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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 OF 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 220 EX/5.IV.INF).

1. We note with satisfaction the significant drop in costs incurred by appeals before the International Labour Organization Administrative Tribunal (ILOAT). However, it is still regrettable that the Director-General's report fails to address the accountability and responsibility of those behind the decisions which led to these disputes. We are surprised that ILOAT's condemnations of the Organization have not given rise to any administrative investigations. It is incomprehensible that UNESCO should not seek to investigate internally the causes of the behaviours leading to condemnation, which are always ultimately those of individuals. This shortcoming tends to perpetuate a culture of impunity, which leads to the concealment of errors and violations or of poor decisions taken by supervisors, particularly when they affect staff and, consequently, UNESCO's effectiveness. It is important for Management to ensure UNESCO's overall transparency, integrity, accountability and effectiveness by taking concrete and transparent measures in the interests of the Organization.

2. The establishment of administrative investigations following ILOAT decisions would strengthen the internal system for the settlement of disputes between UNESCO and its staff. In that connection, it bears recalling that recourse to the ILOAT is, in and of itself, only the final stage in a process corresponding to the various components of UNESCO's internal justice system (administrative review,



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Appeals Board, amicable dispute resolution). Thus, the document presented by the Director-General is also a report on any blocks or deadlocks encountered in our internal process.

### **Data transparency**

3. The report indicates a high percentage of cases dismissed by the ILOAT. However, this overall finding should not lead to the conclusion that all the complaints dismissed were unfounded. Indeed, procedural inadmissibility, particularly that which is due to the expiry of appeal deadlines, is one of the main reasons for dismissal. It would therefore be essential to obtain more data in order to assess accurately the Administration's progress and shortcomings in the settlement of staff disputes. This would also contribute to greater transparency within the Organization.

4. We wish to point out that the following information, essential to a more accurate and in-depth analysis of this matter, is missing:

- The total number of appeals submitted to the Appeals Board, specifying their grounds, over the period from 16 July 2022 to 15 July 2024 (and not just the number of appeals examined);
- The grounds for dismissal of claims before the Appeals Board;
- The number of recommendations made by the Appeals Board in favour of and against appellants;
- The grounds for dismissal of claims before the ILOAT.

5. ISAU insists on the need for this information because without these key data, the presentation of the Administration's document could lead the reader to believe, mistakenly, that staff are excessively quarrelsome, which the number of complaints dismissed is supposed to demonstrate. ISAU believes that, on the contrary, access to the aforementioned data would provide a more nuanced and accurate picture of the situation. We wish to point out that our demand for more complete information stems directly from the recommendation of the Joint Inspection Unit (JIU) as to the need for "the systematic collection of data and regular reporting thereon", which "are indispensable for improving the administration of justice in the United Nations system organizations" ([JIU/REP/2023/2](#), page v). It is therefore necessary that the Appeals Board publish a detailed report.

6. In view of this pressing objective to improve the justice system within the United Nations, and therefore within UNESCO, we must stress how deeply regrettable it is that the Administration should continue to use equivocal language in its reports on ILOAT decisions, speaking of "success rate" or even cases "won" by the Administration to qualify judgments unfavourable to staff members. As staff representatives, we are distressed by this tone, and as civil servants, we would like to point out that an administrative report is not a sports report. In this case, there is no reason to rejoice or boast about victories, because the fact of a dispute reaching the ILOAT, after having gone through the entire internal justice system, in itself evidences both a failure of internal dialogue and difficulty encountered by the Administration, which has been unable to prevent the dispute from erupting. Moreover, the report indicates (para. 6) that "the number of complaints currently pending before the ILOAT, as at 15 July 2024, is 34" and that "the number of appeals pending before the Appeals Board, as at 15 July 2024, is 44". These numbers show that there is still considerable potential for improvement in the way the Administration handles disputes. Generally speaking, the tone and presentation of the Administration's document can lead us to believe that the Administration attaches greater importance to emerging "victorious" from these judgments than to working on conflict reduction and prevention before resorting to the ILOAT.

### **Infringement of due process**

7. It is important to stress that there is a profound imbalance between the Administration and staff members in terms of legal assistance. The Administration has at its disposal the Office of International Standards and Legal Affairs, which is staffed by legal professionals with relevant legal expertise in international law and a thorough command of legal procedures. Staff members, for their part, lack access to any legal assistance within UNESCO apart from the staff associations, which themselves lack the resources to provide the necessary legal assistance. As a result, appellants are often obliged to retain lawyers' services at their own expense.

8. This imbalance is all the more unfair in that staff members are still prohibited from being represented before the Appeals Board by a person external to the Organization<sup>1</sup>. In this respect, it is imperative that the JIU's recommendation to "remove all restrictions regarding legal representation of their staff in internal justice processes, with the aim of allowing staff to choose their legal counsel freely and without restriction" be implemented as soon as possible ([JIU/REP/2023/2](#) - Recommendation 7).

9. In reality, UNESCO's so-called "successes" are often a consequence of how difficult it is for staff members to defend themselves effectively, given the complexity of the procedures involved. The JIU review highlighted the fact that "a significant number of cases are dismissed on grounds of receivability, that is, for failure to comply with the basic procedural requirements for an application to be considered and reviewed on its merits" ([JIU/REP/2023/2](#), page v). Consequently, violations on the part of the Administration (irregular reclassifications, failure to investigate cases of harassment, non-renewal of contracts, wrongful dismissals, and so on) may not be examined for strictly procedural reasons. Here again, official statistics on the admissibility of claims would serve as "an important indicator of possible procedural barriers to accessing justice, which warrant further examination" ([JIU/REP/2023/2](#), page v).

10. Beyond the legal aspects, it is important to stress that dispute resolution has a financial and psychological cost for complainants. The lack of legal assistance often remains a deterrent for staff. All these faults help to create and maintain a climate of distrust and mistrust within the Organization, which runs counter to both the principles of good management and those of the rule of law, without which an administration cannot function effectively. ISAU therefore calls for: the establishment of a legal-assistance service for staff, such as, for example an office of staff legal assistance, like that which exists for the United Nations Secretariat; and the allocation of a budget to enable the staff associations to recruit legal advisers, following the example of the Organisation for Economic Co-operation and Development (OECD).

### **Amicable settlements**

11. Although the number of amicable settlements is given in the report, it is regrettable that the Administration did not deem it necessary to provide more details on this matter. It would have been useful if it had specified the reasons for the amicable settlements mentioned in the report and had specified the stage at which the amicable settlements were reached (before the case had been brought before the Appeals Board, on the Board's recommendation [before the hearing], or following the decision of the Director-General [after the hearing]).

12. Here again, the matter of responsibility is not addressed, which raises questions about how lessons are learned from bad decisions and about the accountability of those involved. Indeed, even when a conflict has been resolved, the consequences for those responsible remain unclear.

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<sup>1</sup> Article 28 of the Statutes of the Appeals Board: Neither Party shall have the right to external legal representation before the Board. The Appellant may designate a staff member to represent him or her in the Board proceedings.

**Costs associated with the settlement of disputes**

13. It is particularly problematic that a large part of the costs is linked to inaction on the part of the Administration and to the same errors highlighted in previous reports (notably, non-compliance and excessive delays). Greater efficiency and better management should make it possible to avoid these expenses.

14. It goes without saying that, beyond the compensation amounts paid by the Organization, dispute management entails substantial costs associated with the preparation of the Administration's defence, regardless of the outcome of a dispute. These hidden expenses, on which we do not have information, are a major drain on the Organization's resources. It is therefore imperative that UNESCO adopt a proactive approach to conflict prevention: one which respects staff rights and aims to anticipate and defuse contentious situations. Such an approach would not only reduce the financial and human costs associated with disputes, but also enhance the Organization's effectiveness and reputation as a transparent, accountable institution capable of fostering a climate of trust within its walls.