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Resolution concerning the Statute of the Administrative Tribunal of the International Labour Organization ¹

The General Conference of the International Labour Organization,

Conscious of the need to repeal article XII of the Tribunal's Statute and article XII of its Annex in order to ensure equality of access to justice for employing institutions and officials alike;

Mindful of the need to expressly provide for the possibility of filing applications for the interpretation, execution or review of judgments in accordance with the Tribunal's case law;

Noting that a series of editorial amendments should be introduced into the Statute with a view, in particular, to correcting errors, ensuring consistency in terminology and use of gender-inclusive language;

Noting that the Governing Body of the International Labour Office has reviewed and endorsed the text of the draft amendments to the Tribunal's Statute and to the Annex;

adopts the following amendments to the Statute and to the Annex to the Statute of the Administrative Tribunal of the International Labour Organization:

STATUTE OF THE ADMINISTRATIVE TRIBUNAL OF THE INTERNATIONAL LABOUR ORGANIZATION

Adopted by the International Labour Conference on 9 October 1946 and amended by the Conference on 29 June 1949, 17 June 1986, 19 June 1992, 16 June 1998, ~~and~~ 11 June 2008 and 7 June 2016.

Article I

There is established by the present Statute a Tribunal to be known as the International Labour Organization Administrative Tribunal.

Article II

1. The Tribunal shall be competent to hear complaints alleging non-observance, in substance or in form, of the terms of appointment of officials of the International Labour Office, and of such provisions of the Staff Regulations as are applicable to the case.

2. The Tribunal shall be competent to settle any dispute concerning the compensation provided for in cases of invalidity, injury or disease incurred by an official in the course of her or his employment and to fix finally the amount of compensation, if any, which is to be paid.

3. ~~[Deleted]The Tribunal shall be competent to hear any complaint of non-observance of the Staff Pensions Regulations or of rules made in virtue thereof in regard to an official or the wife, husband or children of an official, or in regard to any class of officials to which the said Regulations or the said rules apply.~~

4. The Tribunal shall be competent to hear disputes arising out of contracts to which the International Labour Organization is a party and which provide for the competence of the Tribunal in any case of dispute with regard to their execution.

¹ Adopted on 7 June 2016.

5. The Tribunal shall also be competent to hear complaints alleging non-observance, in substance or in form, of the terms of appointment of officials and of provisions of the Staff Regulations of any other international organization meeting the standards set out in the Annex hereto which has addressed to the Director-General a declaration recognizing, in accordance with its Constitution or internal administrative rules, the jurisdiction of the Tribunal for this purpose, as well as its ~~Rules of Procedure~~, and which is approved by the Governing Body.

6. The Tribunal shall be open:

- (a) to the official, even if her or his employment has ceased, and to any person on whom the official's rights have devolved on her or his death;
- (b) to any other person who can show that she or he is entitled to some right under the terms of appointment of a deceased official or under provisions of the Staff Regulations on which the official could rely.

7. Any dispute as to the competence of the Tribunal shall be decided by it., ~~subject to the provisions of article XII.~~

Article III

1. The Tribunal shall consist of seven judges who shall all be of different nationalities.

2. The judges shall be appointed for a period of three years by the International Labour Conference. ~~of the International Labour Organization.~~

3. A meeting of the Tribunal shall be composed of three judges or, in exceptional circumstances, five, to be designated by the President, or all seven.

Article IV

The Tribunal shall hold ordinary sessions at dates to be fixed by ~~the its Rules of Court~~, subject to there being cases on its list and to such cases being, in the opinion of the President, of a character to justify holding the session. An extraordinary session may be convened at the request of the Chairmanperson of the Governing Body of the International Labour Office.

Article V

The Tribunal, at its discretion, may decide or decline to hold oral proceedings, including upon request of a party. The Tribunal shall decide in each case whether the oral proceedings before it or any part of them shall be public or in camera.

Article VI

1. The Tribunal shall take decisions by a majority vote. ~~Judgments shall be final and without appeal. The Tribunal may nevertheless consider applications for interpretation, execution or review of a judgment.~~

2. The reasons for a judgment shall be stated. The judgment shall be communicated in writing to the Director-General of the International Labour Office and to the complainant.

3. Judgments shall be drawn up in a single copy, which shall be filed in the archives of the International Labour Office, where it shall be available for consultation by any person concerned.

Article VII

1. A complaint shall not be receivable unless the decision impugned is a final decision and the person concerned has exhausted such other means of ~~resisting redress~~ as are open to her or him under the applicable Staff Regulations.

2. To be receivable, a complaint must also have been filed within ninety days after the complainant was notified of the decision impugned or, in the case of a decision affecting a class of officials, after the decision was published.

3. Where the Administration fails to take a decision upon any claim of an official within sixty days from the notification of the claim to it, the person concerned may have recourse to the Tribunal and her or his complaint shall be receivable in the same manner as a complaint against a final decision. The period of ninety days provided for by the last preceding paragraph shall run from the expiration of the sixty days allowed for the taking of the decision by the Administration.

4. The filing of a complaint shall not involve suspension of the execution of the decision impugned.

Article VIII

In cases falling under article II, the Tribunal, if satisfied that the complaint was well founded, shall order the rescinding of the decision impugned or the performance of the obligation relied upon. If such rescinding of a decision or execution of an obligation is not possible or advisable, the Tribunal shall award the complainant compensation for the injury caused to her or him.

Article IX

1. The administrative arrangements necessary for the operation of the Tribunal shall be made by the International Labour Office in consultation with the Tribunal.

2. Expenses occasioned by sessions of the Tribunal shall be borne by the International Labour Office.

3. Any compensation awarded by the Tribunal shall be chargeable to the budget of the International Labour Organization.

Article X

1. Subject to the provisions of the present Statute, the Tribunal shall draw up its Rules of Court covering:

- (a) the election of the President and Vice-President;
- (b) the convening and conduct of its sessions;
- (c) the rules to be followed in presenting complaints and in the subsequent procedure including intervention in the proceedings before the Tribunal by persons whose rights as officials may be affected by the judgment;
- (d) the procedure to be followed with regard to complaints and disputes submitted to the Tribunal by virtue of paragraphs ~~3 and 4~~ of article II;
- (e) and, generally, all matters relating to the operation of the Tribunal which are not settled by the present Statute.

2. The Tribunal may amend ~~the~~ its Rules ~~of Court~~.

Article XI

The present Statute ~~shall remain in force during the pleasure of the General Conference of the International Labour Organization. It may be amended, after consultation with the Tribunal, by the International Labour Conference or such other organ of the International Labour Organization as the Conference may determine.~~

Article XII

~~1. In any case in which the Governing Body of the International Labour Office or the Administrative Board of the Pensions Fund challenges a decision of the Tribunal confirming its jurisdiction, or considers that a decision of the Tribunal is vitiated by a fundamental fault in the procedure followed, the question of the validity of the decision given by the Tribunal shall be submitted by the Governing Body, for an advisory opinion, to the International Court of Justice.~~

~~2. The opinion given by the Court shall be binding.~~

ANNEX TO THE STATUTE OF THE ADMINISTRATIVE TRIBUNAL OF THE INTERNATIONAL LABOUR ORGANIZATION

To be entitled to recognize the jurisdiction of the Administrative Tribunal of the International Labour Organization in accordance with paragraph 5 of article II of its Statute, an international organization must either be intergovernmental in character, or fulfil the following conditions:

- (a) it shall be clearly international in character, having regard to its membership, structure and scope of activity;
- (b) it shall not be required to apply any national law in its relations with its officials, and shall enjoy immunity from legal process as evidenced by a headquarters agreement concluded with the host country; and
- (c) it shall be endowed with functions of a permanent nature at the international level and offer, in the opinion of the Governing Body, sufficient guarantees as to its institutional capacity to carry out such functions as well as guarantees of compliance with the Tribunal's judgments.

The Statute of the Tribunal applies in its entirety to such international organizations subject to the following provisions which, in cases affecting any one of these organizations, are applicable as follows:

Article VI, paragraph 2

The reasons for a judgment shall be stated. The judgment shall be communicated in writing to the Director-General of the International Labour Office, to the ~~Director-General~~ executive head of the international organization against which the complaint is filed, and to the complainant.

Article VI, paragraph 3

Judgements shall be drawn up in two copies, of which one shall be filed in the archives of the International Labour Office and the other in the archives of the international organization against which the complaint is filed, where they shall be available for consultation by any person concerned.

Article IX, paragraph 2

Expenses occasioned by the sessions or hearings of the Administrative Tribunal shall be borne by the international organization against which the complaint is filed.

Article IX, paragraph 3

Any compensation awarded by the Tribunal shall be chargeable to the budget of the international organization against which the complaint is filed.

~~*Article XII, paragraph 1*~~

~~In any case in which the Executive Board of an international organization which has made the declaration specified in article II. paragraph 5, of the Statute of the Tribunal challenges a decision of the Tribunal confirming its jurisdiction, or considers that a decision of the Tribunal is vitiated by a fundamental fault in the procedure followed, the question of the validity of the decision given by the Tribunal shall be submitted by the Executive Board concerned, for an advisory opinion, to the International Court of Justice.~~