



EIGHTEENTH ITEM ON THE AGENDA

Matters relating to the Administrative Tribunal of the ILO**(c) Recognition of the Tribunal's jurisdiction by the European Telecommunications Satellite Organization**

1. By a letter dated 22 July 2005 (see appendix), Mr. Christian Roisse, the Executive Secretary of the European Telecommunications Satellite Organization (EUTELSAT), informed the Director-General that EUTELSAT's Assembly of Parties had decided in April 2005 to ask for the recognition of the Tribunal's jurisdiction in accordance with article II, paragraph 5, of its Statute.
2. EUTELSAT was provisionally established in 1977 but has acquired its character of an international organization by the EUTELSAT Convention (signed in 1982, which entered into force in September 1985). The EUTELSAT currently has 48 Member States. A process of internal reform resulted with the latest amendment to the Convention, which entered into force on 28 November 2002, establishing that EUTELSAT's operating costs are to be financed by Eutelsat S.A., a commercial company operating under the French law to which EUTELSAT has transferred its assets, operational activities and related liabilities. The modalities of such a financing are determined by the arrangement signed by EUTELSAT and Eutelsat S.A.
3. The objective of EUTELSAT, defined in article III of the EUTELSAT Convention, is to ensure that the activities of Eutelsat S.A. are carried out in accordance with four basic principles listed in that article. Those are: principles of public/universal service obligation; pan-European coverage of the Eutelsat satellite system; non-discrimination; and fair competition. Furthermore, EUTELSAT is supposed to ensure continuity regarding rights and obligations under international law deriving from the operation of the EUTELSAT space segment transferred to Eutelsat S.A., in particular in relation to the ITU radio regulations for the use of frequencies. The two main organs of EUTELSAT are the Assembly of Parties and the Secretariat.
4. Pursuant to article IV of the EUTELSAT Convention, EUTELSAT has legal personality. It is located in Paris and concluded a host country agreement with France in May 2001. On the basis of this host country agreement, EUTELSAT enjoys privileges and immunities comparable to other international organizations having their headquarters in France.

5. EUTELSAT currently has three staff members. Conditions of service for staff are set out in the Staff Regulations adopted by the Assembly of Parties. The possibility of having recourse to the previously existing Internal Appeals Board has been replaced with the possibility to file an appeal with the Administrative Tribunal of the ILO against decisions of the Executive Secretary taken in relation to the disciplinary proceedings, except decisions that relate to salary determination or the assignment and deployment of the staff and are not inconsistent with the letter of appointment or Staff Regulations.
6. In order to be eligible for approval under article II, paragraph 5, of the Tribunal's Statute, EUTELSAT must be considered either to be an intergovernmental organization (*organization de caractère interétatique*) or to fulfil certain criteria set out in the annex to the Statute. According to the available information, EUTELSAT is an international intergovernmental organization established by an international treaty, 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, EUTELSAT is not required to apply any national law in its relations with its officials and enjoys immunity from legal process in the host country. Its financing arrangements guarantee stability of its resources.
7. The Tribunal's jurisdiction under article II, paragraph 5, of its Statute extends to 46 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 of the Tribunal to bear the expenses of sessions and hearings and to pay any award of compensation made by the Tribunal. These organizations also contribute, in amounts proportionate to the number of their staff, to the running costs of the Tribunal's secretariat.
8. ***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 European Telecommunications Satellite Organization (EUTELSAT), with effect from the date of such approval.***

Geneva, 6 October 2005.

Point for decision: Paragraph 8.

Appendix

Ref.: 2005/240/CR

22 July 2005

Mr. Juan Somavia,
Director-General,
International Labour Organization,
4 rue des Morillons,
CH-1211 Geneva 22,
Switzerland

Dear Director-General,

On 2 July 2005 I took over the position of Executive Secretary of the European Telecommunications Satellite Organization (EUTELSAT), following my election by the EUTELSAT Assembly of Parties, and I am writing to inform you of this change and to recall the letter sent to you by my predecessor, Mrs. Birgitta Näslund, in April 2005, submitting, for the consideration of your Governing Body, our request to be included in the list of organizations recognizing the jurisdiction of the Administrative Tribunal of the International Labour Organization.

EUTELSAT was established on a provisional basis in 1977 by 17 European States, which are members of the European Conference of Postal and Telecommunications Administrations (CEPT). It was established on a definitive basis by an international treaty, the EUTELSAT Convention, which was opened for signature on 15 July 1982 and entered into force on September 1985.

Following decisions taken by the Assembly of Parties of the organization in May 1999, all assets, operational activities and related liabilities of EUTELSAT were transferred to Eutelsat S.A., a private company operating under French law, on 2 July 2001. The Convention was amended to reflect this change and the Amended Convention, a copy of which is enclosed, entered into force on a definitive basis on 28 November 2002.

Since July 2001, the role of the intergovernmental organization EUTELSAT has been to ensure that the activities of Eutelsat S.A. are carried out in accordance with the four basic principles of public/universal service obligation, pan-European coverage of the Eutelsat satellite system, non-discrimination and fair competition and, furthermore, to ensure continuity regarding rights and obligations under international law, in particular under the ITU radio regulations for the use of frequencies deriving from the operation of the EUTELSAT space segment transferred to Eutelsat S.A.

The intergovernmental organization EUTELSAT has 48 Member States, as shown in the enclosed list, and consists of two organs: the Assembly of Parties and the Secretariat, headed by the Executive Secretary. The Secretariat, which is based in Paris, currently comprises three persons. The organization EUTELSAT has legal personality and the Executive Secretary is the legal representative of the organization (articles IV and X(d)) of the Amended Convention.

The operating costs of the organization are financed by the company Eutelsat S.A. in accordance with a legal text, the arrangement signed by EUTELSAT and the company.

The termination of this arrangement or any part thereof may only occur by mutual agreement of the organization and the company.

A Headquarters Agreement, a copy of which is enclosed, was signed with the Republic of France in May 2001 and entered into force on 1 June 2003, replacing the previous Headquarters Agreement signed in 1985, which had been valid until then.

In accordance with article 21 of the Headquarters Agreement, provision has to be made for staff members to be able to appeal to an independent, external tribunal for the settlement of disputes between the staff members and the Executive Secretary. Before the transfer in 2001 of the organization's operational activities and assets, including its staff at the time, to Eutelsat S.A., the organization had its own Appeals Board. The mandate of the Appeals Board appointed in October 1999 continued for some time following the transformation of the organization but has now expired.

At its thirty-third meeting, 6-8 April 2005, the EUTELSAT Assembly of Parties decided to recognize the jurisdiction of the Administrative Tribunal of the International Labour Organization for the settlement of disputes between the Organization and its staff members, subject to the agreement of your Governing Body, and to amend the organization's Staff Regulations accordingly.

On the basis of the information provided in this letter and in the supporting documentation, I trust that, at its next meeting, the Governing Body of the ILO will be in a position to consider favourably our request.

In addition to the abovementioned Amended Convention, Headquarters Agreement and list of Member States, I enclose a copy of the Staff Regulations of EUTELSAT IGO (the appeals procedure is mentioned on page 12) and of our annual report for the financial year July 2003-June 2004.

I remain at your disposal to provide any clarification or any further information you may require, and take this opportunity to assure you, Director-General, of my highest consideration.

Christian Roisse,
Executive Secretary.

Enclosures:

Amended EUTELSAT Convention
Headquarters Agreement between EUTELSAT
and the Government of the French Republic
List of Member States
Staff Regulations
Annual Report 2003-04