

International Administrative Law and Dispute Resolution

Mr René M. VARGAS M.
Registrar
ILO Administrative Tribunal

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Agenda



Introduction



Why this topic?



Dispute resolution in International Organizations

- Types of disputes.
- Why an internal dispute resolution mechanism in International Organizations?
- Characteristic of the mechanism.
- Applicable law.



International Administrative Tribunals and the ILO Administrative Tribunal (ILOAT)

- ILOAT Mandate and Jurisdiction.
- Adjudication process.
- Challenges

Why this topic?

Article 33.1 – United Nations Charter:

*The parties to any dispute, the continuance of which is likely to endanger the maintenance of international peace and security, shall, first of all, seek a solution by negotiation, enquiry, mediation, conciliation, **arbitration, judicial settlement**, resort to regional agencies or arrangements, or other peaceful means of their own choice.*

Dispute resolution in International Organizations

Types of disputes?

- **Labour disputes – Staff Members**
- **Contractual disputes with non-staff members (e.g., consultants, collaborators)**
- **Commercial disputes (e.g., construction, supplies, services)**
- **Disputes with other International Organizations**
- **Disputes with States**



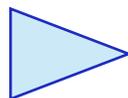
Why an internal mechanism for labour disputes in International Organizations?

- **Independence** of international organizations.
- **Immunity** from national jurisdiction – privileges and immunities (bilateral or multilateral treaties, national law).
- **Acts *jure imperii* v. Acts *jure gestionis*** – not applicable to international organizations.



Why an internal dispute mechanism for labour disputes in International Organizations (cont.)?

Operational
necessity



Access
to
Justice

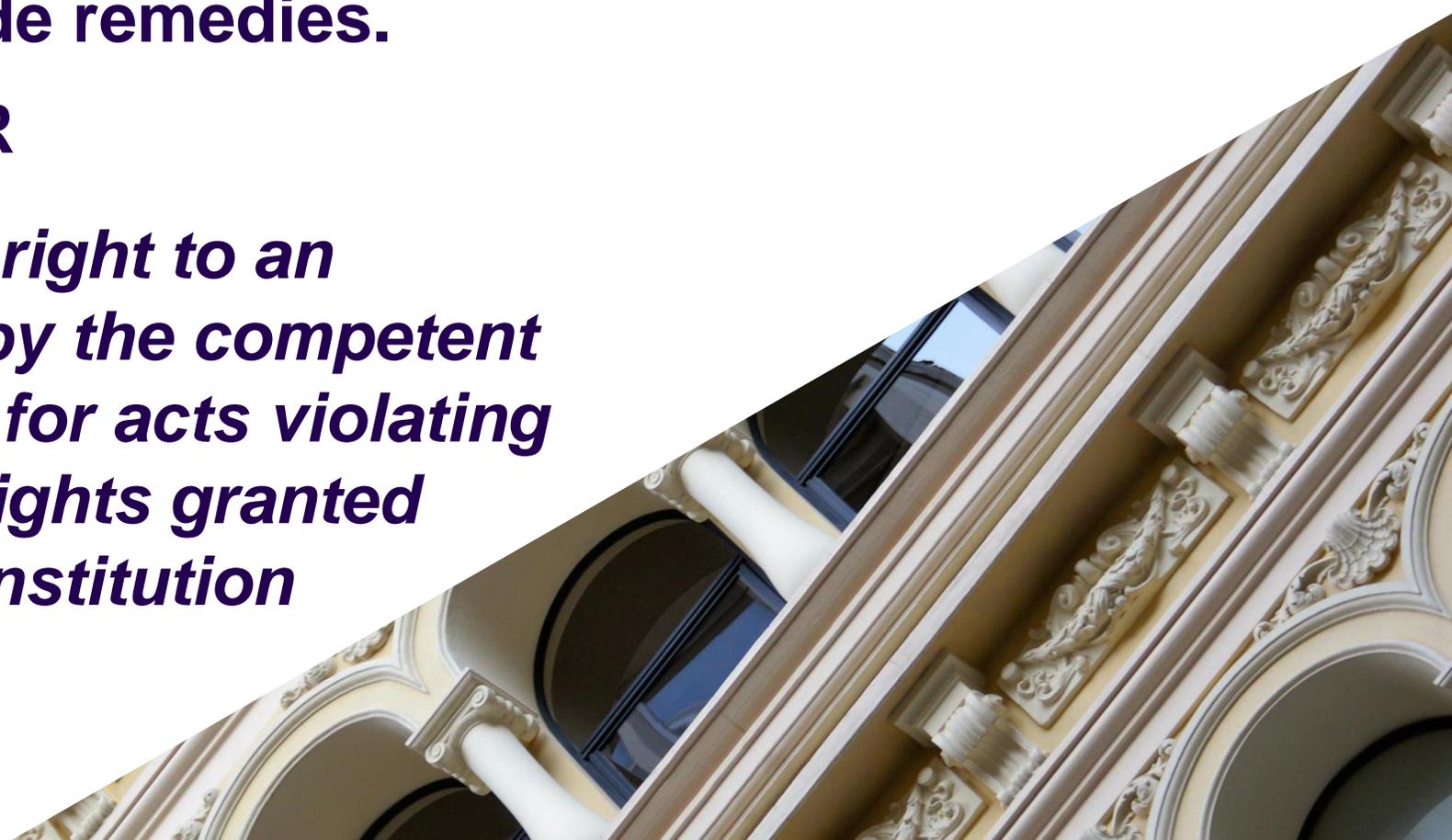


▶ Access to justice

- No power given to another organ entails the necessity to provide remedies.

Article 8 of the UDHR

*Everyone has the right to an **effective remedy** by the competent national tribunals for acts violating the fundamental rights granted [to] him by the constitution or by law.*



► Why an internal dispute mechanism for labour disputes in International Organizations (cont.)?

- Operation in various States calls for **equality of treatment.**
- Language.



General characteristic of an internal mechanism

A
two-tier
system

Second
Instance
(ILOAT)



First instance
(Appeal
Committee)



International Administrative Tribunals

▶ International Administrative Tribunals – Non exhaustive

- ILO Administrative Tribunal
- United Nations Dispute Tribunal-United Nations Appeals Tribunal
- International Financial Organizations and Development Banks (e.g., World Bank Administrative Tribunal, International Monetary Fund Administrative Tribunal, European Bank for Reconstruction and Development, Asian Development Bank Administrative Tribunal, African Development Bank Administrative Tribunal, Inter-American Development Bank Administrative Tribunal)

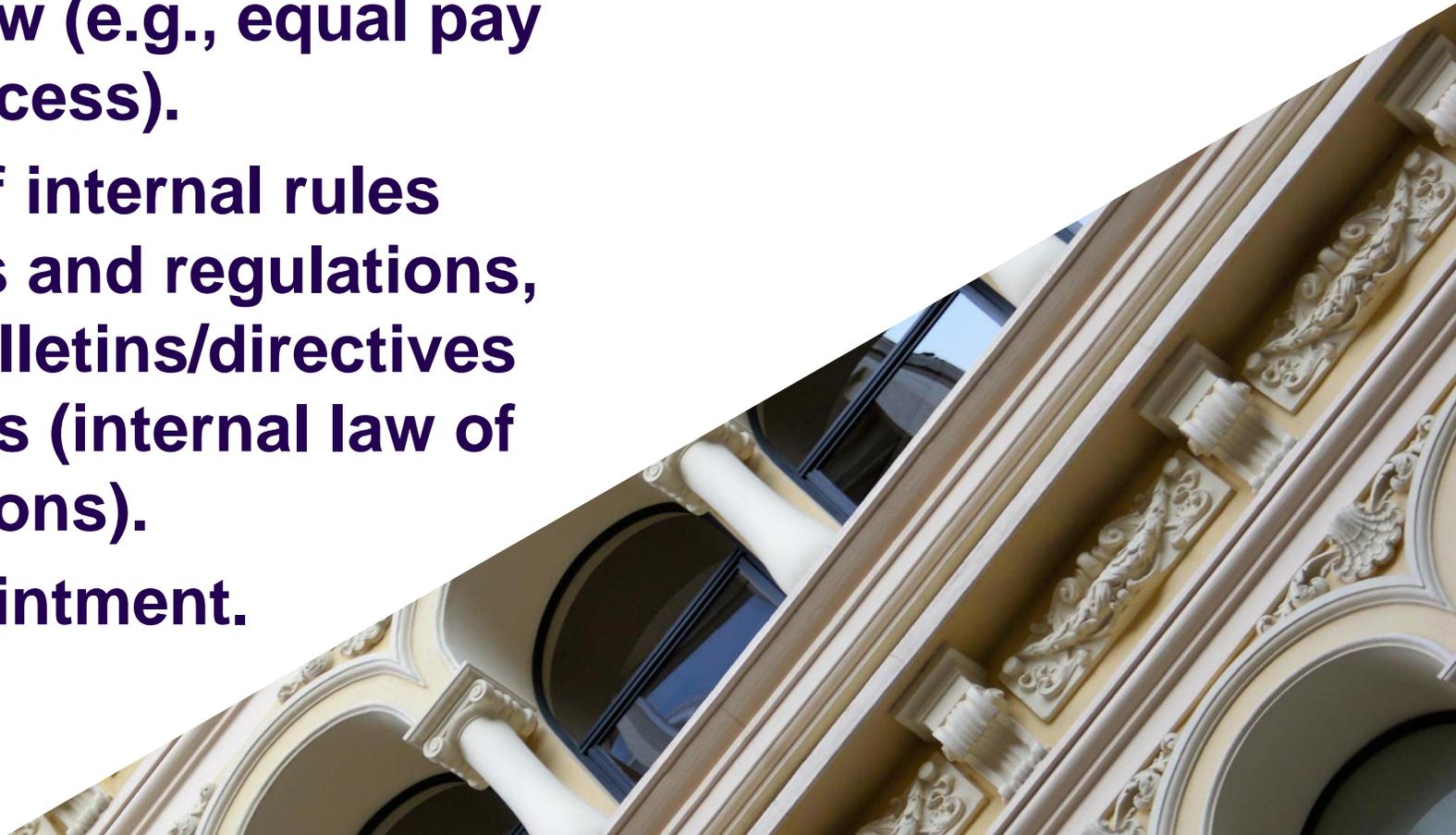
International Administrative Tribunals – Non exhaustive (cont.)

- OECD Administrative Tribunal
- Council of Europe Administrative Tribunal
- NATO Administrative Tribunal
- Commonwealth Secretariat Arbitral Tribunal
- Administrative Tribunal of the Organisation of American States
- European Space Agency Administrative Tribunal

► **Applicable law**

Self-contained system of law

- **General principles of law (e.g., equal pay for equal work, due process).**
- **A comprehensive set of internal rules composed of staff rules and regulations, internal instructions/bulletins/directives and individual decisions (internal law of international organizations).**
- **Terms of contract/appointment.**
- **National law?**



The ILO Administrative Tribunal (ILOAT)

ILOAT Overview

Establishment Year

The ILO Administrative Tribunal was established in 1946. It succeeded the Administrative Tribunal of the League of Nations (1927-1946). It is the oldest International Administrative Tribunal.

The Judges

The Tribunal consists of **seven judges** appointed for a five-year term, renewable once. They are from different countries, bringing a **variety of legal backgrounds** and perspectives, and are or were Supreme Court Judges in their jurisdictions.

Currently, the Judges are from France, Australia, Saint Kitts and Nevis, Belgium, Canada, Italy and China.



ILOAT Overview (cont.)

Adjudication

The Tribunal holds two sessions per year (Spring and Autumn, 4 to 5 weeks each) and generally adjudicates by panels of three judges.

Registry

The ILOAT Registry provides **support to the Judges** in the adjudication of cases.

It also manages the Tribunal's web site as well as its judgments' database (TRIBLEX) and ensures publication of judgments (4900+ judgments).

Working languages

English and French



▶ ILOAT Mandate and Jurisdiction

Mandate – Art. II - Statute

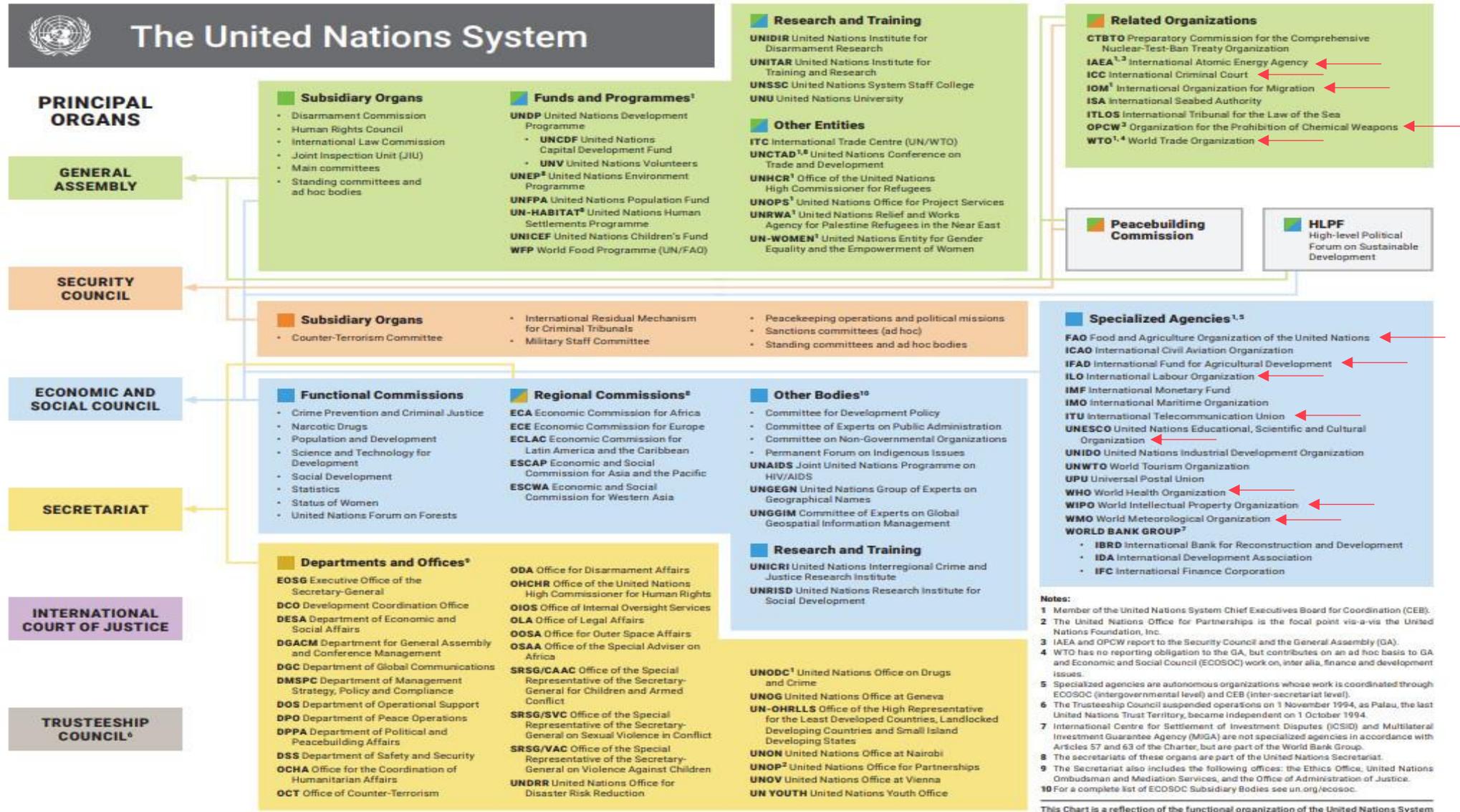
To hear complaints alleging non-observance, in substance or in form, of terms of appointment and of such provisions of the Staff Regulations as are applicable to a case, generally after exhaustion of internal means of redress.

Jurisdiction

59 organizations (as of 31 Dec 2024), which can be divided into three groups:

- UN System International Organizations
- Other International Organizations
- European Organizations

ILOAT Jurisdiction: United Nations System



▶ ILOAT Jurisdiction: Other International Organizations (non-exhaustive)

- International Organization of Legal Metrology (OIML).
- International Organisation of Vine and Wine (OIV).
- The South Centre.
- The International Bureau of Weights and Measures (BIPM).
- ITER International Fusion Energy Organization (ITER Organization).
- African Training and Research Centre in Administration and Development (CAFRAD).
- Global Fund to Fight AIDS, Tuberculosis and Malaria.
- Global Green Growth Institute (GGGI).

▶ ILOAT Jurisdiction: European Organizations

- European Organization for Nuclear Research (CERN).
- European Organisation for the Safety of Air Navigation (Eurocontrol).
- European Southern Observatory (ESO).
- European Molecular Biology Laboratory (EMBL).
- European Patent Organisation (EPO).
- European and Mediterranean Plant Protection Organization (EPPO).
- European Telecommunications Satellite Organization (EUTELSAT).

▶ Standing before the ILOAT – Art. II - Statute

- Officials.
- Former officials.
- Any person on whom the official's rights have devolved on her or his death.
- Any other person who can show that she or he is entitled to some right under the terms of appointment of a deceased official or under provisions of the Staff Regulations on which the official could rely.

Types of cases handled – ILOAT



Employment Contract Disputes

Disputes arising from employment contracts (e.g., non-renewal, termination, benefits and entitlements, medical reimbursements, service-incurred illness/disability, pension matters).



Disciplinary Actions

Disputes related to grievances regarding employee conduct (e.g., harassment, investigations, ethics).



Selection exercises and promotions

Cases related to selection exercises and promotions.

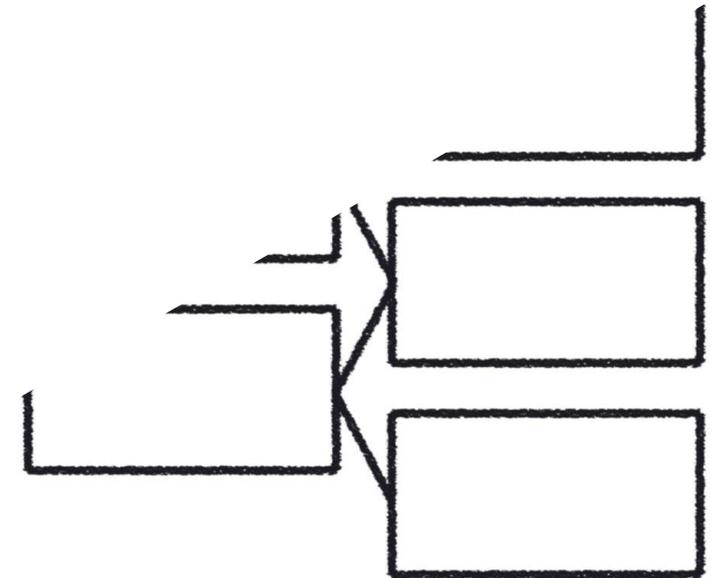
► Stages of the Adjudication Process

Initial complaint

- Deadline: **90** calendar days as of the day following the notification of the decision impugned or of its publication if it affects a class of officials.
- **No extension** of the deadline.
- Complaint form available online.

Respondent's reply

- Deadline: **30** calendar days as of the day following receipt of the complaint.
- **Extension possible.**



ILOAT Notable Decisions

Exhaustion of internal recourse procedure and nature of decision

- Judgment **2232** - B. v. OPCW
 - Termination of appointment of a Director-General.
 - **Issue:** objection to receivability on the grounds that the decision impugned was not an administrative decision, but essentially a political one.
 - **Finding:** complainant was an international civil servant entitled to appeal against the termination of his appointment.
 - Impugned decision set aside with award for moral damages amounting to €50,000 euros and €5000 in costs.



ILOAT Notable Decisions (cont.)

Standing

- Judgment **3359** – N. and C. v. ICC
 - Complainants were two former ICC Judges.
 - **Issue:** related to pension entitlements.
 - **Finding:** ICC Judges have standing before the Tribunal, relying on art. II, para. 5 of the Tribunal's Statute.



ILOAT Notable Decisions (cont.)

Geneva Post Adjustment

- Judgment **4134** - B. and others, A.-M. and others, A.-U. and others v. ILO.
- Judgment **4135** - K, A. and others, A. M. and others v. WHO.
- Judgment **4136** - A., G.; P. and R. v. IOM.
- Judgment **4137** - C. B. (No. 2), d. A.-P., M. and R. v. ITU.
- Judgment **4138** - G. and others, K. and W., A. and others v. WIPO



ILOAT Notable Decisions (cont.)

Due Process

- Judgment **2757** – C. P. v. ICC
 - Dismissal of the complainant after reporting misbehaviour of his supervisor, the Prosecutor.
 - **Issue:** the Prosecutor participated in the decision-making process leading to the complainant's dismissal.
 - **Finding:** a fundamental aspect of due process is that one should not decide in a matter where one has a personal interest.
 - Decision set aside. €25,000 for moral damages, €5000 in costs and material damages.



Challenges and future direction

Increase in complexity and in the number of cases

- The Administrative Tribunal of the League of Nations adjudicated 37 cases between 1929 and 1946.
- In comparison, the ILO Administrative Tribunal receives an average of 200 cases per year and disposes approximately 160 cases per year.

Challenges and future direction (cont.)

Constantly improving access to the Tribunal and raising awareness about its process

- Web site (forms, detailed information on the process, time limits).
- Short **educational videos**.
- **Practical Guide** to the procedure before the Tribunal.
- Video publication of pronouncements.

Challenges and future direction (cont.)

Measures adopted

- Resorting to **summary procedure**.
- Implementing a **“Resident” Judge** (effective 1 Jan 2022).
- Meeting with Stakeholders.
- Limiting the number of pages of submissions (25 pages for brief and reply – 10 pages for rejoinder and surrejoinder).
- Permitting submissions by email (date of filing is the date of receipt of the electronic version of a submission).

Challenges and future direction (cont.)

Measures in progress

- **Compiling granular statistical data** to analyse past and future trends to guide the Tribunal in adapting its strategies and operations.
- Testing the use of Artificial Intelligence.
- Considering reducing the number of hard copies required.
- Implementing a **Court Case Management System** (CCMS).

Thank You!