

UNDT/2018/013, Lloret Alcaniz et al

UNAT Held or UNDT Pronouncements

With respect to the content of judgment Lloret Alcañiz et al., the applicants raised the following question to the Tribunal: Is it the intention of the Tribunal in this Judgment for the Applicants to continue to receive a “dependency rate of salary” after their first dependent child ceases to be dependent and up until their youngest dependent child is no longer recognized as a dependent?; The Tribunal found that the Applicants asked it to go beyond the conclusions of its Judgment in raising ex post facto a question about the interpretation of the former regime, which was not raised nor discussed during the proceedings. The Tribunal found that its Judgment was clear in that the former regime for determining eligibility to payment of salary at the dependency rate as it stood before the introduction of the new Unified Salary Scale on 1 January 2017 shall apply to the Applicants. No issue was; raised during the proceedings about possible divergent interpretations of sec. 3.5 of former ST/AI/2011/5 and former staff regulation 3.4(a) and it was commonly understood that under the former regime, staff members who have a non-dependent spouse were paid at the dependency rate as long as they have a dependent child. This notably appears from paras. 112 to 116 of the Judgment, where the Tribunal estimated the losses that the Applicants will suffer consequent to the introduction of the Unified Salary Scale based on the estimations they provided.; The Applicants appeared to raise doubts about the compatibility of the practice adopted by the Administration with the relevant rules. This matter did not involve the interpretation of the Tribunal’s judgment but rather constituted a new question in respect of the interpretation of the former legal regime governing dependency benefits. The Tribunal considered that the question was hypothetical at that stage as there was no indication that there is a disagreement between the parties. In effect, the Tribunal was of the view that the Applicants sought a declaratory judgment on the its interpretation of the former legal regime governing dependency benefits. The Tribunal did not have jurisdiction to resolve hypothetical or academic questions through declaratory judgments nor to consider new issues that went beyond the scope of its Judgment.; Therefore, the Tribunal found that the applications were

irreceivable ratione materiae.

Decision Contested or Judgment/Order Appealed

The Applicants requested interpretation of judgment Lloret Alcañiz et al. UNDT/2017/097 issued on 29 December 2017.

Legal Principle(s)

N/A

Outcome

Revision, correction, interpretation or execution

Full judgment

[Full judgment](#)

Applicants/Appellants

Lloret Alcaniz et al

Entity

UNOG

Case Number(s)

UNDT/GVA/2018/001

UNDT/GVA/2018/002

UNDT/GVA/2018/003

UNDT/GVA/2018/004

UNDT/GVA/2018/005

Tribunal

UNDT

Registry

Geneva

Date of Judgement

31 Jan 2018

Duty Judge

Judge Downing

Judge Bravo

Language of Judgment

English

Issuance Type

Judgment

Categories/Subcategories

TEST -Rename- Benefits and entitlements-45

Judgment-related matters

Interpretation of Judgment

Applicable Law

UNDT RoP

- Article 30

Related Judgments and Orders

UNDT/2017/097