

► Texts adopted

International Labour Conference – 109th Session, 2021

Resolution concerning the statute of the Administrative Tribunal of the International Labour Organization

(18 June 2021)

The General Conference of the International Labour Organization,

Conscious of the need to amend article II of the Tribunal's Statute and its Annex in order to set out the procedure pursuant to which a member organization may unilaterally revoke its declaration of acceptance of the Tribunal's jurisdiction;

Desirous to align article III of the Tribunal's Statute with best practices regarding geographical distribution and gender balance in the composition of the Tribunal and limitation of the judges' term of office;

Desirous also to ensure service continuity in exceptional circumstances and provide for the extension of appointment of a judge in the event the Conference does not meet on the expiry of their term of office;

Noting that the Governing Body of the International Labour Office has reviewed and endorsed the text of the draft amendments to the Tribunal's Statute and to the Annex as well as the transitional measures;

Adopts the following amendments to the Statute and to the Annex to the Statute of the Administrative Tribunal of the International Labour Organization, as well as the transitional measures for the implementation of amended article III of the Statute:

STATUTE OF THE ADMINISTRATIVE TRIBUNAL OF THE INTERNATIONAL LABOUR ORGANIZATION

Adopted by the International Labour Conference on 9 October 1946 and amended by the Conference on 29 June 1949, 17 June 1986, 19 June 1992, 16 June 1998, 11 June 2008, and 7 June 2016 and ... June 2021.

...

ARTICLE II

...

5. The Tribunal shall also be competent to hear complaints alleging non-observance, in substance or in form, of the terms of appointment of officials and of provisions of the Staff Regulations of any other international organization meeting the standards set out in the Annex hereto which has addressed to the Director-General a declaration recognizing, in accordance with its Constitution or internal administrative rules, the jurisdiction of the Tribunal for this purpose, as well as its Rules, and which is approved by the Governing Body. Any such organization may withdraw its declaration recognizing the jurisdiction of the Tribunal under the procedure set out in the Annex.

...

ARTICLE III

1. The Tribunal shall consist of seven judges who shall all be of different nationalities. ~~The judges shall be considered officials of the International Labour Organization other than officials of the International Labour Office under the Convention on the Privileges and Immunities of the Specialized Agencies.~~ The judges shall be persons of high moral character, impartiality and integrity and must have been appointed to, or possess the qualifications required for appointment to, the highest judicial office of their countries. They must have an excellent knowledge of at least one of the working languages of the Tribunal and should also have at least a basic written and oral comprehension of the other working language. Due regard shall be given to geographical distribution and gender balance in the composition of the Tribunal. At all times the Tribunal's composition shall permit the Tribunal to render judgments in both working languages.

2. ~~Subject to paragraph 3 below, the judges shall be appointed for a term period of five years, renewable once by the International Labour Conference. If for any reason the International Labour Conference does not meet on the expiry of this term, judges shall remain in office until the Conference holds its next session and has an opportunity to take a decision.~~

3. If the period of appointment of four or more judges expires in the same year, the International Labour Conference may exceptionally extend the appointment of two of those judges drawn by lots for a period of three years.

4. The judges shall be completely independent in the exercise of their functions and shall not receive any instructions or be subject to any constraint. The judges shall be considered officials of the International Labour Organization other than officials of the International Labour Office under the Convention on the Privileges and Immunities of the Specialized Agencies.

5. A meeting of the Tribunal shall be composed of three judges or, in exceptional circumstances, five, to be designated by the President, or all seven.

...

ANNEX TO THE STATUTE OF THE ADMINISTRATIVE TRIBUNAL
OF THE INTERNATIONAL LABOUR ORGANIZATION

1. To be entitled to recognize the jurisdiction of the Administrative Tribunal of the International Labour Organization in accordance with paragraph 5 of article II of its

Statute, an international organization must either be intergovernmental in character, or fulfil the following conditions:

- (a) it shall be clearly international in character, having regard to its membership, structure and scope of activity;
- (b) it shall not be required to apply any national law in its relations with its officials, and shall enjoy immunity from legal process as evidenced by a headquarters agreement concluded with the host country; and
- (c) it shall be endowed with functions of a permanent nature at the international level and offer, in the opinion of the Governing Body, sufficient guarantees as to its institutional capacity to carry out such functions as well as guarantees of compliance with the Tribunal's judgments.

2. The Statute of the Tribunal applies in its entirety to such international organizations subject to the following provisions which, in cases affecting any one of these organizations, are applicable as follows:

Article VI, paragraph 2

The reasons for a judgment shall be stated. The judgment shall be communicated in writing to the Director-General of the International Labour Office, to the executive head of the international organization against which the complaint is filed, and to the complainant.

Article VI, paragraph 3

Judgments shall be drawn up in two copies, of which one shall be filed in the archives of the International Labour Office and the other in the archives of the international organization against which the complaint is filed, where they shall be available for consultation by any person concerned.

Article IX, paragraph 2

Expenses occasioned by the sessions or hearings of the Tribunal shall be borne by the international organization against which the complaint is filed.

Article IX, paragraph 3

Any compensation awarded by the Tribunal shall be chargeable to the budget of the international organization against which the complaint is filed.

3. An international organization may withdraw its declaration recognizing the jurisdiction of the Tribunal in keeping with the principles of good faith and transparency. The organization shall address to the Director-General an official communication notifying the relevant decision which should emanate from the same organ which decided to recognize the Tribunal's jurisdiction or the organ currently competent to take such a decision, reaffirming its commitment to faithfully execute judgments on any pending cases and indicating, as appropriate, the reasons for withdrawing the recognition of the Tribunal's jurisdiction, the alternative means of employment dispute settlement envisaged and any consultations with the staff representative bodies prior to the withdrawal decision.

4. At its next session following the notification of withdrawal, the Governing Body, after consultation with the Tribunal, shall take note of the withdrawal of the organization concerned, and shall confirm that as of that date, or any other later date as may be agreed upon with the organization concerned, the organization shall no longer be subject to the competence of the Tribunal. No new complaint filed against the

organization after the effective date of the withdrawal shall be entertained by the Tribunal.

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Transitional measures

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.