



COMMUNICATION 9/19

FOLLOW-UP RELATIVE TO ILOAT JUDGMENTS ON THE GENEVA SALARY CUT CASES

To: Chairs, Member Associations/Unions
Members of the Executive Committee
Chairs, Members with Associate Status
Chairs, Associations with Consultative Status
Presidents, Federations with Observer Status
Chairs and Vice-Chairs of Standing Committees

Geneva, 5 July 2019

From: Brett Fitzgerald, President

Following the well-deserved celebrations in winning the ILOAT appeals relative to the Geneva salary cut cases, it is time to address several practical questions and, at the same time, take stock of the strategies employed and lessons learned.

In reading the ILOAT judgments relative to these cases, you will note from the wording of the ILOAT decisions that they apply to the “complainants” and “interveners”. This is normal because the ILOAT can only decide on an appeal filed by one or more individuals.

Therefore, one of the questions which is being asked is whether or not the Organizations will apply the ILOAT judgments to all staff in the Professional and higher categories in their respective Organizations, i.e. also to those staff in these categories who did not file or sign the appeal?

In the case in which no staff member in an Organization filed an appeal against the Organization’s decision to implement the salary cut, the question is whether or not that Organization will apply the ILOAT judgments to the Professional and higher category staff in that Organization.

In respect of both of these questions, FICSA encourages the respective staff associations/unions of the Organizations in Geneva and Bern to urgently request their respective Administrations to apply the ILOAT judgments to all Geneva and Bern-based staff in the Professional and higher categories. The FICSA Executive Committee will continue to follow up on this matter with the HR Network and the HLCM. In the meantime, should FICSA member staff associations/unions desire the assistance of FICSA in this respect, we remain available to assist you in this matter.

It is always important at the end of any lengthy campaign to take stock not only of the outcome but the strategies employed during the exercise. In this respect, it is recalled that FICSA took immediate action and provided its member associations/unions with the names of several excellent lawyers with extensive experience in preparing and lodging appeals with both the ILOAT and the UNAT on behalf of staff, and the FICSA General Secretary at the time, Ms. Gemma Vestal, coordinated the preparation and filing of appeals amongst the staff associations/unions concerned. FICSA had clearly specified to its membership that not every staff association/union should use the same lawyer for preparing their appeals and that at least several different lawyers should be used. There is no such thing as 'one best lawyer' for each experienced lawyer will have some of his/her own arguments which will supplement the arguments of the other lawyers working on the case.

When the preparation of some of the appeals was already underway a few individuals were creating undue pressure, not only on the FICSA General Secretary at the time who was kindly coordinating the preparation and filing of the appeals across numerous Organizations, but also by contacting individual staff associations/unions to persuade them that all staff associations/unions should jointly use only one lawyer and even specifying which lawyer that should be. Fortunately, several FICSA member associations/unions and others stood strong and heeded the advice of FICSA by maintaining their own choice of lawyer and insisting on the advantages of having more than one lawyer work on this case. FICSA would like to express its warm appreciation to the FICSA membership for not having given into undue pressure and for having heeded FICSA's advice. The arguments contained in the appeals prepared by not one but several different lawyers, some of whom worked with expert statisticians and others, as well as the resulting ILOAT decisions speak for themselves.

As this part of the campaign draws to a close, FICSA has taken stock of the outcome as well as strategies employed and, at the same time, expresses its warmest appreciation to all staff, lawyers, statisticians and others who so actively and cooperatively contributed to the successful outcome as delivered in the corresponding judgments on 3 July 2019.