



(Respondent)

## JUDGMENT

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Before:	Judge Luis María Simón, Presiding Judge Jean Courtial Judge Mary Faherty
Judgment No.:	2012-UNAT-225
Date:	29 June 2012
Registrar:	Weicheng Lin

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JUDGE LUIS MARÍA SIMÓN , Presiding.

1. The United Nations Appeals Tribunal (Appeals Tribunal) is seized of an appeal filed by Mr. Kenneth R. Scott on 3 August 2011 against

6. The Appeals Tribunal finds no breach of Mr. Scott's rights and therefore affirms the Judgment under appeal, dismissing the appeal.

#### Facts and Procedure

7. Mr. Scott joined the International Criminal Tribunal for the former Yugoslavia (ICTY) at The Hague in January 1998 where he is currently serving as a Senior Prosecuting Trial Attorney at the P-5 level.

8. On 25 March 2008, Mr. Scott completed a yearly dependency status questionnaire in which he certified that his wife's expected income for 2008 would be USD 34,200. In April 2009, Mr. Scott certified that his wife's actual earnings for 2008 had been USD 47,236.

9. Upon reviewing Mr. Scott's 2008 claim for dependency, the ICTY amended his dependency benefit for 2008 on three different





Considerations

24. The main issue in the present case is the interpretation of former Staff Rule 103.24(a) and Section 2.1 of ST/AI/2000/8. Former Staff Rule 103.24 (Definition of dependency) in force in 2008 reads, in part, as follows:

25. For the purposes of the Staff Regulations and Staff Rules:

(a) A dependent spouse shall be a spouse whose occupational earnings, if any, do not exceed the lowest entry level of the United Nations General Service gross salary scales in force on 1 January of the year concerned for the duty station in the country of the spouse's place of work, provided that, in the case of staff in the Professional category or above, the amount shall not at any duty station be



more illustration than the simple comparison of currency exchange mandated by the Administration's applicable rule. The economic prejudice argued by the Appellant in support of his proposal could be equally an advantage, depending on the time and place of the calculation. This general approach evidences that no infringement of the principle of equal treatment has occurred and that there has been no breach of Mr. Scott's rights. His alleged prejudice comes from a policy-oriented point of view and not from an actual violation of the law applying a different policy to the calculation of the dependency benefit.

34. Therefore, we find no error that would warrant vacating the Judgment under appeal.

#### Judgment

35. The appeal is dismissed in its entirety and the UNDT Judgment affirmed.



Original and Authoritative Version: English

Dated this 29<sup>th</sup> day of June 2012 in Geneva, Switzerland.

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