



UNJSPF

United Nations Joint
Staff Pension Fund

DIVORCE

Introduction

The United Nations Joint Staff Pension Fund - also known by its acronym UNJSPF in English and CCPPNU in French - was established in 1949 by the United Nations General Assembly to provide retirement, death, disability and related benefits for staff upon cessation of their service(s) with the United Nations and other organizations admitted to membership of the Fund.

The UNJSPF Regulations and Rules govern the conditions of participation and the determination of the entitlements arising therefrom. The rules are numerous and complex; the purpose of this booklet is to guide you, help your understanding of the rules and assist you with information on issues affecting your pension rights. Participants, retirees and beneficiaries facing circumstances not covered by this booklet are encouraged to consult the Fund or the Secretary of the Staff Pension Committee (SPC) of the organization for which the participant works.

Disclaimer: This information is made available for the convenience of UNJSPF participants, retirees, and beneficiaries. If there is any ambiguity, inconsistency or conflict between the information provided in this booklet and the UNJSPF Regulations and Rules, the Regulations and Rules take precedence.

Please check the UNJSPF website for the most up to date Regulations and Rules.

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UNJSPF Benefits and Divorce

Why are UNJSPF retirement benefits of significance in a divorce?

Some national laws and courts treat retirement benefits as marital assets that are subject to equitable distribution in the event of a participant or retiree's divorce. Accordingly, when a participant or retiree is divorced, a court may determine that their spouse is entitled to a share of the participant or retiree's UNJSPF benefits.

What is the status of the UNJSPF in regard to national court orders?

As a subsidiary organ established by the United Nations General Assembly, the UNJSPF enjoys the same privileges and immunities as the United Nations organization. Therefore, the Fund is not subject to the jurisdiction of any national courts or to the service of process under the authority of such courts. Hence, the Fund will not routinely endorse or give effect to the terms of divorce settlement agreements and, more particularly, to the terms of any court order related thereto.

Is a divorced spouse entitled to a portion of a participant's or retiree's pension benefits?

The UNJSPF Regulations do not give an absolute right in the participant's or retiree's pension benefits to the divorced spouse of a present or former UNJSPF participant.

Can participants or retirees assign a spouse's, or former spouse's, potential survivor's benefit to their estate, to their children, or to a trust?

No. The UNJSPF Regulations do not permit the assignment of a surviving spouse's or divorced surviving spouse's benefit to any third party.

What survivor's benefits are payable to a former spouse in the event of a divorce?

Article 35 bis of the UNJSPF Regulations provides for a survivor's benefit for the divorced surviving spouse of a participant or former participant who meets the requirements set forth in Article 35 bis (b), addressed below.

Can a former spouse garnish a retiree's pension to enforce alimony and/or child support payments?

No, as stated above, rights under the UNJSPF Regulations are non-assignable and the Fund is not subject to the jurisdiction of national courts and is not, therefore, bound to give effect to the terms of a divorce settlement agreement or court order. However, under Article 45 of the UNJSPF Regulations, and at the discretion of the Chief Executive of Pension Administration, the Fund may assist in satisfying a legal obligation on the part of a UNJSPF retiree arising from a marital or parental relationship and evidenced by a court order or a settlement agreement incorporated into a divorce or other court order. Article 45 is further addressed below.

What is the difference between Article 35 bis and Article 45 of the Fund's Regulations?

Article 35 bis sets out the conditions under which, following the death of a participant/retiree, a periodic benefit may become payable by the Fund directly to the participant's divorced surviving spouse. On the other hand, Article 45 sets out the conditions under which, while a retiree is alive and in receipt of a periodic benefit from the Fund, the Fund may discretionarily remit a portion of the retiree's monthly benefit to their divorced or estranged spouse, on the basis of a final and executable court order or a settlement agreement incorporated into a divorce or other court order that establishes a marital or parental legal obligation on the retiree's part.

Who should contact the Fund in the event of a participant or retiree's divorce?

The participant or retiree, their former spouse and/or respective legal representative(s) may contact the Fund in regard to divorce proceedings and any issues concerning the disposition of UNJSPF pension benefits as part of the divorce.

Once the divorce is finalized, the relevant court order, including any divorce settlement agreement addressing UNJSPF benefits, should be submitted to the Fund as soon as possible in order to update the Fund's records and also with respect to the action, if any, to be taken by the Fund in relation to the divorce.

Does a divorce automatically nullify a participant or retiree's designation of the former spouse as the recipient of a residual settlement on the Pens.A/2 form?

A divorce does not automatically nullify the designation by a participant or retiree of the former spouse as the recipient of a residual settlement under Article 38 of the UNJSPF Regulations. The participant or retiree would have to complete and submit a new Pens.A/2 form to the Fund naming a new beneficiary or beneficiaries. Note that the residual settlement under Article 38 of the UNJSPF Regulations is not a survivor's benefit, and is only payable if no other periodic benefit is payable by the Fund and the participant's own contributions exceed the amount paid out by the Fund to and on account of the participant. The Fund encourages you to regularly review and if necessary, update your Pens.A/2 form. For more information about the residual settlement, please consult the Fund's website.

Does the Fund provide information on a participant's or retiree's benefits in order to assist in the preparation of a divorce settlement agreement or court order?

Under a strict rule of confidentiality contained in the Regulations and Rules, the Fund cannot provide any personal pension information to third parties, including former or estranged spouses or their lawyers, except upon prior written authorization of the participant or retiree concerned, or if a third party obtains a court order to request such information. In cases where information is provided pursuant to a court order, only the following information can be provided in accordance with Section B.4 of the UNJSPF Administrative Rules:

- i) The amount of benefits received and in payment for a retiree/beneficiary;

- ii) The accrued entitlements for an active participant; and
- iii) The address of the retiree/beneficiary.

Does the Fund provide actuarial values for accrued UNJSPF pension rights?

No, the Fund does not provide actuarial values for accrued UNJSPF pension rights. The participant can request an estimate of their pension benefit(s), including the amount of a one-time withdrawal settlement, reflecting the amount he/she would become entitled to as at the time of a specific hypothetical separation date. If the parties require an actuarial value, they would need to obtain that privately.

Will the amount of a retiree's pension benefits change due to divorce?

No, since the potential survivorship element is not taken into account in the calculation of a pension benefit, the amount of the retiree's pension will not be different due to the fact that he/she is no longer married.

In case of divorce, can the Fund pay child benefits to a custodial parent who is not the UNJSPF retiree?

Yes, the custodial parent should submit a request together with proof of custody and provide payment instructions on a PF.23/B form for payment of a child benefit under Article 36 of the UNJPSF Regulations.

The Application of Article 45 of UNJSPF Regulations

Article 45 states that a participant or retiree cannot assign his or her rights under the UNJSPF Regulations, however, it allows the Fund to pay a portion of a retiree's monthly periodic benefit to a former or estranged spouse in order to fulfill a legal obligation (e.g. alimony or child support payment) arising from a marital or parental relationship.

What are the requirements for the application of Article 45?

The Fund requires a court order in a final form stating the amount or percentage of the benefits due to the former spouse. However, the actual determination of the possible application of this article in a particular case would be done only after the participant is separated from service.

Does the Fund require the court order to be in a specific form?

No. The Fund does not require the completion of any specific form, nor are there any formal requirements concerning the language of the relevant national court order (including a Qualified Domestic Relations Order (QDRO) in the United States), to consider the possible application of Article 45 in a particular case.

Does the UNJSPF provide samples or advice in regard to the drafting of court orders?

No, the UNJSPF has no samples to provide to legal representatives. Equally, the Fund does not normally review specific (draft) agreements or offer individual legal advice on the drafting of agreements, except when queries relate to the UNJSPF Regulations and their application.

Who should submit the request for the application of Article 45 and what documentation is required?

The former participant may, at the time of their retirement, formally request that a portion of their benefit be remitted directly to their former or estranged spouse. Alternatively, the former or estranged spouse may submit the request at that time. The request should be accompanied by a copy of the signed court order(s), as well as any divorce settlement agreement or other relevant documentation to support the request. If the documentation is not in one of the Fund's working languages (English and French), a translation should be provided. The decision as to whether to apply Article 45 in a particular case is at the discretion of the Chief Executive of Pension Administration.

Is the UNJSPF retiree notified in the event that the request for the application of Article 45 is made by the former or estranged spouse?

Yes, before the exercise of the above-mentioned discretion by the Chief Executive of Pension Administration, the UNJSPF retiree will be notified and provided with the opportunity to submit comments.

Does the Fund assign the exact amount or percentage ordered by a court?

No, given that the application of Article 45 is at the discretionary authority of the Chief Executive of Pension Administration and due to the fact that the Fund is not subject to the jurisdiction of national courts, it is not obliged to assign the exact amount or percentage ordered by a national court. In cases where the deduction is stated as a specific amount rather than a percentage, the amount is normally converted to a percentage of the monthly pension benefit payable to the retiree. This allows for the cost-of-living adjustments to be applied in respect of the assigned amount.

Is there a ceiling on the amount of the monthly deduction that can be assigned to a former or estranged spouse?

The Fund normally limits the possible deduction under Article 45 of the Fund's Regulations to 50% of the retiree's gross monthly pension benefit.

How is the deduction implemented?

The deduction is implemented on a prospective basis. Both the retiree and the former or estranged spouse, or their respective legal representatives, will be advised of the decision of the Chief Executive of Pension Administration and a request will be made for the submission of signed original payment instructions (PF.23 form) from the former or estranged spouse, if one has not already been submitted.

Will the Fund implement court orders for arrears in alimony or child support payments?

No, UNJSPF benefits are protected from attachment to pay off debts. The Fund will only assist in satisfying current legal obligations for payment of alimony or child support, on a prospective basis, following the decision of the Chief Executive of Pension Administration. It is the responsibility of the former or estranged spouse and the UNJSPF retiree to negotiate and agree between them as to how they will settle such private debts.

Does the Fund issue statements of amounts paid to former or estranged spouses?

Yes, upon request the Fund can issue a benefit statement of amounts paid to a former or estranged spouse.

What happens if the divorce settlement agreement provides for the former spouse to receive a lump sum from the retiree?

Pursuant to Article 45, the Fund will only assist in implementing court orders for deductions to be made from amounts paid monthly to the retiree. If the divorce settlement agreement provides for payment of a lump sum, the retiree is responsible for discharging the obligation to make such payment.

What if the retiree elects to commute part of their benefit into a lump sum?

In cases where the retiree elects to receive part of their benefit as a lump sum, the Fund does not make any deduction from the lump sum in respect of amounts due under a court order to a former spouse. It remains the obligation of the retiree to make the payment. Under Article 45 of the Fund's Regulations, the Fund can make a deduction from a periodic (monthly) benefit.

What happens to the deductions to a former or estranged spouse in the event of a retiree's death?

Deductions from the monthly benefit will cease, as there is no longer a pension benefit payable to the retiree. The Fund will determine what, if any, survivor's benefits are payable, including a divorced surviving spouse's benefit.

What happens if the former or estranged spouse dies?

Should the former or estranged spouse pre-decease the retiree, the deductions will cease and the full retirement benefit will become payable to the retiree with effect from the next month following the death of the former or estranged spouse.

Can the amount of the deduction be changed?

Only in the event that a new court order is issued altering the amount payable by the retiree to their former or estranged spouse or in respect of child support; the Chief Executive of Pension Administration will review the request to amend the amount and determine the extent to which the Fund can implement the change.

Divorced Surviving Spouse's Benefit

This benefit is payable to the divorced surviving spouse of a participant or retiree provided the requirements set forth in Article 35 bis (b)(i) to (iii) of the Regulations are met and the divorce settlement agreement/judgment does not expressly state that the former spouse renounced UNJSPF pension benefit entitlements in accordance with Article 35 bis (b)(iv).

Who can apply for a divorced surviving spouse's benefit?

The former spouse of a participant or of a retiree, who survives the said participant or retiree, can request a divorced surviving spouse's benefit.

What conditions have to be met for the payment of a divorced surviving spouse's benefit?

The following four conditions have to be met, which are set out in Article 35 bis (b) of the UNJSPF Regulations:

- The former spouse must have been married to the participant or retiree for a minimum continuous period of 10 years during which contributions were paid to the UNJSPF in respect of the participant or retiree;
- The participant's death must have occurred within 15 years of the date when the divorce became final, unless at the time of death the participant or retiree was under a legal obligation to pay maintenance to the former spouse;
- The former spouse must have reached the age of 40, otherwise, payment will commence upon his or her 40th birthday;

- The divorce settlement does not contain an express renouncement of UNJSPF pension benefit entitlements by the former spouse.

How much is the divorced surviving spouse's benefit?

If the participant or retiree separated from the service of a UNJSPF member organization before 1 April 1999, the divorced surviving spouse's benefit is a fixed amount. However, the amount payable cannot exceed the amount payable to a surviving spouse of the former participant.

If the participant or retiree separated from the service of a UNJSPF member organization on or after 1 April 1999 and there is one or more surviving spouse(s) entitled to a widow's/widower's benefit, the survivor's benefit is divided between the surviving spouse(s) and the former spouse(s) in proportion to the duration of their marriages to the participant/retiree.

If the participant or retiree separated from the service of a UNJSPF member organization on or after 1 April 1999, and there is no widow/widower entitled to a survivor's benefit, the divorced surviving spouse's benefit is equivalent to half of the full benefit payable to the participant or to the retiree.

When does the payment of a divorced surviving spouse's benefit start?

If the retiree separated from the service of a UNJSPF member organization before 1 April 1999, payment of the divorced surviving spouse's benefit is due as of the first day of the month following the date of the retiree's death or as of 1 April 1999, whichever is later.

If the retiree separated from the service of a UNJSPF member organization on or after 1 April 1999, payment of the divorced surviving spouse's benefit is due as of the first day of the month following the date of the decision of the Chief Executive of Pension Administration authorizing the entitlement to the benefit.

How is the divorced surviving spouse's benefit paid and for how long is it payable?

This benefit is paid monthly to the bank account specified by the divorced surviving spouse in the original signed payment instructions form submitted to the Fund, and for as long as he/she is alive, in accordance with Article 35 bis of the Regulations of the Fund.

Does the re-marriage of a former spouse make them ineligible to receive a divorced surviving spouse's benefit?

No, as of 1 January 2009 the previous condition that no benefit would be payable if the former spouse had remarried has been removed.

If a retiree marries/remarries after retirement, would the new spouse be entitled to a benefit?

No, a spouse married after separation from service would not be eligible for a survivor's benefit in the event of the retiree's death. However, under Article 35 ter of the UNJSPF Regulations, a retiree receiving a periodic benefit may purchase a benefit (annuity) for a spouse married after separation from service through a reduction in the monthly retirement benefit by submitting a request to the UNJSPF within one year of the date of marriage/remarriage.

Summary Guide for the Preparation of Divorce

The UNJSPF is a defined benefit plan. The Fund does not provide actuarial values for accrued UNJSPF pension rights. However, a participant or retiree may request an estimate of their pension benefit(s), including the amount of a one-time withdrawal settlement, reflecting the amount he/she would have become entitled to as at the time of a specific hypothetical separation date. Participants can also obtain an estimate through the UNJSPF Member Self-Service (MSS) site.

1. Participants in the Fund receive an annual statement each year, which provides pension-related details arising from their individual employment with a UNJSPF member organization. This can also be accessed through MSS using the participant's individual account.
2. Survivors' benefits for a divorced surviving spouse are governed by Article 35 bis of the UNJSPF Regulations; a determination as to eligibility is only made at the time of death of the participant or retiree. The Fund cannot give any authoritative "preapprovals" regarding eligibility.
3. If the divorce settlement has an express renouncement of UNJSPF pension benefit entitlements, there is no Article 35 bis entitlement to a divorced spouse.
4. Pursuant to Article 45 of the UNJSPF Regulations, the Fund may, at the discretion of the Chief Executive of Pension Administration, assist in satisfying a legal obligation on the part of a UNJSPF beneficiary arising from a marital or

parental relationship and evidenced by a court order or by a court-approved settlement agreement.

(i) The Fund does not have, nor require, the completion of any specific form, or formal requirements on the language of the relevant national court order (including Qualified Domestic Relations Order (QDRO) in the United States), to consider the possible application of Article 45 or Article 35 bis in a particular case. A QDRO can, however, serve as the underlying basis for applying Article 45 and Article 35 bis.

(ii) The UNJSPF has no samples of court orders to provide to attorneys. Equally, the Fund does not normally review specific (draft) agreements or offer individual legal advice when drafting the agreements, except when queries relate to the UNJSPF Regulations and their application.

(iii) A participant or retiree may him/herself request the application of Article 45 at the time of retirement, or thereafter to have a portion of their benefit directly remitted to their former or estranged spouse, in accordance with the relevant court order and signed, original payment instructions. Alternatively, the request can be submitted by the former or estranged spouse with the relevant documentation.

(iv) The actual determination of the possible application of Article 45 in a particular case would be done only after the staff member is separated from service.

(v) Before the exercise of the above-mentioned discretion by the Chief Executive of Pension Administration, the UNJSPF retiree will be notified in order to obtain their comments.

5. Under a strict rule of confidentiality, the Fund cannot provide any personal pension information to third parties, including former or estranged spouses or their lawyers. Only upon prior written authorization of the present or former UNJSPF participant concerned can such information be released. Alternatively, limited information may be provided pursuant to a court order in accordance with Section B.4 of the UNJSPF Administrative Rules.



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