

2019-UNAT-925, Kortes

UNAT Held or UNDT Pronouncements

UNAT considered the Secretary-General's appeal and Ms Kortes' cross-appeal. UNAT held that the issue was whether UNDT erred in concluding that the Administration was estopped from correcting its mistake by finding that Ms Kortes was not eligible for ASHI, having advised her in 2011 that she could not avail herself of the buy-in option. Noting that the Administration's error was to inform Ms Kortes that she could buy-in to ASHI, based on a misunderstanding of the date she joined the Organisation, UNAT held that UNDT committed an error of law in coming to its conclusion that five years was sufficient to find that the Administration should be estopped from correcting its error. Noting that both parties were to blame for the situation that arose and that estoppel is an equitable doctrine, UNAT held that it would be inequitable to stop the Administration from correcting an error to which Ms Kortes also contributed. UNAT held that Ms Kortes never had a right to qualify for ASHI and the Administration, therefore, had the right and duty to correct its administrative error. UNAT allowed the appeal, dismissed the cross-appeal, and vacated the UNDT judgment.

Decision Contested or Judgment/Order Appealed

The Applicant contested the decision that she was ineligible for ASHI and had no buy-in option. UNDT rescinded the decision as unlawful.

Legal Principle(s)

Estoppel is an equitable doctrine; any person wishing to assert estoppel must come to court "with clean hands".

Outcome

Appeal dismissed on merits

Full judgment

[Full judgment](#)

Applicants/Appellants

Kortes

Entity

DESA

Case Number(s)

2018-1219

Tribunal

UNAT

Registry

New York

Date of Judgement

28 Jun 2019

Language of Judgment

English

Issuance Type

Judgment

Categories/Subcategories

Benefits and entitlements

Health (medical) and/or dental insurance

United Nations Joint Staff Pension Fund (UNJSPF)
ASHI (After-Service Health Insurance)

Applicable Law

Administrative Instructions

- ST/AI/2007/3

UNAT Statute

- Article 10.2

UNDT Statute

- Article 10.5
- Article 10.5(b)

Related Judgments and Orders

UNDT/2018/105