

FICSA /C/73/LEGAL/CRP.1

Session 1: 11 February 2020 @ 16:45 – 18:15 in Conf Room 3-5

Provisional agenda item 11(a)

Session 2: 12 February 2020 @ 8:30 – 10:00 in Conf Room 3-5

2 x 1.5 hour

STANDING COMMITTEE ON LEGAL QUESTIONS

Provisional Agenda



Vice-Chair: Gemma Vestal



Chair: Andres Orias Bleichner



Vice-Chair: Joel Lahaye

1. Adoption of the agenda
2. Election of the rapporteur
3. Follow-up of 72nd Council Resolutions relating to the Committee – *Andres Orias-Bleichner, Chair*
4. Update on the collective legal insurance contract negotiated by FICSA for international officials ([FICSA /C/73/LEG/ Summary Sheet 4](#)) – *Evelyn Kortum, FICSA General Secretary*
5. Updates on commissioned legal studies through FICSA: - *Andres Orias-Bleichner, Chair*
 - a. A peer-reviewed journal article (under review), and a FICSA Internal paper regarding acquired rights in the context of international civil service under the jurisdiction of the UNAT and ILOAT – ([FICSA /C/73/LEG/ Summary Sheet 5a](#)) Invitee: Lawyer Rishi Gulati
 - b. A legal study on the relevance, scope and effects of acquired rights of staff when an international organization considers leaving the United Nations common system and consequently the United Nations Joint Staff Pension Fund (UNJSPF) – ([FICSA /C/73/LEG/ Summary Sheet 5b](#)) Invitees: Lawyers Neha Dubey and Ludovica Moro
6. Update of the Legal Defence Fund Rules ([FICSA /C/73/LEG/ Summary Sheet 6](#)) – *Andres Orias-Bleichner*
7. Other matters brought forward by other standing committees
8. Workshops and other business
9. Nomination of Standing Committee officers and core group members

FICSA COUNCIL

Standing Committee on Legal Issues

73rd SESSION
London, 8 to 14 February 2020

Agenda Item 4: Summary Sheet

FICSA /C/73/LEG/Agenda Item 4

<input type="checkbox"/> For Discussion <input checked="" type="checkbox"/> For Information <input type="checkbox"/> For Decision	
Name of submitting member(s) & organization (s)	Evelyn Kortum, FICSA General Secretary
Issue (title)	Update on the collective legal insurance contract negotiated by FICSA for international officials
Issue description (including reach: global versus local)	Negotiations have been ongoing since the 72 nd Council on the conditions of the contract. There were several meetings that discussed clarification of terms with the insurance agents.
Background documentation	Negotiations on the global insurance scheme started in 2018, if not earlier. If we have more than 1000 members sign up, the annual fees (in addition to FICSA or SA/Union fees) are CHF80/pa/pp versus CHF100/pa/pp for less than 1000 applicants. The ceiling of cases covered is CHF 15,000 per member and per dispute. Some Q&As are attached, as well as a PPT which summarize our current understanding of the conditions.
Action(s) requested from Standing Committee participants	The FICSA Secretariat needs to know if your members want to sign up. If you have 1000 members insured, the signing up will take place through the SA/Union. If there are less, then we need to collect names of your members and submit them in a bundled fashion. This is also an opportunity to discuss the limitations of global insurances.
FOR THE CHAIR(S) TO COMPLETE, IF APPLICABLE	
Next step(s)/specific action(s)	Send names of interested members to the FICSA Secretariat
Timeline	asap
Resources required	

FICSA COUNCIL

Standing Committee on Legal Issues

73rd SESSION

London, 8 to 14 February 2020

Agenda Item 5a: Summary Sheet

FICSA /C/73/LEG/Agenda Item 5a

<input checked="" type="checkbox"/> For Discussion <input type="checkbox"/> For Information <input type="checkbox"/> For Decision	
Name of submitting member(s) & organization (s)	Rishi Gulati, Barrister at Law
Issue (title)	An internationally peer reviewed journal article regarding acquired rights in the context of international civil service under the jurisdiction of the UN and ILO Tribunals in line with the requirements of an international accredited academic journal
Issue description (including reach: global versus local)	<ol style="list-style-type: none"> 1. Systematic analysis on relevant case law of the jurisprudence of the UN and ILOAT tribunals regarding acquired rights within the UN common system. 2. Clarification of the term 'of acquired rights within the context of international civil service 3. Policy suggestions
Background documentation	FICSA internal paper
Action(s) requested from Standing Committee participants	
FOR THE CHAIR(S) TO COMPLETE, IF APPLICABLE	
Next step(s)/specific action(s)	
Timeline	
Resources required	

FICSA COUNCIL

Standing Committee on Legal Issues

73rd SESSION

London, 8 to 14 February 2020

Agenda Item 5b: Summary Sheet

FICSA /C/73/LEG/Agenda Item 5b

<input checked="" type="checkbox"/> For Discussion <input type="checkbox"/> For Information <input type="checkbox"/> For Decision	
Name of submitting member(s) & organization (s)	Ludovica Moro and Neha Dubey, Lawyers
Issue (title)	To conduct a legal study on the relevance, scope and effects of acquired rights of staff when an international organization considers leaving the United Nations common system and consequently the United Nations Joint Staff Pension Fund (UNJSPF).
Issue description (including reach: global versus local)	<p>Recently, some international organizations have withdrawn from the jurisdiction of the ILOAT to sign on to the UNAT jurisdiction. Furthermore, the ICSC's position on the recent ILOAT judgments numbers 4134, 4135, 4136, 4137 and 4138, without yet a judgment on the same matter from the UNDT, has led some to question the validity of the UN common system. Should the UNDT/UNAT deliver a judgment contradictory to the above-referenced ILOAT judgments, it could cause a further schism in the UN common system. In addition, IFAD staff have recently become concerned that IFAD may leave the UN common system and the UNJSPF.</p> <ol style="list-style-type: none"> 1. Determine and analyze the consequences of leaving the UN Common System and the UNJSPF, 2. Determine which acquired rights of staff would be breached if an international organization were to leave the UN common system and the UNJSPF, 3. Provide recommendations with hindsight in respect of staff welfare and their protection, 4. The findings, conclusions and recommendations of the study shall be delivered to FICSA in the form of a paper providing reasoned arguments as to which acquired rights of staff could be considered breached should an organization leave the UN common system and the UNJSPF and provide recommendations on how staff could preserve their respective acquired rights.

Background documentation	Legal Study on Acquired Rights: Consequences of an International Organization leaving the UN Common System and UN Joint Staff Pension Fund and how to protect the Acquired Rights of staff
Action(s) requested from Standing Committee participants	
FOR THE CHAIR(S) TO COMPLETE, IF APPLICABLE	
Next step(s)/specific action(s)	
Timeline	
Resources required	

FICSA COUNCIL

Standing Committee Legal

73rd SESSION

London, 8 to 14 February 2020

Agenda Item 6: Summary Sheet

FICSA /C/73/LEGAL/Agenda Item 6

<input checked="" type="checkbox"/> For Discussion <input type="checkbox"/> For Information <input checked="" type="checkbox"/> For Decision	
Name of submitting member(s) & organization (s)	Andres Orias Bleichner, WMO
Issue (title)	Update of the Legal Defence Fund Rules
Issue description (including reach: global versus local)	<p>The updated LDF Guidelines should remediate the situations outlined above in future and be clear in its focus and application by establishing procedures to govern cooperation, as well as recovery, if applicable.</p> <p>Issues to be considered:</p> <p>The establishment of clear procedures and criteria for obtaining access to the Fund restricted to class action only</p> <ul style="list-style-type: none"> • Provide a definition of class action and clarify its meaning • Specify that it will be the Standing Committee on Legal Questions (in lieu of FICSA President) who will consult the full Executive Committee before committing the Federation to support a particular action. • Develop clear language outlining each parties' responsibilities to be used in any agreements, particularly around recovery of monies advanced. • Annex: A standard letter to the plaintiff and their legal representative in line with the Guidelines to be signed by the Chair of the Standing Committee on Legal Questions • Annex: An application form signed by the President of the staff association/union in line with the Guidelines to be signed by the Chair of the Standing Committee on Legal Questions • Decisions to submit an application form need to be subject to staff association/union approval, • Any funds advanced should be paid directly to the lawyer • Lawyers to agree in writing to deliver a breakdown/statement of ongoing expenses, issued as the funds are utilized, or on a quarterly basis. • Clarify the recovery of funds advanced, if applicable • Lawyers in writing to agree that following the conclusion of the case, a full detailed statement of expenses relating to the monies advanced is to be forwarded to FICSA along with a copy of the decision.

Background documentation	Application form and instruction for legal support Legal Defence Fund Guidelines (new) Legal Defence Fund Guidelines (7.3.18)
Action(s) requested from Standing Committee participants	To approve the new LDF Guidelines
FOR THE CHAIR(S) TO COMPLETE, IF APPLICABLE	
Next step(s)/specific action(s)	
Timeline	
Resources required	