



NINETEENTH ITEM ON THE AGENDA

Matters relating to the Administrative Tribunal of the ILO**Recognition of the Tribunal's jurisdiction by the International Centre for the Study of the Preservation and Restoration of Cultural Property (ICCROM)**

1. By letter dated 8 July 2009, the Director-General of the International Centre for the Study of the Preservation and Restoration of Cultural Property (ICCROM), informed the Director-General that ICCROM had decided to recognize the Tribunal's jurisdiction in accordance with article II, paragraph 5, of its Statute. In his letter, the Director-General of ICCROM asked that his request for recognition of the Tribunal's jurisdiction be transmitted to the Governing Body for its approval.
2. In order to be eligible for approval under article II, paragraph 5, of the Tribunal's Statute, ICCROM must be considered either to be an intergovernmental organization or to fulfil certain criteria set out in the annex to the Statute. According to the available information, ICCROM is an international intergovernmental organization, having objectives that respond to the general interest of the international community as a whole and is endowed with functions of a permanent nature. In addition, ICCROM is not required to apply any national law in its relations with its officials and enjoys immunity from legal process in the host country.
3. ICCROM is an international organization created by UNESCO at its ninth General Conference in New Delhi in 1956 and established in Rome, Italy, in 1959. The organization has 126 member States.
4. The organization aims to improve the conservation of both movable and immovable cultural heritage worldwide. Pursuant to article 1 of its Statutes, ICCROM "shall contribute to the worldwide conservation and restoration of cultural property by initiating, developing, promoting and facilitating conditions for such conservation and restoration".
5. ICCROM is governed by a general assembly consisting of delegates from all of its member States, a council elected by the general assembly from amongst the best qualified experts in the field of conservation and restoration of cultural property, and a secretariat consisting of a Director-General and staff.

6. ICCROM is recognized by UNESCO as an independent organization. UNESCO retains a role in ICCROM by participating in its general assembly and council sessions, but does not control its activities or membership. States that are not Members of UNESCO may join ICCROM and States that terminate their UNESCO membership may retain membership in ICCROM.
7. The financing of ICCROM is ensured through contributions from member States, paid on a biennial basis.
8. The headquarters of ICCROM are in Rome. The headquarters agreement between UNESCO and the Italian Government, concluded in 1959 (published in the Italian *Gazzetta Ufficiale* No. 182 of 26 July 1960), specifically provides that ICCROM has legal personality and enjoys privileges and immunities in Italy. Article I of the agreement recognizes the capacity of ICCROM to contract, to acquire property, and to pursue legal recourse. Additionally, article XI of the agreement grants all ICCROM employees juridical immunity, irrespective of nationality.
9. Italy has extended to ICCROM the application of the 1947 Convention on Privileges and Immunities of the Specialized Agencies (Italian *Gazzetta Ufficiale* No. 115 of 19 May 2002). This Convention provides for the immunity of jurisdiction of ICCROM, including in matters arising out of the employment relationship.
10. Presently, ICCROM employs 39 staff members in its secretariat. Their conditions of employment are set out in the Staff Regulations of the organization. Subject to approval of the ILO Governing Body, the Staff Regulations of ICCROM provide for the possibility of referring applications alleging non-observance of staff members' terms of employment to the Tribunal.
11. The Tribunal's jurisdiction under article II, paragraph 5, of its Statute already extends to 58 organizations other than the ILO. The recognition of the Tribunal's jurisdiction by other organizations entails no additional cost to the ILO, since the organizations against which complaints are filed are required by the Statute to bear the expenses of sessions and hearings and to pay any award of compensation made by the Tribunal. Those organizations also contribute, in amounts proportionate to the number of their staff, to most of the running costs of the Tribunal's secretariat.
12. ***In light of the above, the Committee may wish to recommend that the Governing Body approve the recognition of the Tribunal's jurisdiction by the International Centre for the Study of the Preservation and Restoration of Cultural Property (ICCROM), with effect from the date of such approval.***

Geneva, 18 September 2009.

Point for decision: Paragraph 12.

Appendix

Ref. DG/2009/234/MBO/BP/ph
FF: Gen.Adm; ILO

Rome, 8 July 2009

Subject: Recognition of the jurisdiction of the ILO Administrative Tribunal by the ICCROM Organization

Dear Sir,

I have the honour to present a request by the International Centre for the Study of the Preservation and Restoration of Cultural Property (hereinafter ICCROM) to extend the jurisdiction of its Administrative Tribunal to the staff of ICCROM. Having considered the Statutes and Rules of Procedures, ICCROM undertakes to recognize the Tribunal's jurisdiction.

ICCROM is an intergovernmental organization (IGO) created by UNESCO in 1956 and established in Rome, Italy, in 1959. It is concerned with the conservation of both movable and immovable heritage worldwide. As of today, ICCROM has 126 member States.

ICCROM aims at improving the quality of conservation as well as raising awareness about the importance of preserving cultural heritage.

ICCROM contributes to preserving cultural heritage in the world today and for the future through five main areas of activities: training, information, research, cooperation and advocacy.

The responsibilities of the Director-General and the staff are exclusively international in character, and in the discharge of their duties they will not seek or receive instructions from any government or from any authority external to ICCROM.

ICCROM, its property and assets, and the Director-General and its staff, within the territory of each Member, enjoy such privileges and immunities as are necessary for the exercise of their functions. These privileges and immunities are detailed in the headquarters agreement that has been concluded with Italy. As a result of its headquarters agreement ICCROM is not required to apply national law in its relation with its staff.

ICCROM is governed by a general assembly consisting of delegates from all its member States. The ICCROM Council has 25 members elected by the General Assembly. The secretariat consists of the Director-General and staff for a total of 40 employees. The Director-General is the representative of ICCROM in the exercise of its legal capacity.

The management of human resources at ICCROM is consistent with the principles, practices and conditions of service adopted by the United Nations common system. It is in this framework that the ICCROM Council at its last session in November 2008 has requested the secretariat to initiate the procedure for changing the current appeals and arbitration process from UNIDROIT, Rome to ILOAT Geneva.

The conditions of appointment, the privileges and obligations of the staff members and, in so far as applicable, of other persons engaged by, or seconded to, the organization are set forth in the Staff Regulations and in the Staff Rules.

The Staff Regulations of ICCROM have been modified to provide for the competency of the International Labour Organization, pending approval by the Governing Body of the International Labour Office.

I would be grateful if you would submit this request to the Governing Body of the ILO and invite it, in accordance with article II, paragraph 5, of its Statutes, to approve ICCROM's declaration of recognition of the Tribunal's jurisdiction and acceptance of its Rules of Procedure.

I enclose for your information the headquarters agreement with a copy of the Italian *Gazzetta Ufficiale* No. 115 of 19.5.2002 extending to ICCROM the provisions of the convention signed in New York on 21 November 1947 on privileges and immunities applicable to the specialized agencies of the United Nations. To complete the request I also enclose the Statutes of ICCROM and its Staff Regulations.

I remain at your disposal should you need any further information, and avail myself of this opportunity to renew to you the assurance of my highest consideration.

Mounir Bouchenaki
Director-General