

Governing Body

341st Session, Geneva, March 2021

Programme, Financial and Administrative Section

PFA

Personnel Questions Segment

Date: 20 March 2021

Original: English

Fifteenth item on the agenda

Matters relating to the Administrative Tribunal of the ILO

Composition of the Tribunal

1. Pursuant to article III of its Statute, the Administrative Tribunal of the ILO consists of seven judges appointed for three-year terms by the International Labour Conference.
2. At its current session (March 2021), the Governing Body will examine proposed amendments to the Tribunal's Statute, including with regard to the duration and renewal of the term of office of judges.¹ Should the proposed amendments be approved by the Governing Body and adopted by the International Labour Conference at its 109th Session (June 2021), judges shall henceforth be appointed for a period of five years, renewable once. As a transitional measure, the judges appointed prior to June 2021 may, upon completing their present terms, be reappointed for one further non-renewable term of seven years.
3. The present composition of the Tribunal is as follows:
 - Mr Patrick Frydman (France), President: term of office expires in July 2022;
 - Ms Dolores Hansen (Canada), Vice-President: term of office expires in July 2021;

¹ GB.341/PFA/15/1.

- Mr Giuseppe Barbagallo (Italy): term of office expires in July 2021;
 - Ms Fatoumata Diakité (Côte d’Ivoire): term of office expires in July 2021;
 - Mr Michael F. Moore (Australia): term of office expires in July 2021;
 - Sir Hugh A. Rawlins (Saint Kitts and Nevis): term of office expires in July 2021.
4. The term of office of one judge, Mr Yves Kreins (Belgium), expired in June 2020 and could not be renewed due to the deferral of the 109th Session of the Conference. In September 2020, Mr Kreins informed the Office that he would not seek reappointment in June 2021. In addition, two judges whose term of office expire in June 2021, Ms Fatoumata Diakité (Côte d’Ivoire) and Mr Giuseppe Barbagallo (Italy), indicated that they would not seek reappointment beyond 2021. Moreover, another judge, Ms Dolores Hansen (Canada), will reach the retirement age of 75 years in October 2021.
 5. The Governing Body may wish to propose to the Conference that it convey its deep appreciation to Mr Giuseppe Barbagallo, Ms Fatoumata Diakité, Ms Dolores Hansen and Mr Yves Kreins for the valuable services they have rendered to the work of the Administrative Tribunal.
 6. Following these departures, the posts of four judges have fallen or will fall vacant. In keeping with long-standing practice whereby members of the Tribunal are appointed from among persons holding or who have held high judicial office, with account being taken of the need for an overall equilibrium at the linguistic level, and in terms of different systems of law, geographical representation and gender balance, the Director-General, after consultation with the Officers of the Governing Body, wishes to propose the following appointments for a period of five years, subject to the adoption by the Conference at its 109th Session (June 2021) of the amendments to article III of the Tribunal’s Statute, or for a term of three years in case those amendments are not adopted:
 - Ms Rosanna De Nictolis (Italy)

Born in 1964, Ms De Nictolis is President of one of the Chambers of the Council of State of Italy, the country’s highest administrative court. Ms De Nictolis has 25 years of judicial experience. Since October 2020, she has been the President of the Association of Magistrates of the Italian Council of State. In 2011, Ms De Nictolis was awarded the title of Grand Officer Order of Merit of the Italian Republic. She is a member of the scientific directorate of numerous journals and author of over 265 publications including monographs on administrative process, public procurement, self-government of the judiciary, and responsibility of public administration. Ms De Nictolis has an excellent knowledge of English and a sound passive knowledge of French.
 - Mr Clément Gascon (Canada)

Born in 1960, Mr Gascon has over 38 years of experience as an appellate and trial judge and as a commercial and labour law litigator. He has served ten years at the Quebec Superior Court, two years at the Quebec Court of Appeals and five years as Justice of the Supreme Court of Canada. Prior to his judicial career, Mr Gascon had a distinguished 20-year career as a lawyer, partner and practice group leader focusing primarily on commercial and labour and employment law litigations before courts, administrative tribunals and arbitration bodies. Mr Gascon has very strong knowledge of the civil law and common law systems. He is a native French speaker and has a perfect command of English.

- Mr Jacques Jaumotte (Belgium)
Born in 1956, Mr Jaumotte is the President of the Council of State of Belgium, the country's supreme administrative court which he joined in 2001. He has taught administrative law for 17 years at the Université libre de Bruxelles. Mr Jaumotte is the author of numerous articles and publications, including a two-volume book on the Belgian Council of State co-authored with J Salmon and E Thibaut; President of the editorial board of the journal *Administration publique*; and Treasurer of the International Association of Supreme Administrative Jurisdictions (IASAJ). He is a native French speaker with a very good working knowledge of English.
 - Ms Hongyu Shen (China)
Born in 1974, Ms Shen is a judge at the Supreme People's Court of China, with 18 years of judicial experience. She has presided over more than a thousand civil and commercial cases, involving disputes relating to commercial contracts, employment, insurance, torts, maritime law and the enforcement of foreign judgments and international arbitral awards. Ms Shen is one of the drafters of the rules of the China International Commercial Court (CICC) and has also acted as negotiator in international investment treaties. Ms Shen has a Master's Degree from the University of Hong Kong (2003) and a PhD from Renmin University of China (2013). Ms Shen has published numerous papers and books on a wide range of legal issues. She is the Governor of the Board of the Asian Business Law Institute (ABLI); Director of the Chinese Women Judges' Association; and Director of the International Economic Law Research Society of China Law Society. Ms Shen has an excellent knowledge of English.
7. In addition, two judges, Mr Michael Moore (Australia) and Sir Hugh Rawlins (Saint Kitts and Nevis), whose terms of office are due to expire in July 2021, have expressed their willingness and availability to accept the renewal of their appointment. Accordingly, the Director-General, after consultation with the Officers of the Governing Body, wishes to propose the renewal of the appointment of Mr Moore and Sir Hugh as judges of the Tribunal for one further non-renewable term of seven years each, subject to the adoption by the Conference at its 109th Session (June 2021) of the amendments to article III of the Tribunal's Statute and of the transitional measures for the implementation of amended article III of the Statute, or for another term of three years each in case those amendments and transitional measures are not adopted.

▶ Draft decision

8. **The Governing Body, on the recommendation of its Officers, decided, by correspondence, to propose to the International Labour Conference to adopt one of the following draft resolutions, depending on whether the Conference has previously adopted the amendments to article III of the Statute of the Administrative Tribunal of ILO and the transitional measures for the implementation of amended article III proposed in document GB.341/PFA/15/1:**
- (i) **if the amendments are adopted:**
- The General Conference of the International Labour Organization,**
- Decides, in accordance with article III of the Statute of the Administrative Tribunal of the International Labour Organization, as amended on [...] June 2021, and the transitional measures adopted for its implementation,**

- (a) to convey its deep appreciation to Mr Giuseppe Barbagallo (Italy), Ms Fatoumata Diakité (Côte d'Ivoire), Ms Dolores Hansen (Canada) and Mr Yves Kreins (Belgium) for the valuable services they have rendered to the work of the Administrative Tribunal of the International Labour Organization;**
- (b) to appoint Ms Rosanna De Nictolis (Italy), Mr Clément Gascon (Canada), Mr Jacques Jaumotte (Belgium) and Ms Hongyu Shen (China) as judges of the Tribunal for a period of five years each;**
- (c) to renew the appointment of Mr Michael Moore (Australia) and Sir Hugh Rawlins (Saint Kitts and Nevis) as judges of the Tribunal for one further non-renewable term of seven years each.**

Or

- (ii) if the amendments are not adopted:**

The General Conference of the International Labour Organization,

Decides, in accordance with article III of the Statute of the Administrative Tribunal of the International Labour Organization,

- (a) to convey its deep appreciation to Mr Giuseppe Barbagallo (Italy), Ms Fatoumata Diakité (Côte d'Ivoire), Ms Dolores Hansen (Canada) and Mr Yves Kreins (Belgium) for the valuable services they have rendered to the work of the Administrative Tribunal of the International Labour Organization;**
- (b) to appoint Ms Rosanna De Nictolis (Italy), Mr Clément Gascon (Canada), Mr Jacques Jaumotte (Belgium) and Ms Hongyu Shen (China) as judges of the Tribunal for a term of three years each;**
- (c) to renew the appointment of Mr Michael Moore (Australia) and Sir Hugh Rawlins (Saint Kitts and Nevis) as judges of the Tribunal for another term of three years each.**