



NINETEENTH ITEM ON THE AGENDA

Matters relating to the Administrative Tribunal of the ILO**Statute of the Tribunal**

1. In March 2009, the Governing Body deferred to this session the review of the possibility for staff unions and associations to file complaints in their own name before the Administrative Tribunal of the International Labour Organization, in order to receive an update of pending developments.¹
2. As foreseen in March 2009,² in the context of the ongoing reform of its internal administration of justice system, the United Nations launched a new two-tier formal system of administration of justice as of July 2009 and an Office of Staff Legal Assistance to assist staff members in processing claims through the system. The possibility of staff associations filing tribunal applications in their own name (*locus standi*) was not included in the newly adopted Statute of the Dispute Tribunal or the Appeals Tribunal and remains pending for discussion at the 65th Session of the UN General Assembly in 2010.³
3. The Office of the Legal Adviser of the ILO convened a meeting on recent developments relating to the administration of justice, on 5 May 2009 in Geneva. Participants included representatives of 33 of the 58 organizations recognizing the jurisdiction of the Tribunal. The President, Vice-President and Registrar of the Tribunal attended as guests, as well as representatives of two organizations that had accepted the jurisdiction of the UN Administrative Tribunal. Written submissions from several staff associations and federations⁴ were circulated during the meeting.

¹ GB.304/PFA/16/2. For earlier discussions, see GB.294/8/2(Rev.), para. 58; GB.294/PV, para. 215.

² GB.304/PFA/16/2.

³ UN General Assembly: *Administration of Justice at the United Nations*, 30 December 2008 (A/63/642). However, the Statute of the Dispute Tribunal does provide that staff associations may request leave to file briefs in the nature of *amicus curiae*.

⁴ Notably, the Coordinating Committee for International Staff Unions of the United Nations System (CCISUA), the Federation of International Civil Servants Associations (FICSA), the United Nations

4. Participants considered, among other matters,⁵ the question of standing, or locus standi, of staff unions and associations to file complaints in their own name. They examined developments in the Tribunal's case law that were relevant to the question of staff unions and associations taking action in their own name. In particular, the Tribunal had recognized that individual complaints brought by a staff representative or any other official could involve issues of freedom of association alleging non-observance of their terms of appointment. In certain cases the Tribunal had accepted complaints by staff representatives alleging non-observance of the Staff Regulations or Rules that affected staff members in general and were not related to freedom of association. In addition to the existing practice of receiving amicus curiae briefs from staff unions or associations, the Tribunal could invite them to make submissions in accordance with Article 11 or Article 13, paragraph 3, of the Tribunal's Rules.
5. A number of participants noted that, to ensure consistency within the UN system, it would be preferable to resolve the locus standi question after conclusion of the pending decision on the issue in the framework of the UN reform of the administration of justice system in 2011. It was agreed, however, that the ILO Tribunal-based organizations should explore the question in the meantime. The ILO Legal Adviser sent letters to them in June 2009 seeking further opinions on, among other questions, the locus standi of staff associations. The views received to date, while revealing divergent positions among the organizations on the principle and procedures involved, overwhelmingly confirm the desirability of waiting for the outcome of the UN decision-making process set on the agenda of the 65th Session of the General Assembly.
6. ***In light of the above, the Committee may wish to recommend that the Governing Body place this item on the agenda of its 310th Session (March 2011) for its review based on the outcome of the 65th Session of the UN General Assembly and any other relevant developments.***

Geneva, 28 October 2009.

Point for decision: Paragraph 6.

International Civil Servants Union (UNISERV), and the Staff Union of the International Labour Office.

⁵ The meeting reviewed developments regarding the reform of the internal UN justice system, as well as those within the ILO Tribunal, including the possibility of appeal of its decisions and questions relating to the financing of its operational costs.