

FICSA Standing Committee on Legal Questions

Tips and Information Newsletter for International Civil Servants

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Introduction

[The Standing Committee Chair and Vice Chairs on Legal Questions](#) have identified a judgment from ILOAT published in February 2025, which could be interesting for our members.

The case involved an ITU staff member challenging the Board's decision not to recognize his same-sex marriage for dependency benefit entitlements. The ITU Council declined to amend its Staff Rules and Regulations, which use the terms “husband and wife,” due to a lack of consensus among member states. The Tribunal ruled that if a marriage is legally recognized by the State in which the ceremony took place, denying legally married individuals their entitlement to benefits under the Staff Rules cannot be justified.

In its Judgement 4931¹ (February 25), The International Labour Organization Administrative Tribunal (ILOAT) reviewed a decision by the Board of the International Telecommunications Union (ITU) regarding the denial of dependency benefits to a staff member in a same-sex marriage. The case revolves around whether the ITU should recognize the staff member’s marriage to their same-sex partner for benefits such as dependency allowance and insurance.

In May 2018, an ITU staff member married his same-sex partner in France. In September 2019, the United Nations Joint Staff Pension Fund (UNJSPF) recognized their marriage for pension benefits entitlements. However, when he requested to the ITU the same recognition for dependency and insurance benefits, Human Resources informed him that it was not possible at the time. The organization was trying to change its Staff Regulations and Staff Rules to recognize same-sex unions and domestic partnerships, which was finally not accepted by the ITU Council.

The complainant appealed directly to the ITU Secretary-General asking for an exceptional recognition of his marriage, but in January 2022, he was informed that due to the lack of consensus among ITU member states, the Organization’s rules were not updated to include same-sex marriages.

¹https://wwwex.ilo.org/dyn/triblex/triblexmain.fullText?p_lang=en&p_judgment_no=4931&p_language_code=EN

The ITU’s Staff Regulations and Rules, which are available in both French and English, contain inconsistencies between the two versions. The French version uses the gender-neutral term *conjoint* (partner/spouse), while the English version refers to *dependent spouse* and specifically mentions “husband” and “wife.” According to the ITU’s constitution, when there is a discrepancy between the French and English texts, the French version prevails.

The Tribunal concluded that in the absence of a definition of the term, the status of spouse should be based on a marriage publicly performed and certified by an official of the State where the ceremony has taken place. Therefore, if a marriage is legally recognized in the country where it occurred, an interpretation of the rules that denies benefits to legally married couples cannot be justified. The ruling emphasizes that a marriage legally performed and certified by the appropriate authorities in the country where it took place should be accepted.

Additionally, it is important to note that the United Nations Secretary-General’s bulletin (ST/SGB/2004/13/Rev.1)² recognizes same-sex marriages performed in countries where such unions are legal. This includes unions or registered partnerships that are legally recognized by local authorities and offer similar legal rights to marriage.

Similarly, the United Nations Joint Staff Pension Fund (UNJSPF)³ adopted a policy in 2016 that extends the interpretation of marriage to unions or registered partnerships lawfully entered into and legally recognized by the authorities of the location where the union was established, as long as the union confers similar legal effects as marriage, specifically including pension rights.

Disclaimer

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² <https://docs.un.org/st/SGB/2004/13/Rev.1>

³ <https://www.unjspf.org/wp-content/uploads/2024/04/230908-Guidelines-on-spousal-benefits-art-34-35-Rev.2-1.pdf>