
FICSA /C/73/PSA/LEG/CRP.1

Session: 12 February 2020 @ 11:45 – 12:45 in Conf Room 6-8

Provisional agenda item 11(a/f)

1 hour

JOINT SESSION ON PROFESSIONAL SALARIES AND ALLOWANCES AND LEGAL ISSUES

Provisional Agenda



Chair: Christian Gerlier



Chair: Andres Orias Bleichner

1. Adoption of the agenda
 2. Election of the rapporteur
 3. Update on current litigation regarding post adjustment and lessons learnt from the pay-cut campaign (FICSA/C/73/PSA/LEG/Summary Sheet 3) - *Gemma Vestal, Vice-Chair SC LEG*
 4. Update on the ICSC review of the post adjustment methodology and operational rules- *Christian Gerlier, Chair PSA*
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FICSA COUNCIL

Joint Committee on Legal Questions and Professional Salaries and Allowances

73rd SESSION

London, 8 to 14 February 2020

Agenda Item 3: Summary Sheet

FICSA /C/73/Joint/PSA/LEG/Agenda Item 3

<input checked="" type="checkbox"/> For Discussion <input type="checkbox"/> For Information <input type="checkbox"/> For Decision	
Name of submitting member(s) & organization (s)	Gemma Vestal, WHO/HQ
Issue (title)	Update on current litigation regarding post adjustment and lessons learnt from the pay-cut campaign
Issue description (including reach: global versus local)	<p>The 128th Session of the International Labour Organization Administrative Tribunal met on July 2019 and gave a landmark judgment for staff in Geneva.</p> <p>ILO with 288 appellants (Judgment No 4134), WHO along with UNAIDS with 415 appellants (Judgment No 4135), ITU with 256 appellants (Judgment No 4137), IOM with 72 appellants (Judgment No 4136), and WIPO with 253 appellants (Judgment No 4138) have all won the litigation and have been given their back pay amounting to almost one month's worth of salary. A total of 1,284 Geneva staff members from six UN agencies won their appeals against the illegal pay cut. UPU's case was still within their internal justice system when the ILOAT judgment was issued and staff were subsequently informed by their Executive Head that they too would get their pay rectified in line with ILOAT's judgment. WMO has switched jurisdiction and is now under the UNAT. The other UN-related orgs with offices in Geneva are under UNDT and UNAT jurisdictions and their pay cut cases are still pending. So, currently in Geneva, there are two post adjustment multipliers – those of Agency staff who won the ILOAT case, and those who are still awaiting UNDT and UNAT judgments. Because of this, the UNOG Staff Coordinating Council initiated a "One UN Campaign". At its 74th session in December 2019, the UNGA noted "with concern that organizations of the United Nations common system face the challenge of having two independent administrative tribunals with concurrent jurisdiction among the organizations of the United Nations common system . . . and requests the Secretary-General, in his capacity as chair of the United Nations System Chief Executive Board for Coordination, to conduct a review of the jurisdictional setup of the United Nations Common System, submit information on findings and proffer recommendations to the General Assembly as soon as practicable."</p>

	<p>And in a very recent development related to the litigation, the World Food Programme (WFP) has announced it will also reverse the pay cut and from January 2020, WFP staff in Geneva are once again being paid at the original pre-cut pay rate. In addition, WFP staff will receive full ‘back pay’ plus 5% interest for the affected period since the pay cut. Although none of the WFP staff based in Geneva filed an ILOAT case, WFP must have found it logical to align itself to the other agencies in Geneva so as not to subject its staff to the lesser pay scale. This is what UPU did as well. Therefore, currently, only WMO is the outlier.</p> <p>Lesson learnt: FICSA developed a campaign and litigation strategy as written in the UN Special in 2017. This signalled to the agencies that staff were willing to do whatever it took to fight the pay cut. It was also highly necessary that FICSA paid the initial pleading which cost over 7,000 Euros so that the individual SAs could initiate their internal appeal and request for a waiver to go straight to the ILOAT.</p> <p>The regular coordination meetings of the SAs convened by FICSA were also helpful along with the decision to let the SAs choose their own lawyer. In the end, there were at least 13 lawyers involved in defending staff. FICSA attempted to broker the collaboration between some of the lawyers, but some of them were not interested in collaborating. The lawyers for the Administrations however formed their own tight network for ease of collaboration. It also seemed that some Administration lawyers wanted to convince the SA from each organization to hire just one lawyer. We think this was for ease of crafting just one single response. In the end, having numerous lawyers worked to our advantage because all the breadth and depth of arguments were covered.</p>
Background documentation	
Action(s) requested from Standing Committee participants	<ol style="list-style-type: none"> 1) We need to continue to monitor the situation and guide/assist WMO since their case is still sub judice. 2) Monitor CEB and UNGA efforts to merge the two tribunals. Federations must resist these attempts to merge the Tribunals.
FOR THE CHAIR(S) TO COMPLETE, IF APPLICABLE:	
Next step(s)/specific action(s)	
Timeline	
Resources required	