



COMMUNICATION 32/19

ILO Administrative Tribunal

Meeting

21 October 2019

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 December 2019

From: Evelyn Kortum, General Secretary

Dear Colleagues,

Following an invitation from the President of the Tribunal, Mr Patrick Frydman, Brett and I attended a meeting with the ILO Administrative Tribunal in Geneva on 21 October 2019 together with several FICSA members and lawyers. We would like to share with you a summary of the main points of the meeting.

The purpose of the meeting was to provide a forum to express views on a number of issues and to make suggestions directly to the judges present. Prior to the meeting, FICSA had consulted with its members and lawyers and subsequently submitted a list of issues and proposed solutions in line with the agenda items listed below (reference: Communication 25/19).

- I. Functioning of the Tribunal
- II. Case law
- III. Procedural matters

The President and the judges informed us that the Tribunal is composed of 7 part-time judges with different nationalities. They are appointed by the Conference of the International Labour Organization on a recommendation of the Governing Body of the International Labour Office for a renewable period of 3 years. The Tribunal normally meets twice a year in Geneva, in spring and autumn, for a period of 3 to 4 weeks each. The way the system is currently set up, the Tribunal cannot process more than 2 sessions per year. On the brighter side, the Tribunal benefits from the richness of intellectual property.

The ILOAT Registrar receives the documents submitted and studies whether the requests are in line with the rules and regulations. Judges also conduct their own research and evaluate the cases before taking a legal position and formalizing a legal decision. Three judges are assigned to each legal case. In plenary sessions, there are from 5 to 7 judges. Currently, the Tribunal is prioritizing cases by urgency including dismissals for disciplinary reasons.

Regarding the backlog, out of the 273 cases that were ready to be assigned to sessions, 216 are in English and 57 in French. EPO staff filed 168 cases. In total, the Tribunal received 562 cases from EPO concerning the same decision which resulted in one single proceeding.

Below is a summary of the number complaints received between 2016 and 2019:

2016: 280 complaints

2017: 178 complaints

2018: 261 complaints

2019: 214 complaints

The average waiting period is currently 1.1 years. The President of the Tribunal will look into the solutions proposed to speed up some of the processes.

Article V of the Statute and Rules of the Administrative Tribunal provides that: “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*.” FICSA requested that oral hearings, in particular in cases of disciplinary actions or harassment, should be reinstated. The President of the Tribunal replied that they would look into this request.

FICSA asked the Tribunal judges whether they could consider implementing an electronic system for filing complaints which could facilitate the management of the Tribunal’s workload and increase the speed of case processing.

The FICSA representatives also pointed out that legal costs awarded to complainants appeared to differ greatly from one case to another and suggested that the Tribunal might wish to consider a more uniformed approach in this respect, in particular since the ILOAT does not award actual legal costs incurred by complainants but a much lower amount which, in most cases, does not come anywhere near to complainants’ real legal costs incurred.

A reception was held at the end of meeting which provided the opportunity to ask questions and make suggestions to individual judges as well as to the ILOAT Registrar in an informal one-to-one setting.

FICSA conveyed its appreciation to the Tribunal representatives for having organized this meeting and expressed its desire that more meetings of this nature be held.
