

## REPORT OF THE STANDING COMMITTEE ON LEGAL QUESTIONS

### Introduction

1. The Standing Committee on Legal Questions (LEGAL – see Appendix 1 for participants) met on 16 December 2022 (virtual session) and on 7 February 2023 (hybrid session) to address its agenda, and elected Birahim Fall (UPU) as its Rapporteur.

### Activities in 2022 (virtual session)

2. LEGAL considered the outstanding issues related to implementing the [decisions of the 75th session of the FICSA Council](#), and agreed on the following actions regarding FICSA/C/75/D/2.
  - a. FICSA Secretariat would ask the staff associations of agencies that were at any stage of the process of moving from the jurisdiction of the ILO Administrative Tribunal (ILOAT) to that of the UN Appeals Tribunal (UNAT) to nominate a representative to join the FICSA working group of such members.
  - b. LEGAL's officers would act as facilitators to the working group, with the FICSA Secretariat providing any documentation or resources required.
  - c. The name of the working group would be modified to include ICAO and other agencies of the UN common system and its terms of reference extended to include jurisdictional matters in general. LEG proposed a new name: FICSA Working Group on ILOAT–UNAT Jurisdictional Issues.

### Latest updates on Legal related topics (hybrid session)

#### ICAO

3. The Administration of Justice Framework at ICAO has always had an internal first appeals instance and the UNAT as the second/final appeals instance. ICAO has never used the services of ILOAT. The most recent changes at ICAO relate only to the first appeals instance, with the creation of a new Appeals Board to replace the Administrative Joint Appeals Board (AJAB). The main difference is in its composition, with a board presided by a consultant (e.g., a retired judge/jurist). The other significant change is an amendment to the Appeals Board's rules of procedure to make its rulings binding, as opposed to AJAB's non-binding recommendation.
4. Considering how best to support ICAO, and other organizations in similar situations, LEGAL recommended that staff representatives ask their management for access to the full package, including the Ombudsman for the infra-judicial phase and the legal adviser (Office of Staff Legal Assistance – OSLA) in the litigation phase, thus providing better coverage without requiring

external assistance or additional cost to staff. In addition, representatives of another agency (WMO) that had gone through a similar process offered collaboration to share best practices and facilitate the work of ICAO staff representatives.

### **UNAIDS legal insurance issues**

5. While UNAIDS staff had had legal insurance provided by Fortuna since 2007, Fortuna decided to end the contract owing to “too many” cases (six cases in a year). Fortuna had increased the premium several times while reducing the coverage. Fortuna required a further increase in the premium of 200–300% to maintain the coverage.
6. During LEGAL’s discussions on the general issue of legal insurance coverage for common system staff, the existence of differences between agencies was considered. In the specific case of Fortuna’s coverage, with which FICSA had worked out an agreement, the situation of each agency prompted staff representatives to look for alternatives if the cost–benefit ratio was not convenient.
7. LEGAL suggested that the FICSA ExCom evaluate the usefulness of the Fortuna arrangement, after consultation with members.

### **Recommendations**

- **LEGAL recommended that the FICSA Executive Committee should support ICAO’s negotiations as necessary for accession to the UN Dispute Tribunal (UNDT), with the assistance of the Standing Committee on Legal Questions, by sharing best practices in the process of jurisdictional transition from the ILO Administrative Tribunal (ILOAT) to that of the UN Appeals Tribunal (UNAT) with ICAO staff representatives.**
- **LEGAL recommended that the FICSA Executive Committee should undertake an assessment of the usefulness of the legal protection agreement for staff with Fortuna, in consultation with the membership and after consideration of the cost–benefit ratio.**
- **LEGAL recommended that the FICSA Executive Committee establish a working group to review the different types of legal insurance coverage available for FICSA members and identify options for legal support for all staff associations.**

### **Nomination of LEGAL officers and core group members**

8. The following delegates were nominated as officers:
  - Andres Orias-Bleichner (WMO) and Charles Forrest (IFAD) as Co-Chairs
  - Rocio Martin (UNICTF) and Salvatore Brunori (UNGSC) as Vice Chairs
9. The following participants were nominated as members of the core group:
  - Birahim FALL (UPU)
  - Mr. Joel Lahaye (CERN)
  - Sonia El Sakka (ICAO)

## Appendix 1. Participants

### Officers

Chair/Coordinator	Andres Orias-Bleichner (WMO)
Vice-Chairs/Vice-Coordinators	Daniella Salmon (WHO/HQ), Charles Forrest (IFAD)
Rapporteur	Birahim Fall (UPU)
FICSA President	Tanya Quinn-Maguire (UNAIDS)
FICSA ExCom Members	Véronique Allain (SCBD), Tracy Tollmann (UNFCCC)

### Staff Association/Union

AP-in-FAO	Wadzanai Garwe
FAO/WFP-UGSS	Susan Murray
ICAO	Sonia El-Sakka
IMO	Ivana Goode
UNIDO	Osadolor Akpata
UNGSC	Cosimo Lunedi, Salvatore Brunori
UPU	Leolinda Dieme, Magali Vifian, birahim Fall
WHO/SEARO	Ritesh Singh
WHO GSC	Khalid Aizat
WHO/HQ	Daniella Salmon

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