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ADMINISTRATIVE TRIBUNAL: EXTENSION OF ITS PERIOD OF JURISDICTION

ADDENDUM

COMMENTS FROM THE INTERNATIONAL STAFF ASSOCIATION OF UNESCO (ISAU)

OUTLINE

Pursuant to item 9.2.7 of the UNESCO Human Resources Manual, the International Staff Association of UNESCO (ISAU) submits its comments on the document entitled: Administrative Tribunal: extension of its period of jurisdiction.

1. ISAU hereby submits its comments on document 41 C/30 concerning the Administrative Tribunal. The issue of the extension of the period of jurisdiction of the Administrative Tribunal is important. It is a body which, in the event of the failure or malfunction of our internal justice system, provides an additional means of appeal, thus constituting a safeguard in the event of a violation of staff rights.

Staff remuneration in Geneva

2. ISAU welcomes the decision to extend to UNESCO staff members the benefits recognized by the International Labour Organization Administrative Tribunal (ILOAT) judgements concerning the decision of the International Civil Service Commission (ICSC) to reduce the post adjustment multiplier in Geneva.

3. Nevertheless, as highlighted in document 41 C/30, the problem of the 7.5% gap in monthly staff remuneration in Geneva remains, as not all United Nations organizations in Geneva have implemented the ILOAT judgements.

4. However, as we have already pointed out in our capacity as Vice-President of the United Nations International Civil Servants Federation (UNISERV), the rules and methods of post



adjustment need to be revised in order to make the system fairer, more transparent, simpler and, above all, easier to understand for staff members. In this connection, while welcoming the decision of UNESCO's Administration, ISAU wishes to express its concern about the disparities in purchasing power that remain between professionals in Geneva under the current legal framework.

Reform of the Statutes of the Appeals Board

5. With regard to the procedure before the Appeals Board, which was recently modified, the Administration reports that the applicable time limits have been adjusted to ensure fairness. It mentions the introduction of stricter deadlines for the filing of appeals and replies. However, we wish to recall a point raised by ISAU which was not taken into account in the reform of the Statutes of the Appeals Board. Indeed, paragraph 24 of the revised Statutes provides for a 90-day deadline for the Director-General's final reply. This period is far too long and is bound to be detrimental to the staff, which is why ISAU had proposed that the period should be 30 days, an option which seems to us to be far more reasonable and which we continue to demand.

6. ISAU must also reiterate its other concerns regarding the reform of the Statutes of the Appeals Board, in particular the reduction of the composition of the Appeals Board to three members, including a single staff representative. This measure repudiates discussion. In addition, the participation of staff associations in the hearings of the Appeals Board is now "subject to the agreement of the Appellant". While ISAU has no objection to the fact that the Appellant may refuse to be defended individually by the staff associations, we absolutely cannot accept that the associations should be denied the right to participate in hearings of the Appeals Board, where it is for us to represent the staff as a whole and not particular individuals. We have also asked for the associations to be able to take the floor during the debate and we regret that the request was not accepted.

Conduct of remote hearings

7. With regard to the possibility of holding hearings remotely, we understand that this possibility is useful for the Organization, especially during a pandemic. Nevertheless, care must be taken to ensure that the right to due process is scrupulously respected when such arrangements are adopted for administering justice.

Recognition of the jurisdiction of ILOAT

8. Paragraph 40 of document 41 C/30 states that if UNESCO were to accept the jurisdiction of the United Nations Appeals Tribunal (UNAT) while retaining its jurisdiction at first instance, it would need to abolish its Appeals Board in its current form and establish a first-instance process meeting UNAT's standards of neutrality and independence. Such a remark raises cause for concern, because it tends to imply that the Appeals Board, in its current form, cannot be considered as offering sufficient guarantees of independence and neutrality.

9. In conclusion, ISAU wishes to express its support for the extension of the period of jurisdiction of ILOAT, which is, in our view, the jurisdiction best able to protect the rights, both procedural and substantive, of the Organization's staff members. However, such an extension should not be at the expense of an effective internal justice system.

10. In this connection, ISAU wishes to point out that it favours, above all, the amicable settlement of disputes and that, as a staff association, it seeks to promote dialogue in order to arrive at mutually satisfactory solutions. When the search for a compromise fails, it is essential that the Appeals Board play its full role in all objectivity and impartiality as the Organization's appeal body. It is important to remember that the number of cases lost before ILOAT entails a significant cost for the Organization and damages its image. What concrete actions does the Administration plan to take to reduce this number? Respecting the rules that it has established would be a good start.