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**REPORT BY THE DIRECTOR-GENERAL ON THE JUDGMENTS
CONCERNING UNESCO ISSUED BY THE INTERNATIONAL LABOUR
ORGANIZATION ADMINISTRATIVE TRIBUNAL (ILOAT)**

ADDENDUM

**COMMENTS FROM THE INTERNATIONAL STAFF
ASSOCIATION OF UNESCO (ISAU)**

SUMMARY

Pursuant to item 9.2.7 of the UNESCO Human Resources Manual, the International Staff Association of UNESCO (ISAU) submits its comments on human resources issues (document 215 EX/5.IV.INF).

1. This detailed report demonstrates, unfortunately, that UNESCO's internal justice system lacks effectiveness. While the Administration can boast that it has won a majority of cases before the International Labour Organization Administrative Tribunal (hereinafter "ILOAT"), the amounts of money at stake when it has been found at fault is significant in relation to UNESCO's budget. The Organization must therefore show greater concern for justice if it is to manage effectively the resources allocated to it by the Member States. It is also regrettable to note that this document makes no mention of the responsibilities of those behind decisions that have generated conflicts and litigation. The responsibility is multi-layered, starting with the relationship between supervisors and their supervisees, going through Administration and the Bureau of Human Resources Management (HRM), as far as the processing of cases submitted to the Appeals Board.

Evolution between 1 January 2019 and 15 July 2022

2. Regarding in particular the information provided about ILOAT judgments, if we compare the data provided in 2018 (document 206 EX/5.III.INF) with the current data, the findings are alarming. Indeed, the amount of compensation and costs due by the Organization as a result of ILOAT judgments between 2019 and July 2022 is greater than the amount of compensation and costs due during the 2010–2018 period. The Organization thus had to pay \$ 893,472 between 2010 and 2018 (which amounts to an annual average of \$ 99,275), whereas since 2019, it has paid \$ 978,337 (which amounts to an annual average of \$ 273,024).



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Compensation and costs in US dollars	
Period	Total
Between 2010 and 2018	\$ 893,472
Between 2019 and July 2022	\$ 978,337

3. In addition, figures show that appellants prevailed or partially prevailed in 12 (or 41%) of the 29 judgments concerning UNESCO handed down by ILOAT. This high percentage is identical to the 2010–2018 period. This can only raise questions about the effectiveness of the measures put in place by the Administration to prevent disputes and litigation.

4. In paragraph 6 of document 215 EX/5.IV.INF, it says that the number of complaints before the ILOAT remains “relatively low” in comparison with the number of appeals before the Appeals Board. However, it is important to understand the reasons behind this.

5. On the one hand, as the Administration admits in paragraph 19 that the Secretariat assesses the level of risk of each case pending before the Appeals Board and, where the risk of the Organization being sanctioned by the ILOAT is considered high, the Secretariat explores the possibility of amicable settlement. It should be noted that these amicable settlements nevertheless entail considerable costs for the Organization and in the interests of transparency it would be desirable for the Administration to publish the number of cases and amounts of compensation paid in this context.

6. On the other hand, we cannot ignore the fact that many colleagues choose not to appeal to the ILOAT because it is a very long and costly procedure in practical terms and very distressing in mental and psychological terms. This appeal procedure adds to an already gruelling internal procedure.

7. Thus, in addition to the “low” number of complaints before the ILOAT, we need to add the appeals made to the Appeals Board and the number of amicable settlements in order to have an overview of the real number of disputes between staff members and the Administration. This would highlight the internal failures that unfortunately continue to result in excessive and unnecessary costs for the Organization.

8. What is more, we regret the Administration’s inappropriate use of the term “success rate” when referring to cases in which the Organization has won before the ILOAT (see paragraph 7). It goes without saying that any case that comes before the ILOAT involving UNESCO staff members constitutes a failure because it proves the existence of flaws in personnel management.

Overview of grounds and costs of ILOAT judgments

9. At a time when budget constraints are once again being flagged, it is more urgent than ever that those responsible for “poor decisions” be held accountable. When one sees that the Organization was condemned to pay \$421,233 for a single case of disciplinary action, one has to wonder who made the errors in judgment or assessment that led to this failure and whether there were any measures taken against the people responsible – and this applies throughout the decision-making chain. Account must be taken not only of the supervisor responsible for mismanagement, but also of the decision-making staff who endorse that misconduct.

10. It is surprising to note that one of the ILOAT decisions reveals that a staff member was dismissed on the pretext of unsatisfactory service, without the Administration taking into account the essential facts, in particular the supervisor’s failure to meet his obligations to interview the appellant. This ILOAT decision therefore reflects the clear supervisory mismanagement of a team. It is obvious

that, by agreeing to go before the administrative tribunal to defend its position, the Administration has assumed the professional misconduct of a supervisor, which was obvious from the case file. This failure points to the persistence of a culture of impunity that ignores the mismanagement by supervisors, especially when it affects staff. While HRM is to be commended for increasing management training for supervisors, it is unfortunate that it does not apply sanctions when the standards upheld in such training are not applied in practice, as revealed by the ILOAT judgment.

11. The fact that in 33.3% of cases the ILOAT ruled against the Organization because of non-compliance with UNESCO's rules and procedures confirms what ISAU has been condemning in its spoken and written comments for years: the Bureau of Human Resources Management does not follow its own rules. Table 3 of document 215 EX/5.IV.INF clearly shows that most of the compensation paid was for non-renewal of appointment (30%) and disciplinary measures (59%). The Administration must therefore pay particular attention to these two areas, and refrain from making hasty decisions of non-renewal of appointment or taking disciplinary measures that are too severe, in order to avoid repeating the same mistakes.

Remedial actions from the Secretariat

12. Furthermore, contrary to what the Administration states in paragraph 17 of document 215 EX/5.IV.INF, we do not see how the new performance management policy has improved the situation and reduced disputes over performance evaluation. We still regret the revision of the policy that was put in place in 2020 and its replacement with a policy that lacks transparency and clarity. Depriving staff members of remedies can only lead to a deterioration in the working conditions of staff and an increase in litigation and subsequent expense to the Organization.

13. In this regard, we ask the Administration to review its policy, particularly on the abolition of the Review Panel and the Reports Board and the refusal to notify staff members of the recommendations made by reclassification experts following desk audits. Moreover, we deplore decisions not to reclassify posts despite favourable recommendations by the reclassification experts. These types of situations and decisions generate frustrations, tensions and disputes that may easily be avoided. We regret that our criticisms and proposals on these subjects are not taken into account. Recalling the magnitude of the amounts that the Organization has been condemned to pay and their sharp increase since 2019, we must alert the Administration to the caution it must take in decision-making on personnel matters and recommend that there be greater transparency in all procedures.

14. While ISAU supports the request to allocate adequate human and financial resources, we believe that greater efforts must be made in terms of accountability and transparency, which implies better consultation with the staff associations. As noted above, there is still a widespread culture of impunity for supervisors whose mismanagement of staff is never identified or punished as such. Worse still, it seems that the Administration, in order not to punish and repudiate clear misconduct, prefers to incur substantial expenditure in amicable settlements or payment of compensation following ILOAT judgments, expenditure which damages UNESCO's reputation and effectiveness.