



FIFTEENTH ITEM ON THE AGENDA

**Matters relating to the Administrative  
Tribunal of the ILO**

**Recognition of the Tribunal's jurisdiction by the  
International Institute for Democracy and  
Electoral Assistance (International IDEA)**

1. Under its Statute,<sup>1</sup> the Administrative Tribunal of the International Labour Organization is competent to hear complaints against international organizations, and under certain conditions other international intergovernmental organizations, which recognize its jurisdiction and Rules of Procedure and have been approved by the Governing Body.

<sup>1</sup> Article II, paragraph 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 of Procedure, and which is approved by the Governing Body.

Annex:

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 judgements.

2. By a letter dated 9 January 2002 (Appendix I), Mr. Bengt Säve-Söderbergh, the Secretary-General of the International Institute for Democracy and Electoral Assistance, International IDEA, informed the Director-General of the ILO that both the Board of Directors of International IDEA at its 21st meeting held on 4 December 2001 and the Council of International IDEA at its session on 4-6 December 2001, had decided to recognize the Tribunal's jurisdiction in accordance with article II, paragraph 5, of its Statute.
3. International IDEA was created on 27 February 1995 by 14 States representing International IDEA's Statutes that signed the Agreement Establishing the International Institute for Democracy and Electoral Assistance. Today, the membership of International IDEA consists of 19 States as members and four international non-governmental organizations as associate members. Under its founding statutes, International IDEA is mandated to engage in a wide variety of activities designed to advance democracy and to improve the quality of democratic governance, nationally and internationally. More particularly, International IDEA promotes and advances sustainable democracy and improves and consolidates electoral processes worldwide, by broadening the understanding and promoting the implementation and dissemination of the norms, rules and guidelines that apply to multi-party pluralism and democratic processes; strengthens and supports national capacity to develop the full range of democratic instruments; provides a meeting place for exchanges between all those involved in electoral processes in the context of democratic institution-building; increases knowledge and enhances learning about democratic electoral processes; and promotes transparency and accountability, professionalism and efficiency in the electoral process in the context of democratic development. International IDEA comprises of the following organs: the Council, composed of representatives of members and associate members; the Nominating Committee, consisting of one representative of the members, one representative of the associate members, and one member of the Board of Directors; the Board of Directors, composed of 13 members including its Chairman, all appointed by the Council; the Secretary-General appointed by the Board of Directors and the secretariat. International IDEA's headquarters is Stockholm, Sweden. The status of the organization and its staff is provided for in its Statutes as well as in a host agreement concluded with the Government of Sweden in 1995. The agreement recognizes the immunity of International IDEA's property, funds and assets, from every form of legal proceedings, inviolability of its premises and, for its staff, the privileges and immunities which are normally recognized for officials of international organizations. International IDEA employs at present some 70 persons.
4. In order to be eligible for approval under article II, paragraph 5, of the Tribunal's Statute, International IDEA must be considered either to be an intergovernmental organization (*organisation de caractère interétatique*) or to fulfil certain criteria set out in the annex to the Statute. While its main organ does not consist exclusively of representatives of States, International IDEA has been established by treaty between States. The Office therefore considers that the intergovernmental character of International IDEA is sufficiently established. In addition, it appears to meet the criteria referred to above, whereby:
  - (a) the organization must "be clearly international in character, having regard to its membership, structure and scope of activity";
  - (b) it must not "be required to apply any national law in its relations with its officials", and must "enjoy immunity from legal process as evidenced by a headquarters agreement concluded with the host country";
  - (c) it must "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 judgements".

5. The Tribunal's jurisdiction under article II, paragraph 5, of its Statute already extends to 40 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 much of the running costs of the Tribunal's secretariat.
6. *In the 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 Institute for Democracy and Electoral Assistance (International IDEA), with effect from the date of such approval.*

Geneva, 17 January 2002.

*Point for decision:* Paragraph 6.

## Appendix I

### **Request by International IDEA concerning recognition of the jurisdiction of the ILO Administrative Tribunal**

#### ***Letter of 9 January 2002 from the Secretary-General of International IDEA to the Director-General of the ILO***

Dear Sir.

I have the honour to present the request made by the International Institute for Democracy and Electoral Assistance (International IDEA) to the Governing Body of the International Labour Office to extend the jurisdiction of its Administrative Tribunal to the officials of International IDEA, in accordance with the decisions taken at the last session of the Board and the Council of International IDEA on 4-6 December 2001.

After having considered the Statute and Rules and Procedures of the Administrative Tribunal of the International Labour Organization, International IDEA undertakes to recognize the Tribunal's jurisdiction.

International IDEA is an intergovernmental organization composed at present of 19 member countries. The organization has its headquarters in Stockholm, Sweden, and has 72 officials. Please find attached in English and French a copy of the Statutes of the organization. Attached is also in Swedish and English a copy of the organization's Headquarters Agreement of 30 November 1995 with the Swedish Government.

The organization's Staff Regulations and Rules are those of the United Nations, subject to the necessary adjustments resulting from its structure, size and activities.

Attached is a copy of the Staff Regulations as adjusted by the organization's Board on 4 December 2001 and a copy of its current Staff Rules. The Rules are now being adjusted to comply with the recent adjustments of the Staff Regulations. When this is done, probably in early February 2002, the adjusted Staff Rules will be forwarded to you.

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

*(Signed)* Bengt Säve-Söderbergh,  
Secretary-General.