



UNITED NATIONS APPEALS TRIBUNAL TRIBUNAL D'APPEL DES NATIONS UNIES

Case No. 2024-1908

Jacques Cramatte *et al.*

(Appellants)

v.

**Director General of the International Bureau
of the Universal Postal Union**

(Respondent)

Order No. 578 (2024)

1. On 18 March 2024, the Appellants in this case, Jacques Cramatte *et al.* a group of retired staff members of the Universal Postal Union (UPU) filed before the United Nations Appeals Tribunal (UNAT or Appeals Tribunal) a joint appeal against the decision of the UPU Appeals Committee dated 19 December 2023 (impugned Decision).
2. In the impugned Decision, the UPU Appeals Committee dismissed the Appellants' appeals contesting the decision of the Director General of the International Bureau of the UPU (Director General) dated 16 March 2023 to put in place the current UPU health insurance arrangement for the period 1 January 2023 to 31 December 2027.
3. The UPU Appeals Committee dismissed the Appellants' contentions that the new health insurance premium distribution put in place was discriminatory against retirees based on their age, category of participants (retirees versus active staff members) and country of residence; that it violated the Agreement between the United Nations and the UPU regarding the conditions of employment of staff; and that it violated their acquired rights. The UPU Appeals Committee also dismissed the Appellants' claim that the UPU failed to meet its duty of care obligations towards the Appellants in putting in place the 2023 health insurance premium distribution.
4. On 17 May 2024, the UPU filed its answer to the appeal.

5. On 23 July 2024, Cramatte *et al.* filed a Motion seeking leave to submit additional pleadings and additional evidence.¹

6. The Director General did not file a timely response to the Motion, and his request for additional time to file a response was denied by the Appeals Tribunal by Order No. 576 (2024).

7. In support of their Motion, the Appellants contend that the Administration in its answer brief relies on an incorrect account of the facts and the Appellants' pleadings in relation to their claim that the UPU breached "the solidarity principle as enshrined in Swiss law" and discards this solidarity principle by arguing that the Swiss solidarity regime is inapplicable to the UPU. The Appellants seek to address the UPU's argument regarding the solidarity principle and to reply to the Administration on this point.

8. In addition, the Appellants seek leave to submit a new document in this relation, i.e. a recent report issued by the United Nations Joint Inspection Unit in April 2024 on the Review of the quality, effectiveness, efficiency and sustainability of health insurance schemes in the United Nations system organizations. This report, the Appellants contend, establishes that within the United Nations Common System, the principles of ability to pay and intergenerational solidarity are the basis for allocating health insurance contributions. However, it also highlights that the system applied by the UPU does not follow these principles.

9. The Appellants contend that this document and the Additional Pleadings will demonstrate that the UPU's health insurance plan does not apply the solidarity principle and as such, stands in violation of the key principles of health insurance within the United Nations Common System, as well as its own rules and commitments regarding uniformity with the United Nations Common System. This new document was not issued before submitting their Appeal Brief, so that they could not use it before. As such, there are exceptional circumstances which justify their need to submit and address this document in the attached submission.

¹ The Motion is labeled "Motion for Additional Pleadings", but a review of the Motion reveals that the Appellants are also seeking leave to file additional evidence.

10. Article 31(1) of the Appeals Tribunal’s Rules of Procedure and Section II.A.3 of the Appeals Tribunal’s Practice Direction No. 1 provide that a motion to file an additional pleading may be granted if there are “exceptional circumstances justifying the motion”.

11. The Appeals Tribunal has consistently held that, where an additional pleading merely consists of supplementary arguments to those already submitted in an appeal or answer, there are no “‘exceptional circumstances’ which would allow the admission of the additional argument”.²

12. Article 2(5) of the Appeals Tribunal’s Statute reads: “[i]n exceptional circumstances, and where the Appeals Tribunal determines that the facts are likely to be established with documentary evidence, including written testimony, it may receive such additional evidence if that is in the interest of justice and the efficient and expeditious resolution of the proceedings.”

13. I note that the Appellants mainly assert that the Director General misrepresents the Appellants’ pleadings as well as the facts in this case. However, as in any other case before the Appeals Tribunal, in making its determination of the appeal, the Appeals Tribunal has at its disposal the trial record as well as the parties’ briefs on appeal. The Appellants do not demonstrate how this case differs from other cases where the parties may disagree on the facts or an interpretation of the other party’s submissions. The Appellants have thus not demonstrated any exceptional circumstances warranting the submission of additional pleadings.

14. Turning to the Appellants’ request to submit additional evidence in the form of Joint Inspection Unit Report No. JIU/REP/2023/9, I am inclined to grant this request. As far as the report sets out the practices and standards of the United Nations pertaining to health insurance as well as after-service health insurance, it directly pertains to issues in dispute in the present case.

² *Kazazi v. Secretary-General of the United Nations*, UNAT Order No. 533 (2023), para. 9; *McCloskey v. Secretary-General of the United Nations*, UNAT Order No. 173 (2014), para. 6.

IT IS HEREBY ORDERED that Cramatte *et al.*'s Motion of 23 July 2024 is **GRANTED, IN PART**. The request to tender Joint Inspection Unit Report No. JIU/REP/2023/9 into evidence is **GRANTED**. The Appellants are requested to refile their additional pleadings, not exceeding three (3) pages addressing the Joint Inspection Unit Report only, no later than five (5) days from receipt of this Order. The remainder of the Motion is **DISMISSED**.

Original and Authoritative Version: English

Decision dated this 21th day of August 2024
in Beijing, China.

(Signed)
Judge Gao Xiaoli,
President

Order published and entered in the Register on this
21th day of August 2024 in New York, United States.

(Signed)
Juliet E. Johnson,
Registrar