

2015-UNAT-569, Pio

UNAT Held or UNDT Pronouncements

UNAT held that there was nothing arbitrary about the impugned decision of the Chief Executive Officer (CEO), UNJSPF, as it was based on reports by the Executive Board of the International Monetary Fund between July 2011 and February 2013. UNAT held that good reason had been established for the CEO to decide on 31 July 2011 as the proper date for the suspension of the two-track system in Argentina, notwithstanding that there were previous statements regarding the reliability of the consumer price index (CPI) data in Argentina. UNAT held that it was satisfied that such a decision was a proper exercise of the discretion of the CEO, which the Standing Committee was entitled to uphold. UNAT held that Mr Pio did not establish that such a decision was an abuse of discretion or was in any way erroneous or unlawful. On Mr Pio's allegations of violations of due process, UNAT held that it was not persuaded that his due process rights were violated by reason of his not being present before the Standing Committee or by the procedure of the Standing Committee. On Mr Pio's request to consider whether UNJSPF abused its discretion in delaying the decision on his request, UNAT held that it was not empowered with advisory jurisdiction and therefore the request was not receivable *ratione materiae*. UNAT dismissed the appeal and affirmed the decision of the Standing Committee.

Decision Contested or Judgment/Order Appealed

Mr Pio contested the decision to deny his request for suspension of the local track in Argentina, in application of paragraph 26 of the Pension Adjustment System (PAS) of UNJSPF. The Standing Committee rejected Mr Pio's claim. Following judgment No. 2013-UNAT-344, UNAT found that the Standing Committee erred in law and fact with regard to the powers vested in the UNJSPF under paragraph 26 of the PAS when it erroneously found that the very existence of official consumer price index (CPI) figures for Argentina precluded them from considering Mr Pio's case. UNAT held that, as UNDT had declined to render a decision in Mr Pio's case, UNDT had failed to exercise the jurisdiction vested in it. UNAT remanded the case to the Standing Committee for its reconsideration of Mr. Pio's application for discontinuance of the local track pension payment in his case and reversion to payment in US dollars. Subsequently, UNJSPF informed Mr Pio that they had decided to suspend the application of the local currency track for the payment of pensions in Argentina with retrospective effect from 1 August 2011. Mr Pio requested that the retroactive suspension instead take place as of January 2009, as he had consistently requested in both his appeal to the Standing Committee and in his appeal to UNAT, since the inflation situation in Argentina was aberrant from 2009 on. The Standing Committee upheld the decision of the Chief Executive Officer (CEO), UNJSPF, that suspension of the local currency track for the payment of pension benefits in Argentina should only take effect as of 1 August 2011.

Legal Principle(s)

UNAT is not empowered with advisory jurisdiction.

Outcome

Appeal dismissed on merits

Full judgment

[Full judgment](#)

Applicants/Appellants

Pio

Entity

UNJSPF

Case Number(s)

2014-661

Tribunal

UNAT

Registry

New York

Date of Judgement

30 Oct 2015

Language of Judgment

English

Issuance Type

Judgment

Categories/Subcategories

TEST -Rename- Benefits and entitlements-45

Pension (see also, UNJSPF)

Due process

United Nations Joint Staff Pension Fund (UNJSPF)

Pension Adjustment System

Applicable Law

Laws of other entities (rules, regulations etc.)

Other UN issuances (guidelines, policies etc.)

- UNJSPF Pension Adjustment System (PAS), Annex III
- UNJSPF Pension Adjustment System (PAS)

Related Judgments and Orders

2013-UNAT-343

2013-UNAT-344