and an administrative issuance, preference must be given to the *lex specialis*. *Contra proferentem*: Any ambiguity in a term of contract or clause, should be interpreted so as to give rise to the least injustice, and is to be construed against the interests of the party which proposed or drafted the contract.

Outcome

Judgment entered for Applicant in full or in part

Outcome Extra Text

No compensation ordered (but judgment for Applicant)

Full judgment

[Full judgment](#)

Applicants/Appellants

Couquet

Entity

UNAKRT

Case Number(s)

UNDT/NY/2014/15

Tribunal

UNDT

Registry

New York

Date of Judgement

20 Aug 2014

Language of Judgment

English

Issuance Type

Judgment

Categories/Subcategories

Benefits and entitlements

Health (medical) and/or dental insurance

Applicable Law

Administrative Instructions

- ST/AI/2007/3

Secretary-General's bulletins

- ST/SGB/2009/7
- ST/SGB/2013/3

Staff Rules

- Rule 4.17

UNDT Statute

UNAT Statute

- Article 2.1(a)

Related Judgments and Orders

UNDT/2011/108

UNDT/2012/167

UNDT/2013/034

2012-UNAT-225

2013-UNAT-375

2014-UNAT-399