



UNITED NATIONS APPEALS TRIBUNAL TRIBUNAL D'APPEL DES NATIONS UNIES

Judgment No. 2025-UNAT-1573

Ghislain Robyn
(Appellant)

v.

United Nations Joint Staff Pension Board
(Respondent)

JUDGMENT

Before:	Judge Abdelmohsen Sheha Judge Nassib G. Ziadé Judge Leslie F. Forbang
Case No.:	2024-1949
Date of Decision:	27 June 2025
Date of Publication:	25 August 2025
Registrar:	Juliet E. Johnson

Counsel for Appellant:	Laure Levi & Annabel Champetier
Counsel for Respondent:	Rosemarie McClean

JUDGE ABDELMOHSEN SHEHA, PRESIDING.

1. Mr. Ghislain Robyn (Mr. Robyn) contested the decision of the Chief Executive of the Pension Administration (CEPA) of the United Nations Joint Staff Pension Fund (UNJSPF or Fund) to suspend the application of the local track in Slovakia (local-track or two-track system) pursuant to paragraph 26(a) of the Pension Adjustment System (PAS), which resulted in the reversion of his benefit to the United States dollar track (US dollar track) (suspension decision).

2. By Decision dated 9 July 2024 (impugned Decision),¹ the Standing Committee of the United Nations Joint Staff Pension Board (Standing Committee and UNJSPB respectively) upheld the suspension decision.

3. Mr. Robyn lodged an appeal against the impugned Decision with the United Nations Appeals Tribunal (UNAT or Appeals Tribunal).

4. For the reasons set out below, the Appeals Tribunal grants the appeal in part and modifies the impugned Decision.

Facts and Procedure

5. Mr. Robyn participated in the Fund from 23 May 1969 to 30 June 2002, the date on which he retired.

6. Following his separation from service, Mr. Robyn elected to receive a retirement benefit with lump sum under Article 28 of the UNJSPF Regulations, which was paid as of 1 July 2002 on the US dollar track.

7. In June 2003, Mr. Robyn requested that his benefit be established under the two-track system pursuant to the PAS, with Austria as his country of residence.

8. The two-track system is described as follows:²

[A] mechanism whereby beneficiaries in receipt of a benefit from the Fund who reside in countries other than the United States (US) can elect to have their benefit periodically adjusted in a manner that takes into account local inflation. This mechanism is known as the 'Two Track' because it involves tracking two national benefit amounts: the benefit that

¹ UNJSPF case No. UID 000024246.

² Answer brief, para. 2.

would be payable based on United States inflation (the ‘dollar track’), and the benefit that would be payable based on inflation in the country of residence (the ‘local track’). Each quarter, the beneficiary receives the higher of the two ‘tracks’, subject to certain maximum and minimum provisions stipulated in the PAS.

9. In June 2009, Mr. Robyn informed the Fund that he was now residing in Slovakia. As a result, his benefit was recalculated with Slovakia as his country of residence, in accordance with paragraph 32 of the PAS.

10. In early 2023, the Data Analysis Unit (DAU) reviewed the method for recommending the suspension of countries from the two-track system.³ Following this review, it was recommended that the two-track system be suspended in Slovakia (as well as in four other countries), in accordance with paragraph 26(a) of the PAS, which allows suspension in cases “where the application of the local-currency track would lead to aberrant results, with wide fluctuations depending on the precise commencement date of the underlying benefit entitlement”.

11. In this case, it was determined that Slovakia “breached the threshold of five out of six metrics used to assess excessive volatility” and exhibited “highly variable results of the [local currency track/US dollar track] ratio over the last 30 years”, including “wide fluctuations particularly until 2007”, which were deemed to be aberrant.⁴

12. In July 2023, the Board was informed that the CEPA had “identified five countries, [including Slovakia,] exhibiting aberrant results with regard to two-track benefits payable across different benefit commencement dates” and that, consequently, the local track in each of those countries would be suspended.⁵

13. On 21 August 2023, the CEPA officially approved the suspension decision.

14. On 27 September 2023, the Fund informed Mr. Robyn by letter that the two-track system would be suspended in Slovakia effective 1 January 2024 and that his benefit would thereafter be paid based on the value of the US dollar track.⁶ The estimated impact of the suspension on

³ Decision of the CEPA dated 21 August 2023.

⁴ *Ibid.*

⁵ Report of the UNJSPF to the General Assembly (A/78/329), para. 160.

⁶ Letter from the UNJSPF Chief of Operations to Mr. Robyn dated 27 September 2023.

Mr. Robyn – calculated as of 1 September 2023 – showed a reduction in his monthly pension from EUR 16,623.01 under the two-track system to EUR 8,497.46 under the US dollar track.⁷

15. On 19 December 2023, Mr. Robyn submitted a request for review to the Standing Committee.

Impugned Decision

16. The Standing Committee considered the case at its meeting held on 3 July 2024. Upholding the suspension decision, it found that it constituted a lawful exercise of the discretion of the CEPA. It noted that the suspension decision was based “on the standard and accepted methodology used for other suspensions, and was thus neither arbitrary nor frivolous or motivated by extraneous considerations”. It further emphasized that the procedural requirements of paragraph 26(a) of the PAS had been met, as affected participants, including Mr. Robyn, had been duly informed in advance of the suspension. Finally, it rejected Mr. Robyn’s claim of an acquired right to the continued application of the local track, observing that paragraph 26(a) of the PAS – which has at all relevant times been part of the applicable legal framework – has always provided for the possibility of such suspensions.⁸

Procedures before the Appeals Tribunal

17. On 27 September 2024, Mr. Robyn filed an appeal against the impugned Decision with the Appeals Tribunal, to which the UNJSPB responded on 8 November 2024.

Submissions

Mr. Robyn’s Appeal

18. Mr. Robyn requests the Appeals Tribunal to grant the appeal and reverse the impugned Decision. He also requests the Appeals Tribunal to: i) supplement his current US dollar track pension with a monthly allowance equal to the difference between the local track and the US dollar track; ii) award the payment of arrears as of 1 January 2024 with interest on the unpaid amount at

⁷ According to the annex to the letter from the UNJSPF Chief of Operations to Mr. Robyn dated 27 September 2023, these amounts reflect the circumstances as of 1 September 2023. The amount as of 23 January 2024 is EUR 8,315.09.

⁸ Letter from the Secretary of the UNJSPF to Mr. Robyn dated 9 July 2024.

the annual rate of five per cent; iii) award compensation for moral harm in the amount of USD 15,000; and iv) award costs.

19. Mr. Robyn first asserts that the suspension decision had not been signed by the CEPA, and therefore not properly approved.

20. Mr. Robyn submits that the Standing Committee violated paragraph 26(a) of the PAS in reaching the impugned Decision. He contends that the application of the local track in Slovakia did not result in the kind of major fluctuations that would qualify as “aberrant” under paragraph 26(a) of the PAS. On the contrary, he asserts that the graph for Slovakia shows a downward trend in the ratio between the local track and the US dollar track. He claims that since 2007 there has been almost no fluctuation in that ratio, and for 17 years the local and dollar tracks were equal.

21. Mr. Robyn also notes that the Fund compiled 70 observations covering a 30-year period (1993-2023) to produce the graph. He asserts that the fluctuations between 1993 and 2007 were not due to the participants’ separation dates but rather to economic circumstances.

22. Mr. Robyn submits that the suspension decision lacked transparency and violated the principle of legal certainty by relying on a 30-year observation period. He contends that the applicable legal framework does not require such an extended timeframe for determining whether a country should be recommended for suspension from the two-track system and adds that using it would have required a “solid justification”. He questions why the Administration used such a long reference period, especially considering that a 2021 audit of the two-track system by the Office of Internal Oversight Services (OIOS) illustrated country suspensions based on significantly shorter timeframes – generally under 20 years – unless exceptional circumstances existed.

23. Last, Mr. Robyn contends that the suspension decision breached the principle of legitimate expectations. He argues that he had an acquired right to the continued application of the two-track in Slovakia, based on the last 17 years of stability and the consistent and continuous payment of his pension benefit. He also contests the fact that the Fund failed to implement a provisional regime to accompany the change in the pension system.

The UNJSPB’s Answer

24. The UNJSPB requests the Appeals Tribunal to dismiss the appeal and uphold the impugned Decision.

25. First, the UNJSPB submits that the suspension decision constituted a lawful exercise of the CEPA's authority under paragraph 26(a) of the PAS. The UNJSPB contends that the suspension decision was neither arbitrary nor motivated by extraneous considerations. On the contrary, the UNJSPB notes that the suspension was based on a thorough and objective statistical analysis, which not only demonstrated that the local track in Slovakia breached five out of the six metrics used to assess excessive volatility between benefits payable to similarly-situated participants on the two-track system – identical in all respects except for their date of separation – but also revealed highly variable results in the ratio between the local track and the US dollar track for separation dates over the past 30 years.⁹ Therefore, the UNJSPB concluded that the continued application of the two-track system in Slovakia was leading to aberrant results, with wide fluctuations depending on the precise commencement date of the underlying benefit entitlement – a conclusion directly aligned with the purpose of paragraph 26(a) of the PAS. In this regard, the UNJSPB recalls that, according to Appeals Tribunal jurisprudence, the determination of whether “aberrant results” exist is a matter of fact to be determined by the Fund and warrants an important level of deference.¹⁰

26. The UNJSPB observes that, contrary to Mr. Robyn's claim, the suspension decision was duly signed by the CEPA.¹¹

27. Second, the UNJSPB submits that the suspension decision was also procedurally correct. The UNJSPB notes that the procedural requirements set out in paragraph 26(a) of the PAS and in UNJSPF Procedure General No. 81 (Pension Adjustment System - Suspension of the Two-Track Feature) were followed, highlighting, among other things, that the decision was communicated to the Board and duly notified to the affected retiree beneficiaries, including Mr. Robyn, prior to its implementation.

28. Third, the UNJSPB states that Mr. Robyn's submissions mischaracterize the basis for the suspension decision. The UNJSPB contends that Mr. Robyn's assertions – that the graph for Slovakia shows a downward trend, a flat line since 2007, or no variability over 17 years – are misguided. On the contrary, the UNJSPB maintains that the graph does not aim to illustrate the

⁹ The UNJSPF refers to the UNJSPF Procedure General No. 81 dated 6 November 2023 (Pension Adjustment System – Suspension of the Two-Track Feature), as well as to the UNJSPF Method for determining recommendations for suspension of countries from the Two-Track feature dated February 2023, which operationalized paragraph 26 of the PAS.

¹⁰ *Mehmet Selman Ergüden v. United Nations Joint Staff Pension Board*, Judgment No. 2022-UNAT-1198, para. 38; *Pio v. United Nations Joint Staff Pension Board*, Judgment No. 2013-UNAT-344, para. 35.

¹¹ Decision of the CEPA dated 21 August 2023.

evolution of the two-track system over time but rather reflects the differences in the ratio between the local track and the US dollar track in benefit amounts as of July 2023 for beneficiaries who separated at different points in time – a fluctuation determined solely based on the beneficiaries' separation dates. Similarly, the UNJSPB submits that Mr. Robyn's claim that the Fund compiled 70 observations covering a 30-year period is incorrect, observing that the Fund's analysis considered a portfolio of beneficiaries who separated from service over the past 30 years, using a data point for every month. This approach could thus "include as many as 360 data points (30 years x 12 months), rather than the 70" cited by Mr. Robyn.

29. The UNJSPB contends that the Fund properly based its analysis on a 30-year period, noting that it is "very common" for beneficiaries to live 30 years after separation from service. The UNJSPB further observes that "this timeframe allows the Fund to base its analysis on data that is representative of its beneficiary population, allowing it to adequately monitor equity between participants who separated some time ago and participants who separated more recently". It also ensures "that the analysis is not influenced by which beneficiaries happen to be in the country at the time and allows the analysis to be conducted even when there are few or no beneficiaries in the country".

30. The UNJSPB contends that Mr. Robyn's references to the OIOS audit are misplaced, noting that only one suspension referenced in the OIOS report was due to aberrant results, and that the timeframe was unrelated to the "scope of the data used to analyse the situation in a country, which is what the 30 years is used for".

31. The UNJSPB submits that Mr. Robyn overlooks one of the main purposes of paragraph 26(a) of the PAS: to avoid inequality and unfairness among similarly situated beneficiaries. Therefore, even if, as Mr. Robyn contends, the aberrant results existing in Slovakia are due to economic circumstances, the effect is that the continued application of the two-track system would result in substantial disparities in benefits payable to beneficiaries based solely on their dates of separation from service, a consequence that paragraph 26(a) of the PAS seeks to prevent.

32. The UNJSPB contends that Mr. Robyn does not have an acquired right to the continued application of the local track in Slovakia. In this regard, the UNJSPB emphasizes that paragraph 26(a) of the PAS explicitly provides for the possibility of suspension for "future and current retirees and beneficiaries".

33. Last, the UNJSPB contends that in the absence of illegality, no compensation can be awarded.

Considerations

34. The present appeal turns on the application of paragraph 26(a) of the PAS, which sets the conditions of suspension of countries from the two-track pension system: the US dollar track and the local track.

35. In *Mehmet Selman Ergüden*, the Appeals Tribunal set out a detailed explanation of the nature of the two-track system and its functioning. We reproduce below these considerations for their relevance:¹²

... The two-track system is a feature whereby a beneficiary's pension is calculated and maintained both in USD and in the currency of the country where a member actually resides. It is composed of two elements, the dollar track and the local-currency track or local track. On the US dollar track all pensions are calculated initially in USD. If a beneficiary does not declare a country of residence but requests payment in a currency other than USD, his or her pension will remain on the dollar track but is converted by the UNJSPF to the local currency equivalent on a quarterly basis by using the applicable United Nations operational exchange rate. If, on the other hand, a beneficiary declares a country other than the United States as his or her country of residence and submits acceptable proof thereof, his or her pension will be recalculated in the currency of the country of residence. This is the "local track", which is thus established in the currency of the chosen country of residence and adjusted by the official cost of living index published by the country where the beneficiary resides. If the beneficiary opts for the two-track system, the UNJSPF will still calculate his or her pension based on the dollar track and each quarter the two (i.e. the local and dollar tracks) will be compared and the member is paid the higher amount, subject to a specified maximum and a specified minimum. It is possible that the dollar track will sometimes be more beneficial than the local track, and vice versa. The decision to elect the two-track system is an option, not an obligation.

... Thus, the pension is calculated initially in USD. If the beneficiary so elects, and provides proof of residence in a country other than the United States, the UNJSPF will establish the local-currency track pension by converting the value of the dollar track pension at an average exchange rate between the USD and the local currency (this average is computed over the 36 consecutive calendar months up to and including the month of retirement).

¹² *Mehmet Selman Ergüden*, *op.cit.*, paras. 6-7.

36. We turn now to paragraph 26(a) of the PAS, which is at the core of the present appeal.

37. Paragraph 26(a) of the PAS provides:

For countries where the application of the local-currency track would lead to aberrant results, with wide fluctuations depending on the precise commencement date of the underlying benefit entitlement, establishment of a local currency base amount in accordance with section C may be suspended by the Chief Executive of Pension Administration with respect to future and current retirees and beneficiaries. In such cases, the Chief Executive of Pension Administration shall duly inform retirees and beneficiaries in pay status in advance of such suspension. The Chief Executive of Pension Administration shall also inform the Board of this action, as soon as feasible.

38. It follows that paragraph 26(a) of the PAS grants the CEPA the authority to suspend a particular country from the two-track system where the application of the local track would lead to “aberrant results”, causing “wide fluctuations depending on the precise commencement date of the underlying benefit entitlement”.

39. To make a finding of “aberrant results”, which is a condition *sine qua non* for the applicability of paragraph 26(a) of the PAS, the CEPA is required to develop and undertake adequate economic and statistical analyses that allow it to confirm or refute the hypothesis that a certain country experiences wide fluctuations in pension benefits for its resident beneficiaries. In undertaking these technical tasks, the CEPA is necessarily vested with wide discretion that can only be subject to “[t]he lowest tier of judicial review”;¹³ the so-called “contrôle restreint” in civil law jurisdictions. On this basis, we have held that if the decision of the CEPA bears a rational relationship with the purpose of the two-track system and is based on reasonable data, there can be no basis for review.¹⁴

40. We turn now to the specific issues of this appeal. Mr. Robyn’s various contentions raise the following three broad questions: i) whether the use of a 30-year timeframe was excessive and unjustified to assess the variability in the two-track system; ii) whether the conclusions drawn from the statistical analysis were properly reached; and iii) whether the suspension decision violated Mr. Robyn’s right to legal certainty.¹⁵

¹³ *Ibid.*, para. 38.

¹⁴ *Ibid.* See also *Larghi v. United Nations Joint Staff Pension Board*, Judgment No. 2013-UNAT-343, para. 32.

¹⁵ In his appeal brief, Mr. Robyn also claimed that the suspension decision had not been signed by the CEPA, and had therefore not been properly approved. However, this claim is dismissed, as the UNJSPB

i) Whether the use of a 30-year timeframe was excessive and unjustified to assess the variability in the two-track system

41. Mr. Robyn takes issue with the timeframe used by the CEPA in his analysis to determine whether there are “aberrant results” in terms of pensions received by beneficiaries who had chosen Slovakia as their country of residence. He submits that the legal framework does not provide for a specific timeframe, that the CEPA’s chosen timeframe was excessive and unjustified, and that there have been no fluctuations since 2007. He also contends that the Administration had previously used shorter timeframes to assess variabilities in other countries.

42. Indeed, paragraph 26(a) of the PAS does not specify a timeframe to detect aberrant results. It is, therefore, within the discretion of the CEPA to determine the appropriate timeframe for the separation dates on which the statistical analysis is based.

43. According to the methodology adopted by the Fund in February 2023, the timeframe covers 30 years prior to the initiation of the review. As rightly contended by Mr. Robyn, the methodology does not provide a justification for the use of such an extended timeframe. Nonetheless, the UNJSPB gave valid reasons on appeal. In particular, the UNJSPB maintains that assessing separation dates over a 30-year timeframe is representative of the Fund’s current beneficiary population, covering nearly 90 per cent of them, compared to only around 70 per cent when using a 20-year timeframe.¹⁶ The UNJSPB further explains that surviving spouses, who tend to be much younger than the deceased primary beneficiaries, are more likely to live beyond 30 years from the separation date. In addition, the UNJSPB maintains that the use of shorter timeframes could potentially exclude a significant proportion of beneficiaries, thus concealing “aberrant results” that would have been detected under a 30-year timeframe. The UNJSPB also avers that, paradoxically, shorter timeframes could lead, in some cases, to the suspension of the two-track system in many countries experiencing short-term fluctuations. Finally, the UNJSPB maintains that the use of short timeframes in many of the cases cited by Mr. Robyn was due to the lack of published Consumer Price Index (CPI) data. In any event, the UNJSPB asserts that the table cited in the OIOS audit report of the two-track system in the Pension Administration of UNJSPF did not consider the observation timeframe, but rather the duration taken to monitor the

presented on appeal a signed copy of the suspension decision, the authenticity of which was not challenged by Mr. Robyn.

¹⁶ Answer brief, para. 32.

economic situation in these countries from the aberrant behaviour until the effective suspension from the two-track system.

44. Although Mr. Robyn's arguments have some merit, the Appeals Tribunal finds that the UNJSPB provided reasonable justifications for setting a 30-year timeframe for its statistical analysis. We have also reviewed the history of the two-track system since its inception in 1979 and are cognizant of the operational complexity it entails and the challenges the Fund faces in achieving some sort of balance between simplicity in administration and equity in pension entitlements.

45. Indeed, as Mr. Robyn advocated, for 22 years, the Fund has been reiterating that his pension was calculated according to the applicable PAS, without reference to any aberrant results. However, the statistical analysis of the Fund reveals that a significant disparity between beneficiaries according to their date of separation existed for 17 years, i.e., from 2007 to 2023. During all those years, a resident beneficiary in Slovakia who separated before 2007 received nearly double the amount received by another resident beneficiary who separated after 2007. This disparity was solely due to differences in separation dates, which determine the initial exchange rate between the US dollar and the local currency, calculated based on the average exchange rate in the 36 months prior to and including the month of separation, all other things being equal. Mr. Robyn had benefited from the adjustment system for almost 14 years since he changed his residence to Slovakia. Had the Fund made the appropriate analysis earlier, it would have detected this significant disparity in pensions, and Mr. Robyn would not have benefited from the adjusted pensions during all those years.

46. We, therefore, defer to the CEPA's discretion in his choice to use a 30-year timeframe and dismiss Mr. Robyn's contentions.

ii) Whether the conclusions drawn from the statistical analysis were properly reached

47. On appeal, Mr. Robyn contests the CEPA's conclusions drawn from his statistical analysis. He claims that these conclusions are manifestly unreasonable, "entachées d'une erreur manifeste d'appréciation". He submits that the graph does not show that the local track leads to aberrant results. Rather, it shows that the local track, after a period of instability, entered a self-adjustment phase in 2007, following which no further fluctuations occurred. He further asserts that the period immediately preceding the statistical analysis of 2023 is the one that best reflects the economic reality in which the suspension decision should have been taken. Additionally, he maintains that

the aberrant results in the period from 1993 to 2007 were not due to differences in separation dates, but to differences in the surrounding economic circumstances.

48. The Appeals Tribunal agrees with the UNJSPB that Mr. Robyn's arguments mischaracterize the facts and reveal a misunderstanding of the suspension system.

49. There is no doubt that the initial pension amount reflects the economic circumstances at the date of separation, because its calculation is based on the prevailing exchange rate between the US dollar and the local currency at or around that time.¹⁷ Moreover, there is no dispute that fluctuations in pension entitlements from 1993 to 2007 were essentially due to economic variabilities. The fine distinction Mr. Robyn seeks to draw between the separation dates and the contemporaneous economic situations is theoretical, superfluous, and has no bearing on the outcome of this case. The reference point, pursuant to paragraph 26(a) of the PAS, remains the "commencement date of the underlying benefit entitlement" for resident beneficiaries.

50. This leads us to reject Mr. Robyn's next argument that the period falling immediately before the statistical analysis in 2023 best reflects the economic circumstances upon which the suspension decision should have been taken. This argument is misconceived. It runs counter to the whole system of suspension, which relies on comparisons between pension entitlements based on a historical review of separation dates. Further, as rightly argued by the UNJSPB, Mr. Robyn does not make a correct reading of the graph showing the fluctuations in Slovakia as of January 2023. The purpose of the graph is not to outline the dynamic trend in the US dollar/local track ratio over the last 30 years in order to draw a conclusion about the final trends or future predictions. Rather, the X column of the graph only refers to the set of 30 years of separation dates, allowing for a clear view of the fluctuations among the resident beneficiaries. In the present case, the graph shows a wide disparity between resident beneficiaries who separated from 1993 to 2007 and those who separated afterwards.

51. Mr. Robyn's arguments cannot, therefore, succeed.

¹⁷ More precisely, the exchange rate is calculated based on "the average computed over the 36 consecutive calendar months up to and including the month of separation, of the exchange rates between the United States dollar and the currency of the country of residence", as per paragraph 5(b)(iii) of the PAS.

iii) Whether the suspension decision violated Mr. Robyn's right to legal certainty

52. On this final count, Mr. Robyn contends that the suspension of the local-track system in Slovakia and the subsequent change in the amount of his pension violated his right to legal certainty. He maintains that after 17 years of stability in pension payments, one has the right to expect that the same rules and methods of calculation would continue to apply. The fact that the Fund has unilaterally changed the method of calculation of his pension breached the principle of non-retroactivity of administrative acts and violates the principle of acquired rights. Finally, he avers that there was no transitional period for the suspension of the local-track system, especially in his case where, due to that suspension, he lost 50 per cent of his pension income.

53. We begin by addressing Mr. Robyn's contention that the suspension of the local-track system violated the principle of non-retroactivity of administrative acts. The principle of non-retroactivity means that the Administration is barred, as a rule, from issuing administrative decisions that produce legal effects for the past. An administrative decision should produce its effects for the present and/or the future. In Mr. Robyn's case, although the Fund had to investigate the past to determine whether there was a disparity in adjusted pensions among resident beneficiaries, it did not implement the suspension in a retroactive manner. Retroactivity here could have had the consequence of recovering all the undue pension amounts that Mr. Robyn had been receiving since the change of his residence to Slovakia in 2009. As the suspension decision only applies for the future, the Appeals Tribunal finds no retroactivity, and Mr. Robyn's contention in this regard is dismissed.

54. We turn now to the alleged acquired right and the associated right to legal certainty. In this regard, we agree with the UNJSPB that the suspension mechanism has been in the UNJSPF legal framework even prior to Mr. Robyn's separation from service. As such, a reasonable beneficiary who opted for the two-track system should have expected that a suspension of that system could be implemented if the legal conditions were met. Therefore, Mr. Robyn cannot claim an acquired right to an adjusted pension under the local-track system in Slovakia.

55. Finally, we reach the last contention raised by Mr. Robyn about the lack of transitional provision, and thus of legal certainty, following the suspension from the two-track system in Slovakia.¹⁸ Before the Standing Committee, Mr. Robyn had invoked the abrupt application of the suspension decision, and the immediate problems arising therefrom, which affected his right to

¹⁸ Appeal brief, para. 47.

legal certainty.¹⁹ However, the Standing Committee did not specifically address this issue in the impugned Decision, and the UNJSPB did not make specific submissions on this point on appeal.

56. Transitional measures serve to mitigate the negative consequences of the immediate implementation of legal acts. Despite the Administration's legal authority to establish or amend rights and obligations, there may be cases where changes are of such significance that the immediate implementation of administrative decisions would destabilise the legal situation of the persons in a disproportionate way. The requirement of transitional measures arises from the need to balance the right of the Administration to exercise its authority in a timely manner with the right of the individuals to a smooth transition towards the new regime, without being exposed to abrupt, violent, or excessive changes. Transitional measures are, therefore, safeguards to preserve legitimate expectations, leading to legal certainty. If not mandated by the legal framework, the Tribunals may require such provisional measures to be taken, on a case-by-case basis, considering what they determine to be fair and reasonable.

57. Without setting a specific notice period, paragraph 26(a) of the PAS requires the CEPA to "duly inform" retirees and beneficiaries of the suspension decision. Under Section 4.1 of Procedure General No. 81 of 23 April 2019, the impacted beneficiaries must be notified of the suspension decision "a *minimum* of three months before the effective date in the case where the amount payable may be reduced due to the suspension".²⁰

58. In the present case, the suspension decision was notified on 27 September 2023, and Mr. Robyn received it, as contended, on 30 September 2023,²¹ with an effective date of 1 January 2024. This means that the Fund gave Mr. Robyn an effective notice period of three months. As we mentioned earlier in this Judgment, following the suspension from the two-track system in Slovakia, the amount payable to Mr. Robyn, estimated as of 1 September 2023, changed from EUR 16,623.01 under the two-track system to EUR 8,497.46 under the US dollar track.²² Thus, Mr. Robyn has lost almost 50 per cent of his pension income.

¹⁹ Request for review of the suspension decision dated 19 December 2023, p. 7.

²⁰ Emphasis added. Procedure General No. 81/Rev. 1 of 6 November 2023 also contains a similar provision, requiring that affected beneficiaries be informed "*at least* three months before the effective date" (emphasis added). An identical provision exists under paragraph 4.1 of Procedure General No. 81/Rev. 2 of 21 March 2025.

²¹ Request for review of the suspension decision dated 19 December 2023.

²² According to the annex to the Letter from the UNJSPF Chief of Operations to Mr. Robyn dated 27 September 2023, these amounts reflect the circumstances as of 1 September 2023. The amount as of 23 January is EUR 8,315.09.

59. Under normal circumstances, this Tribunal would be reluctant to intervene and require a longer notice period. However, in the particular circumstances of the present case, we find it unfair and manifestly disproportionate for the Fund to suspend the two-track system, with the inevitable consequence of Mr. Robyn losing half of his pension, without giving him sufficient time to rearrange his finances. For the Appeals Tribunal, a three-month notice does not meet the minimum of a reasonable period to enable Mr. Robyn to cope with the loss of his pension and to transition smoothly to the new regime. The Fund itself explicitly foresees this possibility, as Procedure General No. 81 of 23 April 2019 requires the CEPA to give notice of “a minimum of” three months. Not departing from that minimum notice period in Mr. Robyn’s case would likely render this provision ineffective. Therefore, and as a transitional measure, the Appeals Tribunal finds that a notice period of six months is more reasonable to respect Mr. Robyn’s legitimate expectations.

60. In respect of Mr. Robyn’s request for compensation for harm, pursuant to Article 9(1)(b) of the Appeals Tribunal Statute (Statute), a request for compensation must be “supported by evidence”. Mr. Robyn did not prove any harm that was caused by the illegality. Therefore, his request must be dismissed.

61. As to Mr. Robyn’s request for five per cent interest on the unduly denied payments, the Appeals Tribunal dismisses it pursuant to Article 44 of the UNJSPF Regulations.²³

62. Finally, considering Mr. Robyn’s request for the award of costs, the Appeals Tribunal recalls that, according to Article 9(2) of the Statute, the award of costs is only permitted as a sanction in cases of abuse of judicial proceedings. Absent abuse, each party shall bear his or her costs.

63. For these reasons, the appeal is granted in part.

²³ Article 44 of the UNJSPF Regulations provides: “The Fund shall not be liable for interest on any due but unpaid benefits”.

Judgment

64. Mr. Robyn's appeal is granted in part, and the Decision of the Standing Committee of the UNJSPF is hereby modified to the extent that Mr. Robyn is granted the difference in pension between the US dollar track and the local track in the period from 1 January until 30 March 2024. Mr. Robyn's appeal is dismissed in all other respects.

65. The difference in pension mentioned here-above shall be payable within the 60-day period counting from the date of issuance of this Judgment. If not paid, interest at the US Prime Rate plus an additional five per cent shall accrue until the date of payment.

Original and Authoritative Version: English

Decision dated this 27th day of June 2025 in New York, United States.

(Signed)

Judge Sheha, Presiding

(Signed)

Judge Ziadé

(Signed)

Judge Forbang

Judgment published and entered into the Register on this 25th day of August 2025 in New York, United States.

(Signed)

Juliet E. Johnson,
Registrar