
FICSA /C/73/PTC/PSA/CRP.1
Provisional agenda item 11(f)
3 hours

Session: 9 February 2020 @ 10am - 1pm
Room 11
FOR MEMBERS ONLY

**PERMANENT TECHNICAL COMMITTEE OF
THE STANDING COMMITTEE ON PROFESSIONAL SALARIES AND ALLOWANCES**

Provisional agenda



Coordinator: Christian Gerlier

1. Adoption of agenda
 2. Election of the rapporteur
 3. Report on the 2019 ACPAQ session in May, review of approved recommendations – *Christian Gerlier*
 4. Strategize in preparation for the next ACPAQ meetings (provisionally 11-18 May 2020, NY)
 5. The post adjustment system operational rules
 6. ILOAT judgement regarding the PA in Geneva ([FICSA/C/73/PTC/PSA/Summary Sheet 6](#)) – *Brett Fitzgerald, President and Imed Zabaar, Member for Compensation Issues*
 7.
 - a) Status of implementation
 - b) Implications
 - c) FICSA's position
 - d) UNGA resolution(s)
 - e) The way forward
 8. Membership issues
 9. Workshops and other business
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FICSA COUNCIL

Standing Committee PTC/PSA

73rd SESSION

London, 8 to 14 February 2020

Agenda Item 6: Summary Sheet

<input type="checkbox"/> For Discussion <input checked="" type="checkbox"/> For Information <input type="checkbox"/> For Decision	
Name of submitting member(s) & organization (s)	Prepared by FICSA President
Issue (title)	ILOAT judgments regarding the post adjustment in Geneva
Issue description (including reach: global versus local)	<p>When the ICSC announced its decisions in relation to the 2016 round of cost-of-living surveys, and the subsequent effect of the post adjustment multipliers for HQ duty stations, both staff and Executive Heads of the organizations based in Geneva questioned the ICSC. Not satisfied with the limited response from the ICSC, staff in Geneva in the Professional and higher category appealed their organizations' implementation of the relevant ICSC decision.</p> <p>On 3 July 2019 the ILOAT delivered its judgments in favor of the complainants/staff and, in so doing, decided: 1) to set aside the organizations' implementation of the ICSC decision; 2) that the complainants would be paid, retroactively, the difference (with 5% interest) between the lower post adjustment multiplier based on the ICSC decision and the higher post adjustment multiplier in place immediately prior to the organizations' implementation of the ICSC decision.</p> <p><u>Status of implementation:</u> ILO, WHO, IOM, ITU and WIPO promptly implemented these ILOAT judgments for all Geneva-based staff in the P and higher categories. As no staff from UPU-Bern had appealed, it was put to a vote by the UPU Member States which decided, in the majority, to equally apply the ILOAT judgments (UPU-Bern has always used the same salary scales and post adjustment multipliers as Geneva.) As WMO had already left the ILOAT and signed on to the jurisdiction of the UN Appeals Tribunal (UNAT), which is the second appellate instance within the UN Secretariat system of justice, but not the UN Dispute Tribunal (UNDT), which is their first instance, equivalent appeals filed by WMO staff have been in limbo until now. FICSA has learned, however, that WMO has just now signed on to the UNDT jurisdiction. Therefore, it should now be possible for WMO staff to transmit their appeals to the UNDT. The appeals of staff in Geneva-based organizations which under the UNDT/UNAT jurisdiction have still not been decided on by the UNDT, which is why there are currently two different post adjustment multipliers being used in Geneva for the time being.</p> <p><u>Implications and UN GA Resolutions:</u> These ILOAT judgments were extremely positive news for P and higher category staff in Geneva and seriously drew into question the authority of the ICSC (as specified in its Statutes) as well as the manner in which it had taken certain decisions related to unilateral changes it had made to operational rules immediately prior to the surveys. On the other hand, the Commission reacted strongly against the ILOAT judgments and stated that they disagreed with the learned ILOAT judges and submitted the matter to the UN General Assembly which adopted UN GA Resolutions 74/255A and 74/255B on 27</p>

	<p>December 2019. Some colleagues have argued that the position of the Commission and the UN GA on this matter could be seen as political pressure on the UNDT/UNAT to decide differently than the ILOAT. The above second-referenced GA Resolution also requests the UN SG, in his capacity as Chair of the CEB, to conduct a review of the jurisdictional setup of the UN Common System and subsequently submit his findings and recommendations to the GA as soon as possible.</p> <p><u>FICSA's position:</u> In respect of the ICSC's idea of redoing the 2016 cost-of-living survey for Geneva alone, using the old methodology which is about to be replaced by a new methodology, FICSA explained to Fifth Committee delegates that, given the findings and conclusions of the ILOAT, staff would certainly appeal once again. FICSA stressed the importance of firstly completing the review of the new methodology and corresponding operational rules so that planning for the next round of surveys can commence on schedule. Discussions with representatives of the HR Network confirmed that they shared the same views as FICSA on this matter. In respect of whether there should only be one Tribunal in the UN common system, FICSA's position was that it did not see the need to restrict the system to only one Tribunal and that, in any case, it should not be a matter for the UN GA to decide on but, instead, is a prerogative of the Governing Bodies of every organization. FICSA also stated that, if Member States should ever decide to have only one Tribunal, that Tribunal should be the ILOAT as was decided by the League of Nations when it transferred the Administrative Tribunal of the League of Nations to the ILO in 1946.</p> <p><u>The way forward:</u> FICSA will continue to advocate, together with the HR Network, that cost-of-living surveys (including for Geneva) should only be conducted once the review of the post adjustment methodology and its operational rules has been completed. In respect of the GA's request that the UN SG, in his capacity as Chair of the CEB, conduct a review of the jurisdictional setup of the UN Common System, all three staff federations should send a joint letter to the UN SG to request that the federations be included in any such review.</p>
<p>Background documentation</p>	<p>Link to ILOAT judgment 4134: https://www.ilo.org/dyn/triblex/triblexmain.fullText?p_lang=en&p_judgment_no=4134&p_language_code=EN</p> <p>Link to FICSA/CIRC/1322 FICSA Statement to the UNGA:</p> <p>ILOAT Judgments 4134, 4135, 4136, 4137, 4138 filed by Geneva-based staff of ILO, WHO, IOM, ITU and WIPO, respectively.</p>
<p>Action(s) requested from Standing Committee participants</p>	<ol style="list-style-type: none"> 1. Support the ExCom position that the 2016 cost-of-living survey, for Geneva only, should not be conducted by the ICSC prior to completion of the review of the post adjustment methodology and corresponding operational rules. 2. Support the proposal that all three staff federations send a joint letter to the UN SG to request that the federations be included in the review of the jurisdictional setup of the UN Common System.
<p>FOR THE CHAIR(S) TO COMPLETE, IF APPLICABLE:</p>	
<p>Next step(s)/specific action(s)</p>	
<p>Timeline</p>	

Resources required	
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