



## INFORMATION SESSION ON THE RIGHT TO RECRUIT A LEGAL ADVISER AND SOCIAL DIALOGUE IN THE ILO

Monday 17 November 2008 at 13:00 in Room V

Following the mandate given to the Staff Union Committee by the second session of the Staff Union's General Assembly, held on 30 October 2008 through the adoption of two resolutions, the Staff Union Committee organized an information meeting to brief staff on steps undertaken and recent developments concerning these issues.

Over one hundred staff members participated in the meeting.

### [Resolution concerning the position of legal adviser to the ILO Staff Union](#)

The Chairperson of the Staff Union Committee recalled that discussions on the need to recruit a legal adviser at the Staff Union went as far back as 2000. The Staff Union's legal adviser had first been recruited in the beginning of 2003 and the second session of the 2004 Annual General Meeting decided to create and finance a position of legal adviser. He explained that since the employment conditions of ILO staff were governed by the ILO's own regulations and not by any national legislation, it was important for the Staff Union to have its own legal adviser who fully understood the unique rules, regulations, jurisprudence and institutions within the ILO and the common system.

For over four years now, the Staff Union Committee had made efforts to establish a regular ILO contract for its legal adviser. However, the administration had blocked the Staff Union from doing so. It had suggested three alternative solutions none of which were acceptable to the Staff Union.

The first proposal made by the ILO administration was that it would assist the Staff Union to establish a legal personality in a member state, thereby enabling it to recruit its own staff. This solution could not be envisaged due to the need to maintain independence from the laws of any member State. Confirming this point, the ILOAT had recently ruled in Judgement No.2672 that *"Many countries require other formalities including, sometimes, registration under the relevant domestic laws. Those laws cannot apply to a staff association or union the membership of which is restricted to international civil servants."*

The administration had also proposed that the Union use ILO external collaboration or service contracts to engage an individual lawyer or law firm. Aside from cost considerations and issues related to the "inappropriate use" of ILO employment contracts, the very specific knowledge required due to the unique ILO rules and regulations including the evolving jurisprudence of the ILOAT, could not be effectively provided by an outside law firm. In addition, the Administration

itself has a number of permanent lawyers on staff, in the Office of the Legal Adviser as well as in HRD.

The third proposal made by the administration was that it would consider granting time off for a serving ILO staff member to fulfill the functions of legal adviser to the Staff Union, provided that the Union reimburse such time off to the releasing department. The idea behind the recruitment of its own legal adviser was that the incumbent would make a career in the Union rather than in the ILO itself. A staff member of the ILO on detachment to the Union would naturally wish to pursue his/her career throughout the organization which would mean a loss of institutional memory, to the detriment of all staff. The long-term presence of a legal adviser provided continuity in light of the high level of turnover among elected Union officials.

The Chairperson further recalled that the Staff Union had been provided with the facility of recruiting its own secretariat staff for over more than 40 years on regular ILO contracts. He quoted a finding of the ILOAT in judgment No.911 that: *“The grant of facilities to a staff association is not a privilege the Organization may withdraw as it pleases. The reason why it grants them is not just goodness of heart but its own broad interest in having the association perform its responsibilities fully and efficiently.”*

He emphasized that under no circumstances had the Union asked the administration to finance the post. He also pointed to examples where other bodies representing international civil servants had hired staff using contracts provided by their own organisations, and cases where independent entities existed within the ILO whose staff were engaged on ILO contracts.

### [Resolution on Social Dialogue at the ILO](#)

The first Vice-Chairperson of the Union drew the attention of the meeting to the following fundamental question: Were the Collective Agreements negotiated in 2000-2002 still in force at this moment? It was recalled that these agreements had been obtained by giving up on a number of issues such as the abolishment of the Selection Board and the Administrative Committee. Today, the Collective Agreements were under constant erosion. Staff representation had become more and more difficult because of this. The administration had introduced changes on a unilateral basis to the Collective Agreement on a Procedure for Recruitment and Selection through the introduction of the Recruitment, Assignment and Placement System (RAPS). The Union had not accepted this and had brought the question before the Review Panel, which was about to adopt conclusions on the issue of non-compliance with the collective agreement in force.

### [Steps undertaken](#)

Following up on the mandate given to it by the AGM, the Staff Union Committee had prepared a campaign. It had addressed a letter to the Director-General on 6 November 2008 conveying the two resolutions adopted at the AGM and requesting a meeting to discuss them as a matter of urgency. It also published a [Bulletin on 10 November 2008](#) informing the staff of the current situation concerning the contract of the legal adviser. The publication had been announced by user broadcast and on the Intranet. The Chairperson had delivered a statement to the PFAC of the Governing Body on Thursday 13 November which had been well received and supported by the Workers Group ([Bulletin N° 1389](#)).

The Chairperson of the Union had briefly met with the Director-General on 14 November. During this meeting the Director-General reiterated his support for social dialogue and collective

bargaining in the ILO. During the meeting it was agreed that the Director-General would meet with the Staff Union following the Governing Body to discuss a series of outstanding issues of concern to both the Union and the administration.

Meanwhile, it was proposed to continue informing the staff at both headquarters and field duty stations, and to temporarily suspend further action while awaiting the outcome of the discussions with the Director-General.

As the floor was opened for questions and answers, a number of union members spoke in favor of the need to keep up the pressure. While supporting the decision by the Staff Union Committee to suspend further action pending the outcome of discussions with the Administration, they noted that the Administration had been “strong on words, less on concrete adherence to the social dialogue principles and mechanisms on which the ILO was founded”. It was clear that many of the Union members present felt committed to strong action and wanted to see the Staff Union defend these basic principles. The Assembly supported a request made for the establishment of a time-table for a meeting with the Director-General to take place at the earliest possible date, for instance within ten days, and that an agenda should be set in advance of the meeting. The Meeting supported the Staff Union Committee’s belief that good faith negotiations could produce concrete results, but if there was no reciprocal gesture on the part of the ILO administration, or if concrete results were not obtained the Union should move on with the next steps of its campaign.

Geneva, 18 November 2008