INTERNATIONALE GEWERKSCHAFT IM EUROPÄISCHEN PATENTAMT IGEPA
STAFF UNION OF THE EUROPEAN PATENT OFFICE SUEPO
UNION SYNDICALE DE L'OFFICE EUROPEEN DES BREVETS USOEB

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106th Session of the ILOAT

Summary

The 106th Session of the Administrative Tribunal of the International Labour Organisation (ILOAT) pronounced 49 judgments on 04.02.2009. The EPO was again the Tribunal's largest "customer", accounting for no less than 12 of the cases! This session, the EPO judgments were all either clear "wins" or clear "losses". There were five of the former and seven of the latter. In all but one the "wins", moral damages was awarded in addition to the other sanctions. This paper discusses the EPO cases, in particular pointing out items of interest. Also, items of interest to EPO staff from the non-EPO cases are highlighted.

Introduction

The ILOAT hears complaints relating to disputes between employees and organisations for over 40 international organisations. The judgments are orally presented in open session twice a year in Geneva, at which time the judgments become legally binding. Following the presentation judgements are publicly available in paper form and are then sent to the parties via post. Online publication follows within a couple of weeks[1]. A delegation from SUEPO was present in Geneva on 04.02.2009 to observe, to meet with other interested parties and to discuss the conduct of the ILOAT and the cases before it. This report summarizes observations from this most recent, 106th session of the ILOAT, and important developments in the case law.

General Comments

This was the third session presided over by Mr Seydou Ba of Senegal, who replaced Mr Gentot of France. Including Mr Ba, the Tribunal comprises seven judges. Although the Tribunal is meant to be bi-lingual, it is interesting to note that Mr Ba (again) only presented the French language judgments. The English language ones were summarised on his behalf by Ms Comtet, the Tribunal's registrar.

One thing that has not changed despite, this being a violation of fundamental rights, is that yet again none of the complainants' requests for (oral) hearings were granted by the Tribunal.

We remind our members that SUEPO is still actively pursuing reforms to the legal protection system for staff which includes claims for the protection of fundamental rights.[2] It is worth noting that the ILOAT reform discussions which started in 2002 and 2003 have not resulted in any concrete (in this respect we would like to mention that the EPO Administration was one of the few that displayed a positive attitude towards the reform discussions).

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[1] The Tribunal's website is http://www.ilo.org/public/english/Tribunal/

[2] More information on this project can be found on the SUEPO site rights.suepo.org

That said, there are signs that the Tribunal feels that the quality of its work i.e. judgments, is under observation. In particular, it seems to make more of an effort to explain why it judged in a particular way and to present each judgment that it pronounces on. It also seems to have become less organisation friendly and has developed some clear lines of jurisprudence which are positive for staff. Part of the reason for these is that continued observation and criticism of the practices of the ILOAT including physical presence during the delivery of judgments which is now well attended by observers from various organisations and law firms.

One procedural change in the practice of the Tribunal is that for each case the Tribunal names each party's legal council (if any). This of course increases transparency, but has so far been limited to the oral presentations and such information is not included in the Judgements themselves.

SUEPO will continue to monitor the work of the Tribunal closely and to push for needed reform of the Tribunal.

Summary of EPO cases

Appointments

There were three EPO cases which concerned appointment procedures. Of these two were filed by Munich staff committee members. It should be noted that staff committee members have additional rights to bring complaints in their representative capacity if the rights of staff as a whole have been violated or if the rights of the staff committee have been violated. This holds true even if they are not personally injured. Thus although an A4 staff representative may not be personally injured by a decision affecting only A5 staff, (s)he still has a right to appeal in the capacity of a staff committee member. In both the MSC cases, the complainant received a majority positive opinion from the Internal Appeals Committee (IAC), but the President followed the minority opinion, in this case of one of his nominees to the IAC.

One of the cases (judgment 2791) concerned the recruitment of Mr Schröder to the position of Principal Director, Corporate Communications. The vacancy was originally advertised and attracted about 100 applicants. Considering this to be too many, the Office scrapped that procedure, and without starting another, asked a head-hunter to provide candidates. The head-hunter provided a list of 10; PD HR (at that time, Mr Leupold) short-listed three and the President (at that time, Mr Pompidou) selected Mr Schröder, recruiting him on contract ending on 31.08.2007. From the above, it should be obvious that no recruitment procedure as set out in Annex II ServRegs (which at that time was foreseen for PD recruitment), which required the involvement of the Staff Committee, took place. Accordingly, the President was asked to cancel this appointment. His refusal to do so resulted in first an internal appeal, and then the current complaint.

The Tribunal agreed with the complainant that the above was completely irregular. The Tribunal thus quashed the President's refusal to cancel the appointment and awarded costs and moral damages.

It should be noted that Mr Schröder's contract has since been renewed, following what is believed to be a correct selection procedure. Since the contract that was illegally granted has since run out ("spent" as the Tribunal put it), there was no illegal appointment left to quash. It should of course be obvious that, even if the original appointment was illegal, the experience gained whilst performing it would naturally give Mr Schröder an advantage when applying for renewal. An unfortunate outcome is that that validity of his appointment remains tainted. Moreover, if Mr Schröder's original appointment was illegal, this poses a number of interesting questions, such as:

- since his time under contract was not conformant with the ServRegs, does his employment status during this period mean that he is liable to pay German income tax on the emoluments he received?

- what is now the legal validity of actions undertaken or contracts signed by him during this period?
- does he enjoy immunity from national jurisdiction for acts committed during this period?

The other MSC appeal concerned the transfer of a director without a selection procedure from a DG1 "line" post to a post in patent administration.

In this case (2792), the Tribunal agreed with the Office that there is no need for a selection procedure in such cases. However, the Tribunal still found for the complainant because the Tribunal was satisfied that staff were not informed that there was a vacant post.

In the meantime, the director concerned has moved on (and is now indeed a Principal Director). Thus the transfer decision being contested is again "spent" (the second time, the vacancy was indeed advertised properly before being filled). The Tribunal again awarded moral damages and costs. The reason for the award of moral damages was that "the unexplained and inordinate delay in the processing of the internal appeal (that) has effectively denied the complaint (of) one aspect of the relief to which he would have otherwise been entitled, namely, the quashing of the transfer decision". In this respect the Tribunal emphasised that even if "spent", "a staff member is entitled to know whether the appeal is allowed or dismissed". However, the claim for punitive damages was turned down. According to the Tribunal, the reason for this was that "while there are troubling circumstances surrounding the decision, including the fact that Ms X endorsed her receipt of the letter of 21.09.04 on 28.08.04, there is insufficient evidence to conclude that the EPO's conduct was a deliberate attempt to circumvent the ServRegs rather than administrative ineptitude ...".

We have some general comments on the above two cases.

Firstly, this finding implies that the Tribunal considers administrative incompetence to be a valid defence with regard to claims of bad faith.

Secondly, both the above cases exhibit an attitude on the part of the administration that they should be able to do whatever they consider appropriate, without any checks or balances. With the regulations in force at the time, the Tribunal has judged that this was not correct. However, in 2007 the administration amended Article 7 ServRegs to allow the Office to recruit PDs by a procedure different from Annex II. Various different procedures have in the meantime been presented to the GAC. All of these would have allowed the President to appoint whoever (s)he wants e.g. on the recommendation of a head-hunter, with no checks or balances or oversight from either the Staff Committee or (even) the Administrative Council! Following protestations in the GAC, none of these proposals have been adopted. Currently, Annex II is the only procedure by which PDs may be appointed. However, the administration recently presented to the GAC, for discussion at a meeting scheduled for February 2009, another proposal which would again grant the President complete discretion with regard to PD recruitment. For other reasons the meeting was cancelled due to the non availability of the members nominated by the President!! The outcome of the GAC and what the President will finally implement thus remain to be seen.

Thirdly, whilst there may be some embarrassment to the administration, the cost with regard to these two cases is limited. The awards of the Tribunal are in no way sufficient to deter such behaviour in the future. We would nevertheless hope that the Tribunal will take a dim view if, in the future, the administration continues to ignore the rules with regard to appointment, and would see fit to impose sanctions on the administration which would cause more than just minor inconvenience to them.

The final appointment case (judgment 2766) concerns a staff member who applied for a director post. After attending an assessment centre, the selection board decided not to recommend the candidate without inviting him to interview. The complainant claimed

several different procedural violations. However, the Tribunal found that there hadn't been any and dismissed the complaint.

Sickness and invalidity

One trend in recent years amongst EPO cases was that the Office has repeatedly lost cases surrounding sickness and invalidity.

Despite such positive final outcomes, SUEPO has stated it concern over such cases which are worrying and unacceptable. Complainants in these cases are vulnerable and weak. The Office should take particular care to treat these people with dignity, and their cases correctly, without forcing them to wait (usually years) for the Tribunal to correct the administrations actions. In the 106th session, no fewer than five EPO cases involved invalids.

Judgment 2795 involved a claim of harassment against his director by a former examiner. The Tribunal didn't decide if harassment had indeed occurred or not. Rather, citing from their case law, they found that allegations of harassment, especially if specific (which in the current case they were), must be the subject of "a serious and thorough investigation". This the Office had not done. Rather, the Office had tried to get the complainant and his director to reconcile their personality differences and offered a transfer. Since the Office had thus clearly breached its duty of care, the Tribunal awarded €35,000 plus costs.

Similarly, judgment 2805 concerned alleged harassment prior to invalidity. The complainant had filed an internal appeal against a decision of the President following the outcome of a Circular 286 (staff dignity) procedure. The President refused to recognise the appeal since the appeal provided no substantiation, and accordingly didn't pass it on to the IAC for processing as an internal appeal! Accordingly the complainant went directly to the ILOAT. The Tribunal allowed this. Moreover, the Tribunal found that although "the specification of grounds of appeal renders the appeal process efficient, that course is not necessary ...". The Office was therefore given 10 days to submit the internal appeal to the IAC.

Judgment 2787 concerned a former staff member whose invalidity was originally not recognised as resulting from an occupational disease. She appealed this internally. The President followed the IAC's recommendation that a new medical committee should be called to assess this. The medical committee assessed that the invalidity was indeed of occupational origin. The President recognised this, which in the case in question resulted in a higher invalidity pension.

In the meantime, the complainant had filed with the Tribunal since she claimed that "it is not clear whether the Office intends to implement the IAC's recommendation...". She also claimed various costs which she claimed that the Office had not paid.

The Tribunal found that the complaint was partly not receivable. For the rest, it was dismissed on its merits since the unpaid costs were from a different case, which had been abandoned.

Judgment 2789 concerned an appeal against a recommendation of the medical committee that the staff member was well enough to work at 50%. The medical committee also recommended that the case be reviewed after a period of about 6 months.

The Tribunal ruled that the decision being appealed was temporary in nature in that it was reviewed 6 months later. In effect, since the later review resulted in the determination that the staff member was fit to work full time, they failed to find a flaw in the decision under appeal.

Judgment 2804 concerned an appeal by three former staff members in The Hague. They had all gone on invalidity for occupational reasons. They argued that the Office had not implemented adequate health and safety measures meeting international or national standards and was thus guilty of negligence. Accordingly they claimed additional compensation over and above that foreseen by the ServRegs and PenRegs for the problems which they suffered, and the resultant loss of livelihood and income.

The Tribunal found that at the relevant time the Office had ergonomics guidelines based

on the relevant European Community directive and ISO standards. Thus in the Tribunal's opinion, the Office had a comprehensive policy on health and safety relating to computer use which reflected international norms.

The complainants also claimed that there must be a right to make such a claim i.e. that there must be a provision allowing compensation for Office negligence. The Tribunal found that the combination of Article 13 EPC and the Tribunal's statute made clear that the Tribunal was the competent body for addressing issues of compensation in cases of negligence.

On the substance of whether or not the Office had been negligent, the Tribunal appears to have failed to recognise that all 3 complainants were determined by a competent medical committee to be suffering from an occupational disease. In fact, according to the Tribunal the only issue was the Office's failure to carry out workstation analysis in a timely manner. However, they found no evidence that the minor defects later identified and promptly rectified had caused any injury. Accordingly, they dismissed the complaint.

Although the case was dismissed, one aspect of the judgment can be taken as positive for staff. This is that if a staff member can demonstrate negligence leading to injury that the Tribunal considers itself competent to award appropriate compensation. This goes against the position of the Office, who had argued that "it is questionable whether the employer is liable to pay further compensation in cases of gross negligence". A position which, if true, would demonstrate a lacuna in the legal protection of staff. In recent sessions, the size of compensation awards from the Tribunal seems to have increased. Tens of thousands of euros are now not unusual. For example in Grasshoff (Judgement 402) the Tribunal ruled "if an employer has failed to exercise due skill and care in arriving at a judgment on the safety of the place of work, the employee is entitled to compensation in full against the consequences of the mis-judgment". In this case decided in 1980 the Tribunal awarded nearly 400,000 German Marks. Accordingly, the Office should not take this lightly.

Pension transfers

Judgment 2768 concerned an attempt to transfer pension rights from the UK into the EPO system. Usually, the application to do this must be filed within six months of the end of the probationary period. The complainant claimed that on joining the Office she was informed that this would not be possible for her. Thus only after she had heard that another staff member had successfully transferred from the same UK system did she ask the administration about the possibility of performing a transfer. She was informed that she was too late. Moreover, the Office argued that there was no evidence that the complainant had indeed been misinformed.

The Tribunal ruled that where "rules were so complex that a mere perusal of the documentation would not enable employees to understand them fully" that "merely handing the applicable texts to the staff members concerned by a possible transfer" was not enough; rather, the Office "should draw to the attention of the staff members concerned the possibility of obtaining a transfer of pension rights and should inform them of the procedure to be followed". For this reason the complaint was allowed.

Large moral damages were also awarded. This is partly because of the unreasonable delay in dealing with the case. In this respect the Tribunal found that "an organisation may not justify its delay in handling a file by pleading reasons linked to the difficulties facing its Administration. It is up to the organisation to overcome a shortage of human or financial resources, so that no staff member who is waiting for a decision suffers undue delay, which constitutes a denial of a staff member's right to have his or her requests handled with due diligence".

This case is important for staff (and the Office) because:

- there are probably further staff members who failed to ask for a pension transfer in due time because they were either mis- or under-informed. If still interested, then these

staff members should take up contact with the administration;

- it underlines that in complex situations, the Office has a duty of care towards staff members to explain their rights in an manner which is understandable to them;
- undue delays in handling appeals is unacceptable. We recommend staff who feel their appeal has been unduly delayed e.g. by a year or more, to ask for moral damages for this reason alone.

Step and grading

Judgment 2775 concerned the date of promotion from B5 to B6. In 27 years of service (the person retired in 2007), this was the only promotion that the complainant received! The promotion, in 2003, resulted from a move from the B5/1 to the B6/4 group of grades. The President originally chose as date of promotion a date six months later than that recommended by the promotion board. The IAC recommended (and the President subsequently allowed) that the promotion date should be that recommended by the promotion board.

The complainant, however, claimed that he should have been promoted earlier still. The 2004 job grade evaluation had showed that the complainant had been performing duties at the B6/4 level from a much earlier date. Thus he argued he should have been promoted, either under a "hardship" clause or under an "age 55" clause of an earlier B grade career system. Thus the complainant took the case to the ILOAT.

The Tribunal concluded that neither the "hardship" nor the "age 55" clauses were still in force. In any case, the former never applied to him and the non-application of the latter was not appealed in time; this claim was thus inadmissible. Accordingly the Tribunal dismissed the complaint.

Judgment 2777 concerned a complaint from a "negative stepper" about a transitional measure adopted in 2002 to grant an additional step in grade so as to compensate some "non negative step" A3 staff who would have been in a better position under the new grade and career system than the one that originally applied to them.

The complainant had actually appealed this measure and claimed an extra step when originally an A2. This was rejected in the Tribunal's judgment 2664. The complainant has since been promoted to A3 and again claimed an extra step.

The Tribunal found that the current complaint was "res judicata" i.e. settled in law, and dismissed it. The reason is that the Tribunal found that the claim and the cause of action were the same as in the previous matter. The current claim thus merely related to additional arguments which the complainant should have brought at that time.

From this the reader can see how important it is to bring all evidence and arguments to the Tribunal. Arguments which are raised after the Tribunal has dealt with a case will not lead the Tribunal to re-open the matter, unless it is clear that they are pivotal and the complainant was not aware of them at that time.

Miscellaneous

Judgment 2794 concerned "prestatiebeurs" allowances which may be paid with respect to children in education in Holland.

According to the ServRegs, "allowances of like nature" received from other sources are deducted from similar allowances paid by the Office. The question to be ruled on was thus if "prestatieberus" was equivalent to the EPO's education allowances or not. The complainant said not. The Office said they were. The Tribunal agreed with the Office and dismissed the complaint.

Closing comment

Former staff members, such as pensioners, invalids and other "rightful claimants" such as survivors may also file complaints with the Tribunal. Interestingly, although there were always a few such cases, in recent sessions there has been an increase in their number. There were six such cases in the 106th session. It is, of course, possible that the reason for this increase is simply the increase

in the number of EPO pensioners. We suspect, however, that it is at least in part due to dissatisfaction amongst pensioners with how they are treated by the Office. In this respect it should be noted that appeals relating to the changes in invalidity conditions introduced on 01.01.2008 will not yet have worked through the system. Thus it seems likely that the number of appeals from pensioners will increase yet further in the coming sessions.

Interesting findings from non-EPO cases

Exhaustion of internal remedies

The Tribunal considers itself to be a final instance. That means (c.f. its rules, which may be found on the Tribunal's website) that internal remedies, for example internal appeal or review proceedings, must be exhausted before a complaint is filed with the Tribunal. There were a surprising number of cases (2780, 2784, 2785, 2798, 2811, 2813 and 2814), all of them non-EPO, in the current session which were ruled inadmissible for this reason only.

That said, the Tribunal takes a dim view of organisations taking inordinately long to process internal appeals, and (c.f. EPO case 2768) will award moral damages for this reason. In such cases, the Tribunal may also allow the complainant to file with the Tribunal before the internal proceedings have been completed. Such a case from the 106th session was judgment 2786, concerning dismissal. The Tribunal agreed to accept the case after internal proceedings were not completed within a period of over four years! The Tribunal also ruled the same way in judgment 2796, again concerning dismissal. In that case, there were multiple irregularities going beyond undue delay in the proceedings. These included that the complainant's line manager was in a disciplinary panel which pronounced on him!

The dilemma for complainants is to determine when they may file directly with the Tribunal, since there are no hard and fast rules for this. That said, judgment 1243 sets out some basic guidelines, including that the "complainant does everything necessary to get a final decision but the appeal proceedings appear unlikely to end within a reasonable time". In cases where it is important for justice to be served quickly before it is overtaken by events, this time will be shorter than in other cases. We would advise staff who consider that their appeal is taking too long to process should ask the IAC when the case may be dealt with, set a reasonable deadline, and warn the committee that if the case has not been dealt with by then, that according to the Tribunal's case law, the staff member reserves the right to take the case directly to the Tribunal. This might be after six or twelve months, depending on the case.

On this point it is interesting to note that the right to a decision within a reasonable period of time is an integral part of Article 6(1) of the European Convention of Human Rights. What is considered reasonable is determined on a case by case basis, but it is hard to see how delays of up to 6 years can be considered reasonable in an employment situation. In many cases, such delays undermine the very essence of legal protection.

Contracts

As in previous sessions, a number of complaints concerned non-renewal of contract. As we have previously commented, this area is a mine field. The organisations win some cases, but often lose, and have to pay substantial damages.

An example of this concerns cases 2799, 2800, 2801 and 2802. All four concerned the same organisation, CTBTO PrepCom. They even concerned the same point of law, namely the (general) policy not to extend contracts beyond seven years of service. Despite on the surface seeming similar, two were won and two were lost! The reasons for the different conclusions are not readily apparent from the judgments themselves.

Similarly, cases 2774 and 2781 were decided in favour of the complainant and 2809 and 2810 in favour of the organisation.

2779 concerned a case were the head of HR made a promise concerning contract extension to the staff member. However, he was not empowered so to do. Whilst this case was lost, the staff member received substantial damages.

Given the troubles that other organisations have in this area, it seems to us ill advised for the EPO to be pressing ahead with increased use of non-permanent (including contract) employment in key areas of the Office. Moreover, in other organisations the number of disputes that arise in this area would seem to indicate that non-permanent employment leads to increased social unrest.

Organisational discretion

The Tribunal grants organisations great discretion, in particular in areas such as promotions, transfers and confirmation of probation. That said, the organisations may not abuse this discretion.

Thus for example in judgment 2767 concerning classification of a post, the Tribunal awarded moral damages because of lack of transparency of the procedure. Since in proceedings in front of the Tribunal the organisation provided information it had not previously produced, the case was, however, dismissed on its merits.

Promotions in particular are generally viewed as discretionary and thus subject only to limited review. Despite this, in judgment 2770 the Tribunal identified errors of law and mistakes of fact. Accordingly, the decisions under appeal were set aside and retroactive promotions granted (this was a complex case where promotion led to lower salaries and pensions for the staff concerned, which the Tribunal considered contrary to the point of a promotion).

A reason for setting aside a discretionary decision may be unequal treatment. This is difficult to prove under the Tribunal's case law.

The test applied by the Tribunal for equal treatment is that (unless there are objective reasons for diverging), staff in the same situation should be treated the same, but staff in different situations may be treated differently. Usually, cases claiming equal treatment lose since there are nearly always differences in the situation of the staff members. The problem is that the test applied by the Tribunal is not sufficiently rigorous to discriminate between relevant and irrelevant differences. However, in judgment 2769 the complainant was successful in overturning a discretionary appointment decision due to unequal treatment of the complainant with respect to his peers.

In probationary cases, an organisation is also given wide discretion when deciding if an individual is suitable for the organisation. Generally, the Tribunal considers that this is the whole point of a probationary period. That said, when assessing performance "an organisation must establish clear objectives against which performance will be assessed, provide the necessary guidance for the performance of the duties, identify in a timely fashion the unsatisfactory aspects of the performance so that remedial steps may be taken, and give a specific warning that the continued employment is in jeopardy". In judgment 2788 the Tribunal considered that this had been the case and dismissed the complaint.

Judgment 2803 concerned a transfer following a reorganisation at WIPO. Again, the Tribunal generally grants great discretion in such matters provided that they are in the interests of the organisation. The reason for this is that (don't laugh) "the Director General (at the Office the President) must ordinarily be deemed to be the best judge of what they (the interests) are". Such statements undermine confidence in the impartiality of the Tribunal. Rather, the tribunal should make its own assessment based on the facts before it as to whether or not the reasons given by the Organisation meet necessary criteria for objectivity and whether the actions taken are proportional.

However, the Tribunal has also stated that the dignity of staff being transferred must also be taken into account. In case 2803, the staff member's dignity was injured and for this reason, the decision set aside and moral damages awarded.

Res judicata

As apparent from EPO case 2777 discussed above, the Tribunal's judgments are "final and without appeal" as stated in Article VI of its Statute, and carry the authority of *res judicata* (see also judgment 2736). They may be reviewed "only in quite exceptional circumstances and on strictly limited grounds: failure to take account of some material facts, a material error that involves no exercise of judgment, an omission to rule on a claim, or the discovery of some new essential fact that the complainant was unable to rely on in the original proceedings. Moreover, the plea must be such as to affect the original ruling. Pleas of a mistake of law, failure to admit evidence, misinterpretation of the facts or omission to rule on a plea, on the other hand, afford no grounds for review". Put in other words, this is the principle of infallibility. The Tribunal does not make mistakes.

The 106th session saw three applications for reviews, namely judgments 2776, 2806 and 2812. The first two filed by the organisations in question, the third by the complainant. All three were dismissed since they did not meet the requirements as set out above.

It is interesting to note that the ILOAT permits organisations to apply for review of judgements. SUEPO considers that this applies a double standard. There is no provision in the ILOAT Statute which supports the right of organisations to file cases with the Tribunal. The widening of the practice to permit defendant organisations to file such complaints demonstrates that the Tribunal has such power. However, the Tribunal has consistently claimed that it does not have such power in the case of job applicants despite there being clear violation of fundamental rights (see judgements 2657 and 1964). The unwillingness of the Tribunal to extend it's jurisdiction therefore demonstrates a degree of bias towards the defendant organisations, and also a disregard for fundamental rights.

In any case it is rare that a request for review of a decision will be worthwhile. The Tribunal's website states that only one has ever succeeded. In fact there have been 3 successful applications for review (1255, 707, 620), nevertheless the chances of success are very low.

In some cases the errors of the ILOAT can be such that an appeal to national and / or human rights courts may be considered. Whilst such cases are in theory possible in practice they are complex. SUEPO is engaged in a long term project aimed at improvements in this area (see rights.suepo.org).

Finally

It is worth considering whether or not the Tribunal has jurisdiction before filing a complaint at the Tribunal!

Judgment 2783 concerned a mass appeal against an increase in parking fees for a garage which IAEA staff in Vienna have access to. The fees may optionally deducted monthly from the staff members' salaries. The Tribunal found that the dispute affects the complainant not as a staff member of the IAEA but in his capacity as a user of the garage. Accordingly, under the terms of its statute the Tribunal found that it had no jurisdiction and dismissed the complaint!

This is of course another example where the ILOAT refuses to take jurisdiction despite the knowledge that the parties involved (staff) have no reasonable alternative on account of the organisation's immunity.

The Executive Committee