Judgment of the Administrative Tribunal of the ILO concerning the decisions of the International Civil Service Commission regarding the revised post adjustment index for Geneva

**Summary:** This document summarizes the latest developments concerning the legal challenge of the decision to implement the revised post adjustment as determined by the International Civil Service Commission for all Geneva-based staff in the professional and higher categories effective April 2018, including the Judgment No. 4134 delivered by the Administrative Tribunal of the ILO on 3 July 2019 and the measures taken for the prompt and full execution of that judgment.

**Author unit:** Human Resources Development Department (HRD).

**Related documents:** GB.331/PFA/16(Rev.); GB.332/PFA/11; GB.334/PFA/13(Rev.); GB.337/PFA/1/2.
1. Following the implementation, effective 1 April 2018, of the revised post adjustment multipliers (PAMs) for Geneva as determined by the International Civil Service Commission (ICSC), some 300 affected ILO officials challenged the lawfulness of that decision through the Office’s formal conflict resolution system and subsequently before the Administrative Tribunal of the ILO (ILOAT). A number of other officials refrained from filing a formal complaint only in light of the Office’s assurance of 9 May 2018 that the application of any decision taken by the Tribunal on the matter would be extended in good faith to all colleagues in the same situation.

2. On 3 July 2019, the Administrative Tribunal of the ILO delivered Judgment No. 4134, its final and binding ruling regarding complaints filed by ILO officials, challenging the decision of the Director-General to apply the revised PAMs determined by the ICSC for the duty station Geneva on the basis of the 2016 cost-of-living survey. Separate judgments were simultaneously issued by the ILOAT in respect of similar challenges raised by Geneva-based staff of four other organizations. ¹

3. In its Judgment No. 4134, the Tribunal considered that the ICSC’s decisions leading to the determination of the post adjustment index and multiplier levels at issue in the above-referenced case were without legal foundation. The Tribunal also considered that, insofar as the ICSC’s decision to reduce the gap closure measure from 5 to 3 per cent was neither substantiated nor transparent, it was legally flawed. Accordingly, the Tribunal considered that the administrative decisions taken by the Office to apply the PAMs rates resulting from those ICSC decisions were legally flawed. The Tribunal consequently decided to set aside the Office’s decisions to implement the revised PAMs based on the results of the 2016 cost-of-living survey for the duty station Geneva, and ordered the Office to pay all complainants and interveners the equivalent of the difference between the remuneration actually paid to them since April 2018 and the remuneration that would have been paid to them during the same period, had the ICSC decisions not been implemented. The Tribunal also ordered the payment of interest at the rate of 5 per cent per annum from the due dates until the date of final payment. ² The Tribunal found, however, that no moral damages, exemplary damages, or costs were warranted.

4. In accordance with the provisions of paragraph 1 of article VI of the Statute of the Tribunal, the judgments of the Tribunal are final and without appeal and carry the authority of res judicata, which precludes further litigation between the parties on the same issues. Judgments of the Tribunal must be executed fully, promptly and correctly, as ruled. To this end, the Office, immediately upon the issuance of the aforementioned judgment, requested the secretariat of the ICSC to provide the monthly PAM rates for the duty station Geneva that would have been applied had the contested revised post adjustment index resulting from the 2016 cost-of-living survey not been implemented. The ICSC secretariat provided the requested figures on 15 August 2019, thus enabling the Office to process the majority of the payments due to staff as a result of the aforementioned judgment on this basis, through the August 2019 payroll.

5. Following the public delivery of the judgment, the Office confirmed its earlier commitment to apply the ruling to all staff affected by the challenged decision, irrespective of whether they had filed a complaint with the Tribunal, in order to ensure equality of treatment and in the interest of maintaining common salary conditions among ILO professional staff.

¹ ILOAT Judgments Nos 4135–4138 concerning the World Health Organization; the International Organization for Migration; the International Telecommunication Union; and the World Intellectual Property Organization.

² The full text of the judgment can be accessed at: https://www.ilo.org/dyn/triblex/triblexmain.fullText?p_lang=en&p_judgment_no=4134&p_language_code=EN.
members based in Geneva. Accordingly, the relevant retroactive post adjustment payments in respect of the period April 2018–June 2019, plus interest, as per the Tribunal’s decision, were made to all concerned ILO officials in August 2019.

6. In accordance with the aforementioned judgments, the monthly remuneration currently being paid to all concerned ILO staff in the duty station Geneva is on the basis of PAMs that are calculated by the ICSC using the indices and operational rules in effect prior to the 2016 cost-of-living survey round and related ICSC decisions.

7. The budget adopted for 2018–19 was prepared prior to the ICSC decisions to reduce remuneration and as such, provision already exists to cover this expenditure for the current biennium. The estimated financial implications resulting from the implementation of the aforementioned judgment for the biennium 2020–21 are presented in document GB.337/PFA/1/2.