

March – April 2013

Protecting Health and Pension Insurance When International Organization Dissolves

International organizations are not immortal, they “do have a mortality rate, and it can be surprisingly high”.¹ Whether it be the League of Nations, IOPH, IBI, GATT, OEEC, CECLES, CERS, EUTELSAT or WEU, but to name a few, the disbandment of an organisation raises many questions related to staff welfare, especially as regards health insurance and pension schemes.

As the recent case of EUTELSAT has shown, whose activities were transferred in 2001 to a French company governed by national law, modifications brought to the staff pension scheme during the transfer can lead to the loss of acquired rights and even to justice denial. Indeed, the beneficiaries of the pension fund, whose assets had been transferred to a trust under the law of Guernsey, were unhappy with the new rules governing the trust, because the latter limited the adjustment of pensions and also the guarantee of their payment. Although the former intergovernmental organisation EUTELSAT still exists in order to exercise a supervisory role over the activities of the new company, it nevertheless considered that it had no power to review the complaints of the former staff members of EUTELSAT, as the internal appeal body no longer existed. The ILOAT, to which the matter was then referred, eventually dismissed the complaints because it found that the dispute between the parties does not fall within the Tribunal’s jurisdiction, which is not competent to hear a complaint involving a limited company governed by French law.²

This example shows that even if the dissolution or succession of an international organization remains hypothetical, staff members and their representatives must remain very vigilant. Where there are no plans to prepare the dissolution or the succession of their organization, they should be pro-active in lobbying the Administration and the Member States to draw up such plans with their full participation.

¹ Cheryl Shanks et al, *Inertia and Change in the Constellation of International Governmental Organizations, 1981-1992*, 50 INT’L ORG. 593, 594 (1996).

² ILOAT, Judgment n° 2900 (February 2010).

In the event of such plans, the case of the dissolution of the Western European Union (WEU) should be considered as best practice. The European Union Satellite Centre (EUSC) now assumes the residual administrative tasks of the former WEU, which comprises the administration of the pensions of the staff and also any disputes between them and the WEU, for which the Appeals Board of the WEU has been maintained.

The ILOAT held its 115th Session from 22 April to 10 May 2013, and will release the Judgments on 4 July 2013 at the International Labor Organization in Geneva.

**Laurence Fauth, FICSA's Legal Advisor, provides counsel and advice to international civil servants and staff unions. You can visit his website for more information: www.unattorney.com. The information and content contained in this newsletter is for general information only and does not constitute legal or other professional advice, nor does it necessarily express the views of FICSA. You must not rely on any information or content contained in, or omitted from, this newsletter without obtaining independent legal advice. The author wishes to express appreciation to Maximilian Girod-Laine, Legal Counsel for the Staff Union of UNESCO, for his contribution to this newsletter.*