



association du personnel

staff association

STATEMENT BY MR. AZZEDDINE MONCEF KATEB, PRESIDENT OF THE WIPO STAFF ASSOCIATION, TO THE SIXTY-SEVENTH SERIES OF MEETINGS OF THE ASSEMBLIES OF THE MEMBER STATES OF WIPO (5TH ORDINARY SESSION)

September 30, 2013

Your Excellency, Ambassador Fodé Seck, Ambassador and Permanent Representative of Senegal to the United Nations in Geneva, and Chair of the Coordination Committee,
Distinguished delegates,
Director-General,
Ladies and gentlemen,
Dear colleagues,

Mr. Chair,

On behalf of the WIPO Staff Association, it is my honor to address the Coordination Committee. Before I begin my address, allow me to congratulate you warmly on your election as Chair of the Coordination Committee, as well as your two Vice-Chairs. It is my hope that, under your leadership, the deliberations of this committee will undoubtedly be successful, which will then have positive implications for the staff of the Organization and the Member States.

Given that I am expressing customary thanks, I would also like to pay great tribute to your predecessor, His Excellency the Ambassador of Singapore, Mr. KWOK FOOK Seng, for the quality of work that the Committee achieved under his leadership.

Since the last session of the Coordination Committee, the following major events have taken place:

1. Implementation of the regulatory framework regarding the conversion of short-term contracts to temporary appointments.
2. Policies in relation with general conditions of employment at WIPO as well as the Ethics Office.
3. Review of the internal system of justice of WIPO and consequent proposed revision of the relevant Staff Regulations and Staff Rules.

Before providing details on the three above-mentioned subjects, the Staff Council would like to make some observations regarding the general conditions under which the consultation process as well as dialogue between management and staff representatives at WIPO were conducted.

The Staff Council has noted the Administration's attempt to interfere in staff representation matters. This was particularly obvious during the process for election of staff representatives to the Appeal Board which was the subject of complaints from staff members requesting cancellation of the results of the election.

Following a referral of the complaints to the Joint Advisory Committee, a recommendation was sent to the Director General requesting that, due to several flaws of procedure, both the procedures of the election as well as the results should be set aside and a new election be held. The new process that took place then unfortunately was used by the Administration to attempt to manipulate the procedures and to influence the results. By drawing this to the attention of Member States, the Staff Council wishes to stress the extent to which the staff has lost confidence and trust in the Administration, in particular with regard to its involvement in promoting candidates favored by the Administration. Although the Administration failed to fully succeed in this objective, Member States should be aware of this inappropriate attempt to influence a vote among the staff.

With regard to the consultative process and the dialogue itself between management and the staff representatives, the Staff Council considers that the consultative process exists only nominally, as no true consultation occurs. The Staff Council still believes that the Administration refuses to take into account most, if not all, of the Council's proposals submitted on draft Office Instructions and other documents related to the staff's general conditions of employment. Most of the time, the Administration fails to provide any feedback on such comments, and staff representatives remain in the dark regarding the rationale behind the rejection of their suggestions and proposals. Therefore, the consultation process cannot be considered to be meaningful, as required by the relevant recommendations, whether in the JIU reports, in particular the one issued in May 2012 entitled "Staff Management Relations in the United Nations Specialized Agencies and Common System" (document JIU/REP/2012/10) or in the ICSC's recommendations.

The best illustration of the marginalization of staff representatives and the violation of the rights of the Staff Association consists of the Administration decision to itself appoint staff representatives to the Consultative Group on the revision of the SRR in relation with the internal system of justice, thus disregarding Regulation 8.1 of the Staff Regulations and Rules which states that the interests of staff are exclusively represented by the Staff Council elected by staff and whose mandate is to discuss general conditions of employment with the Director General and his representatives. In this regard, the Staff Council wishes to inform you that this flawed consultation process is currently under appeal before the WIPO Appeal Board, and potentially by the ILO Administrative Tribunal.

The Staff Association also notes that when the Administration submitted the Human Resources Strategy document WO/CC/67/2 to the Staff Council, the latter provided its substantive comments and suggestions accordingly. Nevertheless, the Staff Council wishes to point out that it has never received any feedback, whether orally or in writing, in relation to the 92 comments which it provided.

The comments submitted by the Staff Council on the Human Resources Strategy include, amongst others, that there was no clear description of the methodology used to propose its implementation based on the needs and priorities of the Organization. The Staff Council considers it as an issue of utmost importance that HRMD clarify the business needs of the Organization for the next biennium and articulate them in accordance with the market, in particular for the Innovation Sector, Brands and Industrial Design areas as well as the Arbitration and Mediation Center and the External Offices. Furthermore, the dimension of "oriented services" is not described with regard to the existing skills and those needed to bridge the gap between the lack of highly specialized profiles and the priorities set out by the Organization under the strategic realignment plan.

Lastly, the Staff Council considers that the Human Resources Strategy fails to address concerns of staff, in the following particulars:

- (i) It contains no link between the Human Resources Strategy and Organizational goals;
- (ii) It lacks empirical data to support the decisions and actions laid out in the Strategy, including an assessment of existing skills and projection of future needs;
- (iii) It does not address the financial and other risk implications of planned External Offices, or provide a framework for their establishment and maintenance.

Excellences, distinguished delegates, Ladies and Gentlemen, this meeting comes at a time of great challenges to the Organization, both internal and external, necessitating certain changes to the way the Organization conducts its business. At the same time, we have the opportunity to recognize a number of milestone achievements, including the conclusion of the Beijing Treaty on Audiovisual Performances, the Marrakesh Treaty for the Blind, and further growth in the international patent, trademark, and design filing systems. These achievements are due in no small part to the dedication and effectiveness of the staff working tirelessly in various sectors and services throughout the Organization.

Nonetheless, any organization must be prepared to continuously reexamine its way of conducting business and to make changes where necessary. What must be kept in view is how this process of reexamination and transformation is done.

Planning and preparation, including real stakeholder consultation, are indispensable elements of good management practice. They ensure that policies and programs established by an organization are coherent, in line with the organization's priorities, and can be efficiently implemented, with full buy-in from all stakeholders.

The Human Resources Strategy document and proposed amendments to the Staff Regulations and Rules given for your consideration, as well as numerous other policies and programs enacted by the Administration, fail to meet this standard, having been conceived without seriously taking into consideration inputs from some stakeholder groups and without any recognizable relationship to other key policies of the organization. Though 92 carefully considered comments were provided on the Human Resources Strategy document by the duly elected representatives of the staff, not a single substantive change was made in response to these comments.

Equally, checks and balances constitute essential guarantees of accountability in policy making.

The Human Resources Strategy document and proposed amendments to the Staff Regulations and Rules fail on this count as well. They only serve to further enhance the discretion of the Director General to establish and decide on policies as he or she sees fit, without the inconvenience of taking into consideration the need to justify such decisions in the context of the legitimate concerns of individual members of staff.

Excellences, distinguished delegates, Ladies and Gentlemen, this Organization should hold itself to the highest standards of good management practices and accountability.

The Human Resources Strategy document and proposed amendments to the Staff Regulations and Rules cannot yet be said to meet these standards, without denying the efforts already invested in their development.

The Staff Council thus urges you as the ultimate authority in this Organization to give the Organization the opportunity to reconsider these important policies and to mandate its management to conduct serious consultation with its stakeholders, staff and Member States alike, to ensure that the policies attain the standards expected of this Organization.

The Staff Council remains at the disposal of the Organization and its Member States to provide any inputs into this process that may be useful and thanks you for your time and consideration.

Implementation of the regulatory framework regarding the conversion of short-term contracts to temporary appointments

With regard to the implementation of the new Staff Regulations and Rules as adopted in 2012, the Administration delayed the process of converting former short-term contracts to temporary contracts which took place at the end of last year, mainly in the last two weeks of December 2012.

The Staff Council has already reported to you last year its disagreements with the Administration regarding the date of entry into force of the provisions in relation to temporary appointments. From the legal point of view, the Staff Council understands that the legislative body, namely the Coordination Committee has adopted a reform and instructed the Secretariat to implement it as from January 1, 2012. Instead and contrary to the decision as approved by Member States, the Organization has started the implementation of the conversion of former short-term contracts to temporary contracts as from July 1, 2012. As a consequence, many staff members were penalized in terms of their contributions to the pension funds and were not considered subject to evaluation of their performance under the PMSDS system, which is another violation of the principle of equal pay for equal work.

The Staff Council wishes to bring to the attention of Member States that the case regarding the delayed implementation of the Coordination Committee's decision on temporary appointments is also under appeal before the ILO Administrative Tribunal.

The Staff Council takes this opportunity to urge Member States to instruct the Secretariat to strictly abide by the decisions of this legislative body (the Coordination Committee), as endorsed and confirmed by WIPO General Assembly.

Furthermore, the Staff Council wishes to report to the Coordination Committee that following its adoption of the first part of the revisions of the Staff Regulations and Rules last year, the Secretariat argued that it later undertook work "of quality control" of the Staff Regulations and Rules and, in doing so, interacted directly with the former Chair of the Coordination Committee informing him that some provisions had been formally amended. It is the understanding of the Staff Council that said process should have been conducted in consultation with the Staff Council in accordance with Regulation 8.1 of the SRR and in full transparency with all Member States before being implemented. Once again, the Staff Council wishes to reiterate its concerns regarding the inconsistency of procedures followed by the Secretariat following the closure of the Coordination Committee session of last year.

While the regularization process of long-serving short-term staff at WIPO is still ongoing, the ILO Administrative Tribunal has issued judgment No. 3225 which relates to the legal status of long-serving short-term staff. Said judgment states that "*a long succession of short-term contracts had given rise to a legal relationship between the complainant and the Organization which was equivalent to that on which permanent staff members may rely and that, in considering that the complaint belonged to the category of short-term employees, the defendant had failed to recognise the real nature of its legal relationship with her.*" The Tribunal further held that "*in doing so, the Organization had committed an error of law and had misused the rules governing short-term contracts.*" (Consideration 7).

In this context, the Staff Council informs the Coordination Committee that it has submitted several Memoranda to the Director General requesting the Administration to clarify to what extent the implications of this judgment would impact short-term staff whose contracts have already been converted to temporary appointments as well as those still under similar appointments but not yet regularized, former holders of consultancy contracts as well as translators recruited under the AITC contracts.

To date, the Administration has not provided any feedback regarding this issue and the Staff Council wishes to report that further delay in the implementation of the ILO judgment could have a further negative impact on the finances of the Organization as well as aggravating the prejudice already suffered by the affected staff.

Creation of WIPO External Offices

With regard to the creation of WIPO external offices, the Staff Council has taken note of the documents A/51/INF/6, A/51/INF/6 ADD., ADD.2 and ADD.3. The Administration has never communicated with the Staff Council on this subject, even though it has an obvious and substantial relation to the interests and working conditions of staff. Indeed, the Staff Council only learned of these important developments through articles in IP Watch and some national newspapers, where it was reported that at least two external offices had been established and that agreements had already been signed between WIPO and the national governments of two member states.

The Staff Council expresses its concerns regarding the impact that the establishment of external offices may have on the activities of some parts of the Organization such as the Development Sector and the global registration systems, as well as the general conditions of employment of affected WIPO staff. More specifically, the Staff Council wonders to what extent WIPO staff might be affected by relocation, transfer and/or other similar dislocations with regard to the intended activities of the external offices.

Taking into account the fact that staff costs have increased, even though a costly staff reduction program has taken place, and that the projected income will not cover such costs, the Staff Council urges Member States to seek clarification from the Administration and to take any appropriate measures they may wish in order that the creation of any WIPO external offices may not negatively affect staff performing their duties at Headquarters.

Implementation of the Joint Inspection Unit's recommendations

On another note and with reference to the implementation of the Joint Inspection Unit's recommendations (document WIPO/GA/43/19), the Staff Council would like to point out the following:

- (a) With regard to JIU/REP/2012/2 entitled "*The Management of Sick Leave in the United Nations System*", the consultant who was engaged in 2013 has allegedly prepared and submitted a report to HRMD which has not been shared with the Staff Council.
- (b) As to JIU/REP/2012/4 entitled "*Staff recruitment in United Nations system organizations: a comparative analysis and benchmarking framework: Overview*", the Staff Council does not share the views of the Administration that WIPO's rules and procedures on recruitment comply with recommendation 1 of said report, in particular as to the way the Organization is implementing the ICSC Standards regarding the requirements for posts in G, P categories and above.
- (c) Regarding JIU/REP/2012/5 entitled "*Review of individual consultancies in the United Nations system*", the Staff Council has provided its views to the JIU on the subject matter under consideration and did not receive the Administration's report on this subject.
- (d) Regarding JIU/REP/2012/9 entitled "*Lump-sum payments in lieu of entitlements*", the Staff Council has not received any feedback from the Administration regarding the implementation of recommendation 1 and looks forward to receiving more information regarding the implementation of recommendation 3.

- (e) Regarding JIU/REP/2012/10 entitled "*Staff-Management relations in the United Nations specialized agencies and common system*", the Staff Council requests clarification on the implementation of Recommendation 8 which is still under consideration at WIPO. More specifically and with regard to Recommendation 9, the Staff Council does not share the views of the Administration that said recommendation has already been implemented because the JIU report requests "*the legislative/Governing Bodies to grant staff representatives the right to effectively present statements during meetings of relevant inter-governmental organs dealing with issues related to staff welfare*" at a regulation level, which is not the current case at WIPO. The Staff Council wishes to underline that the Staff Association addresses the Coordination Committee as per common practice, and under unclear rules. It depends mainly on the willingness of the Chair of the Coordination Committee. The Staff Council kindly requests full implementation of Recommendation 9 of the report mentioned above in order to ensure institutional and transparent relations between the staff representatives and the legislative governing bodies.

Your Excellency, Ambassador Fodé Seck, Chair of the Coordination Committee,
Distinguished delegates, Ladies and Gentlemen,

The Staff Council has followed very closely the two last sessions of the Program and Budget Committee and noted the important debate Member States are having on governance at WIPO. It also noted that a JIU report on the review of management at WIPO is currently under preparation, and that Member States had deferred any decision with regard to a new mechanism which may strengthen the control that Member States may assume over the management of WIPO on the basis of the conclusions of the JIU report. Meanwhile, the Staff Association wishes to point out that strengthening the Oversight and Supervision functions at WIPO whether through the office of the Director of IAOD or the external auditor, would contribute to better transparency and more accountability at all levels and, in particular, at the level of the Executive Head of the Organization. In this regard, the next revision of the WIPO Internal Oversight Charter would be an opportunity to include more provisions on the investigation function when requests for investigations into alleged wrong-doing, alleged abuses of authority or retaliation from senior management are made.

The Staff Council encourages Member States to introduce more independence in favor of the Director of IAOD who should preferably report directly to Member States, subject to their approval.

Lastly, Excellences, Distinguished Delegates, staff morale at WIPO is at an all-time low, and I have been mandated to kindly request the Member States to ensure that transparency, credibility, respect and trust be restored to WIPO so that staff can again find a certain degree of motivation and pride in working for this Organization. The staff continue to hope that, one day, the greatness of WIPO will be restored.

Thank you for your attention.

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