



**Doc. 14443 – Compendium of written amendments**  
25/01/2018

**(Final version)**

## **Jurisdictional immunity of international organisations and rights of their staff**

<b>Contents</b>	<b>Page</b>
A. Draft Resolution .....	2
B. Draft Recommendation .....	4

## A. Draft Resolution

1. The Parliamentary Assembly refers to its Resolution 1979 (2014) on accountability of international organisations for human rights violations, which underlines the fact that international organisations are subject to the obligations inherent in human rights.
2. The Assembly notes that international civil service law is not codified and employment disputes are dealt with in accordance with the rules governing the functioning of those international organisations, contained in the latter's statutes or regulations, and not with national law.
3. The Assembly notes that international organisations enjoy jurisdictional immunity, which is a "functional" immunity and one which can be waived only in exceptional circumstances. In accordance with the established case law of the European Court of Human Rights in cases concerning employment disputes opposing staff to international organisations, waiving this immunity can be an option only if there are no other "reasonable alternative means" of protecting the rights of those concerned.
4. The Assembly stresses that the staff of international organisations benefit from the human rights and fundamental freedoms as guaranteed by the European Convention on Human Rights (ETS No. 5, "the Convention"), and in particular the right of access to a tribunal and a fair trial in the event of a dispute with their employers (Article 6 of the Convention) and the right to freedom of association (Article 11 of the Convention). Nonetheless, it notes that there is frequently a lack of democratic and media scrutiny of the functioning of international organisations, which can result in the concealment of certain abuses, especially in the context of employment disputes.
5. The Assembly considers that the Council of Europe member States should exercise greater scrutiny of the functioning of international organisations and focus thought on whether the human rights and fundamental freedoms of staff are upheld, and in particular whether staff have access to a "tribunal" within the meaning of Article 6 of the Convention.
6. In the light of the above, the Assembly recommends that member States of the Council of Europe and the international organisations to which they are Parties:
  - 6.1. introduce, in the international organisations, "reasonable alternative means of legally protecting" the rights of staff, in accordance with Article 6 of the Convention, in all cases where such means of redress are not yet available;

### **Amendment 1** **Tabled by the Committee on Social Affairs,** **Health and Sustainable Development**

*In the draft resolution, paragraph 4, at the end of the first sentence, insert the following words: ", as well as the European Social Charter (ETS Nos. 35 and 163)".*

### **Amendment 2** **Tabled by the Committee on Social Affairs,** **Health and Sustainable Development**

*In the draft resolution, at the end of paragraph 6.1, insert the following words: "(if appropriate, especially for smaller international organisations, by submitting to the jurisdiction of tribunals established within other international organisations)".*

6.2. ensure that these means of redress are also available to trade unions or other groups working to protect the rights of staff;

**Amendment 3**  
**Tabled by the Committee on Social Affairs,  
Health and Sustainable Development**

*In the draft resolution, paragraph 6.2, after the words "other groups", insert the following words: "(such as staff committees and staff associations)".*

6.3. introduce procedures for lodging appeals against decisions of the internal tribunals of international organisations in employment disputes;

**Amendment 4**  
**Tabled by the Committee on Social Affairs,  
Health and Sustainable Development**

*In the draft resolution, at the end of paragraph 6.3, insert the following words: "ideally by creating tribunals of appeal, where they do not yet exist, for the more established internal tribunals (such as the ILO Administrative Tribunal and the Administrative Tribunal of the Council of Europe), and by having smaller international organisations submit to their jurisdiction;"*

**Amendment 5**  
**Tabled by the Committee on Social Affairs,  
Health and Sustainable Development**

*In the draft resolution, after paragraph 6.3, insert the following paragraph:*

*"ensure that internal redress mechanisms at all levels are independent and impartial, respect the principle of equality of arms and issue reasoned decisions, and that these mechanisms are given the means to operate effectively and without undue interference so that decisions are fair and taken within a reasonable time;"*

6.4. bring about greater transparency of the work of international organisations and ensure that information on procedures relating to employment disputes is accessible to their staff.

## B. Draft Recommendation

1. Referring to its Resolution ... (2017) on jurisdictional immunity of international organisations and rights of their staff, the Parliamentary Assembly calls on the Committee of Ministers to:
  - 1.1. encourage the international organisations to which the member States of the Council of Europe are Parties to look at whether "reasonable alternative means of legal protection" are accessible in the event of disputes between international organisations and their staff;
  - 1.2. invite those international organisations to bring about greater transparency of their staff policies and ensure that information on employment disputes is available to their staff;
  - 1.3. initiate reflection on whether the Council of Europe's system for dealing with employment disputes complies fully with the requirements of Article 6 of the European Convention on Human Rights (ETS No. 5) and, where appropriate, on how this system can be improved;
  - 1.4. carry out a comparative study of the extent to which the internal remedy systems in international organisations are compatible with Article 6 of the European Convention on Human Rights.
2. The Assembly welcomes the work carried out by the Council of Europe's Committee of Legal Advisers on Public International Law (CAHDI) on the jurisdictional immunity of international organisations and encourages it to look into these issues in greater detail, in particular in the context of disputes between international organisations and their staff.

**Amendment 6**  
**Tabled by the Committee on Social Affairs,  
Health and Sustainable Development**

*In the draft recommendation, replace paragraph 1.3 with the following paragraph:*

*"initiate reflection on: 1.3.1. ways to ensure that the Administrative Tribunal of the Council of Europe is also accessible to trade unions; 1.3.2. whether the Administrative Tribunal of the Council of Europe should be complemented by an appellate judicial body, either within the Council of Europe itself or by pooling resources with other international organisations in order to create a joint appeals body for several administrative tribunals;"*

**Amendment 7**  
**Tabled by the Committee on Social Affairs,  
Health and Sustainable Development**

*In the draft recommendation, at the end of paragraph 1.4, insert the following words: "and with other relevant human rights (including social rights), and, where appropriate, make recommendations on how these systems can be improved with a view to attaining a higher level of protection of these rights."*