



Governing Body

328th Session, Geneva, 27 October–10 November 2016

GB.328/PFA/10

Programme, Financial and Administrative Section
Personnel Segment

PFA

Date: 23 September 2016

Original: English

TENTH ITEM ON THE AGENDA

Matters relating to the Administrative Tribunal of the ILO

Withdrawal of the recognition of the Tribunal's jurisdiction by the Permanent Court of Arbitration

Purpose of the document

This paper provides information about the intention of the Permanent Court of Arbitration (PCA), one of the 60 international organizations that have recognized the jurisdiction of the ILO Administrative Tribunal, to discontinue its recognition of the Tribunal's jurisdiction. The Governing Body is invited to take note of the intention of the PCA to terminate its membership and confirm that the PCA will no longer be subject to the Tribunal's competence as from the date of the Governing Body decision (see the draft decision in paragraph 7).

Relevant strategic objective: None.

Policy implications: None.

Legal implications: Withdrawal of one international organization from the membership of the ILO Administrative Tribunal.

Financial implications: None.

Follow-up action required: None.

Author unit: Office of the Legal Adviser (JUR).

Related documents: GB.300/PFA/19/2.

1. By letter dated 1 July 2016 (see appendix), the Secretary-General of the Permanent Court of Arbitration (PCA), Mr Hugo Siblesz, informed the Director-General that following the revision of its Staff Rules and Directives, the PCA had decided to discontinue its recognition of the jurisdiction of the ILO Administrative Tribunal (“the Tribunal”) with immediate effect. In his letter, Mr Siblesz reaffirmed the commitment of his organization to execute promptly and in good faith any Tribunal judgment rendered on any outstanding complaint, to pay the corresponding session costs as well as the minimum annual share of the running costs of the Tribunal for 2016.
2. Under the Staff Rule 11.2 and Directive 11.2, as amended on 1 July 2016, employment disputes that fail to be resolved within 30 days of the Secretary-General’s final decision on the Appeal Board’s report may be referred to final and binding arbitration in accordance with the Arbitration Rules of the United Nations Commission on International Trade Law (UNCITRAL Arbitration Rules). According to the information provided by the PCA secretariat, there are no outstanding complaints under the procedures foreseen in Staff Rule 11.1 or 11.2 prior to their amendment, while there is one complaint currently pending before the Tribunal (Case AT-5-3895) filed on 22 October 2014.
3. The PCA recognized the jurisdiction of the Tribunal in 2007.¹
4. This is the first time that an international organization among those which have recognized the jurisdiction of the Tribunal decides to withdraw its recognition.
5. The Statute of the Tribunal in its article II(5) and the Annex sets out the conditions for admission of an international organization but is silent on the conditions of withdrawal and is also silent on the possibility for the Governing Body to withdraw its approval of the recognition. This latter question is currently the subject of consultations among the member organizations and possible amendments to the Statute and the Annex could be prepared in due course.
6. Even though the recognition of the Tribunal’s jurisdiction is in essence a unilateral declaration by an international organization which can be unilaterally revoked, a withdrawal from the Tribunal’s membership needs to be confirmed by the Governing Body to become effective.

Draft decision

7. The Governing Body:

- (a) takes note of the intention of the Permanent Court of Arbitration (PCA) to discontinue its recognition of the jurisdiction of the Administrative Tribunal following the revision of its Staff Rules and Directives dated 1 July 2016;*
- (b) confirms that the PCA will no longer be subject to the competence of the Tribunal with effect from the date of this decision, except as regards the complaint (Case AT-5-3895) currently pending before the Tribunal;*
- (c) requests the Director-General to follow up with the PCA secretariat regarding the payment of any outstanding costs.*

¹ See GB.300/PFA/19/2.

Appendix

COUR PERMANENTE D'ARBITRAGE



PERMANENT COURT OF ARBITRATION

Mr. Guy Ryder
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July 1, 2016

Dear Mr. Ryder,

I write to inform you that by revision to its Staff Rules and Directives of today's date, the Permanent Court of Arbitration (PCA) has discontinued its recognition of the jurisdiction of the Administrative Tribunal of the International Labour Organization with immediate effect.

As regards the adjudication of complaints filed prior to the effective date of the cessation of recognition of the Tribunal's jurisdiction, the PCA confirms that there is at present no outstanding complaint under the procedures foreseen in Rule 11.1 or 11.2 of the Staff Rules and Directives, save for the complaint concerning the PCA currently pending before the Tribunal in Case AT-5-3895 filed on October 22, 2014. The PCA reaffirms its commitment to execute promptly and in good faith any Tribunal judgement rendered under such residual jurisdiction, to pay the corresponding session costs as well as the minimum annual share of the running costs of the Tribunal for 2016.

Yours sincerely,

Hugo H. Siblesz
 Secretary-General

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