

CSAIO3
London, 26/27 September 2002

Section
“Modus Operandi of Staff Associations and their rights”

ESO - European Southern Observatory

ESO Staff Association established in
ESO Rules & Regulation.

Statute to be approved by the Director
General before taking effect.

- The ESO Staff Association is not a
trade union

Who is a member of the Staff Association?

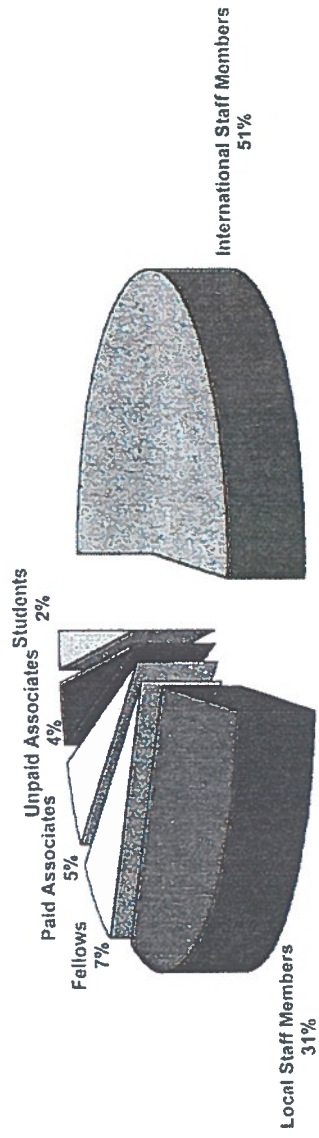
Different categories of Members of Personnel: Staff Members (SM), Fellows, Paid Associates, Unpaid Associates, Students

All and only SM are automatically members of the Staff Association

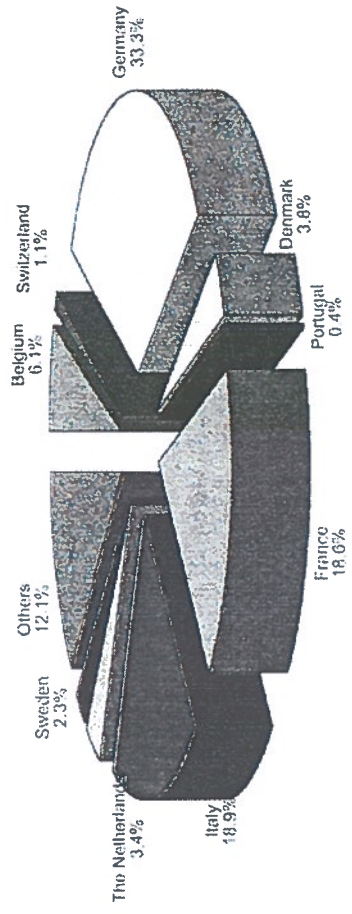
The choice is about being - or not - a contributing member (monthly contribution of 0.25% of basic salary)

Members of the Personnel by Category (December 2001)

Members of the Personnel by Category as of 31 December 2001



Distribution of International Staff Members by Nationality as of 31 December 2001



Staff Association elects its representatives every 2 years.

Representatives work on a voluntary basis (up to 10% of their working time).

ESO contributes only an office and reimbursement of travel expenses.

ESO is located at 4 different sites:

Headquarters in Garching (Germany)

3 sites in Chile:

Administration (Santiago)

Observatories (La Silla and Paranal)

- ISCE: International Staff Committee Europe
 - ISCC: International Staff Committee Chile
- each with 4 representatives

Boards and Working Groups

Interactions with Administration is through several Boards: **Standing Advisory Committee** (gives recommendations to DG on personnel matters, including contents and application of Rules&Regulations), **Joint Advisory Appeals Board** (for internal appeals), **Joint Advisory Disciplinary Board, Joint Advisory Rehabilitation Board, Safety Committee**

The Staff Association has **two observers at the Finance Committee** (no observers in the ESO Council)

A **Tripartite Working Group** was established in 2000 “where matters related to employment conditions and remuneration could be informally examined by representatives of Member States, of ESO Management and of the Staff Association”: 5 members nominated by Council, 3 by the Director General and 3 by the Staff Association

In addition: **regular meetings** with Head of Personnel, Head of Administration, Director General

Disciplinary procedures:

- Discussion with Head of Personnel
- Internal appeal (Joint Advisory Appeals Board)
- ILO Administrative Tribunal

Problems:

- Appeals are individual
- Legal costs (fees coverage)
- Time (many iterations)
- Governing bodies tend to apply only what is explicitly required by the judgements of ILOAT

Salary cases:

- 1995: Judgments 1419^[1], 1420^[1]
- 1999: Judgments 1821^[2], 1908^[2]
- 2000: Judgments 1995^[2], 1996^[3], 1997^[4]
- 2002: Judgments 2133^[2], 2134^[3], 2135^[4], 2136^[5]

(all available at: <http://www.ilo.org/public/english/tribunal/fulltext/<number>.htm>)

[1] Salary adjustment 1993

[3] Salary adjustment 1997

[5] Salary adjustment 1999

[2] Salary adjustment 1996

[4] Salary adjustment 1998

A useful example - The “core” 1821 judgment

The principles governing the limits on the discretion of international organisations to set adjustments in staff pay [...] may be concisely stated as follows:

- (a) An international organisation is free to choose a methodology, system or standard of reference for determining salary adjustments for its staff provided that it meets all other principles of international civil service law.
- (b) The chosen methodology must ensure that the results are “stable, foreseeable and clearly understood”.
- (c) Where the methodology refers to an external standard but grants discretion to the governing body to depart from that standard, the organisation has a duty to state proper reasons for such departure.
- (d) While the necessity of saving money may be one valid factor to be considered in adjusting salaries provided the method adopted is objective, stable and foreseeable, the mere desire to save money at the staff’s expense is not by itself a valid reason for departing from an established standard of reference.

[...] Even if it were possible to dignify the process adopted by the ESO by calling it a methodology for salary adjustment, it obviously fails to produce results that are stable, foreseeable and clearly understood.

[...] ESO has failed to demonstrate that the decision was not simply arbitrary.