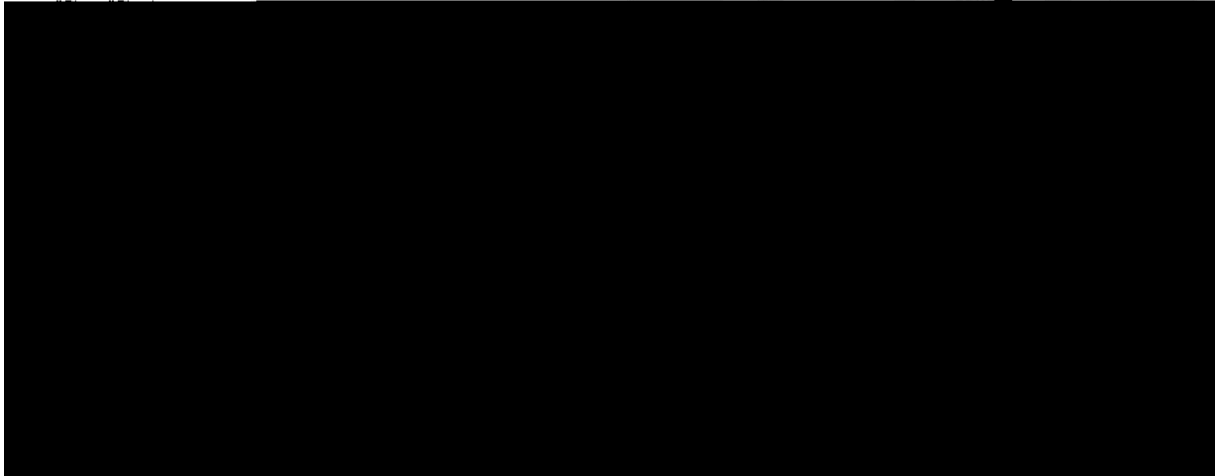




Judgment No. 2015-UNAT-569



Counsel for Appellant:

Self-represented

Counsel for Respondent

Sergio Arvizú

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8. On 16 July 2014, the Standing Committee convened its 196<sup>th</sup> meeting. After discussing Mr. Pio's case, it upheld the decision of the Fund's CEO that suspension of the local currency track for the payment of pension benefits in Argentina should only take effect as of 1 August 2011. It considered this date appropriate in view of the public statement of 13 July 2011 by the IMF's Executive Board that Argentina needed to improve the quality of its reporting of CPI data. Noting also that suspensions under paragraph 26 of PAS apply on a country-wide and not an individual basis, the decision as to the date of effect of the suspension could not turn solely on the request of one individual.

### Submissions

#### Mr. Pio's Appeal

9. The statement by the IMF Executive Board on 13 July 2011 followed on the heels of a study presented by the IMF on the quality of Argentina's reporting of official data on CPI. Mr. Pio contends that it is logical to assume that the IMF report, which is not publicly available, does not refer to the official CPI data reported by Argentina in 2011 but to those reported in previous years. Mr. Pio submits that the IMF's annual reports of 2008, 2009 and 2010 already questioned the reliability of Argentina's official inflation rates on the basis of information of independent analysts, and that in 2013 the IMF recognized that inflation rates were higher than the official reported data from as early as 2007. The IMF's reports are corroborated by other sources, including official provincial statistics, private agencies' statistics, annual adjustments of nominal wages in Argentina as reported by the United Nations Economic Commission for Latin America and the Caribbean, and annual adjustments of salaries of the staff working in United Nations agencies, as demonstrated by fo

10. Mr. Pio also contends that the Standing Committee violated several fundamental principles of natural justice in rehearing his appeal at its

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18. The Fund asks that the Appeals Tribunal dismiss Mr. Pio's appeal in its entirety and uphold the decision of the Standing Committee affirming the CEO's decision that 31 July 2011 was the correct date for suspension of the local currency track in Argentina.

### Considerations

#### Appeal on the merits

19. In Judgment No. 2013-UNAT-344, the Appeals Tribunal remanded Mr. Pio's case to the Standing Committee for reconsideration of his application for discontinuance of the "local track" pension payment and reversion to payment in US dollars.

20. The CEO of the Fund has discretion to either discontinue or suspend the "local track" currency pursuant to paragraph 26 of the PAS, which provides:<sup>7</sup>

- (a) 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 discontinued by the Chief Executive Officer of the Pension Fund. In such cases, the Chief Executive Officer shall duly inform the Board or the Standing Committee of this action, as soon as feasible.
- (b) Aberrant results in (a) above may be due, inter alia, to:
  - (i) Very high inflation rate and an exchange rate which either remained fixed or whose fluctuation was very limited in relation to the level of the inflation rate;
  - (ii) The 36-month average of exchange rates covered different currency units or included a currency unit that was no longer applicable;
  - (iii) Substantial depreciation of the local currency, combined with non-existent, inconsistent or outdated information on the movement of the country's consumer price index.
- (c) For countries where up-to-date CPI data is not available, after examining possible

21. On 5 May 2014, the Fund's CEO decided to suspend the application of the local currency track for the payment of pensions in Argentina with retrospective effect from 1 August 2011. The CEO's decision states:

In accordance with Paragraph 26 of the [PAS], a further review was undertaken of



in September 2012; the statement of 13 July 2011 had provided for an assessment of progress made within 180 days. Since the timeline for remediation was initiated by the statement of the IMF Executive Board on 13 July 2011, the issuance of the declaration of censure was additional clear and convincing proof to the Standing Committee that the date of 31 July 2011, and no earlier date, was the legitimate date for suspension of the

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