



International Society for Labour and Social Security
Law
Société internationale de droit du travail et de la
sécurité sociale
Sociedad Internacional de Derecho del Trabajo y de la
Seguridad Social

BULLETIN N° 124

June 2009

Announcement by the Secretary General

A call to sharing information on Labour and Social Security Law (Labour Law News)

You may remember that in his Letter of the President-Elect (ISL&SSL Bulletin No. 122, December 2008) Professor Sewerynski had proposed that we use our information resources like this Bulletin, to share information on what is going on in Labour and Social Security Law in our countries. I would like to go along with his proposal and suggest that we open a section named **Labour Law News** in this Bulletin, which would be nurtured with information that I expect receiving from all of you.

Please, send me all the laws, collective agreements, landmark judicial decisions and other information relating to labour and social security law developments in your countries, which in your view would deserve being shared with your colleagues throughout the world.

Président/Président	President Elect/ Président élu	Secretary General/ Secrétaire général	Treasurer/Trésorier
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News from our Society

1. Election of our Secretary General and our Treasurer

In accordance with our by-laws, I have written to our Member associations to invite them to submit nominations in view of the appointment of our Secretary General and our Treasurer for a three-year mandate, which will commence at the closure of our XIX World Congress, on 4 September 2009 and will end at the closure ceremony of our XX World Congress, Santiago de Chile, 2012. The deadline for submitting nominations was 1st June, 2009.

Within the prescribed deadline I received the following nominations:

Our South African Member, SASLAW, with the support of our Norwegian and Swedish members nominated me to continue as Secretary General for a fourth mandate. I have decided to accept.

The ILO Chapter of our Society has nominated Ms. Corinne Vargha (Hungary/ILO) for Treasurer. Ms. Vargha is currently Chair of the ILO Chapter of our Society.

Both, Ms. Vargha's and my own profile are attached to this bulletin.

The election will take place during the Executive Committee's meeting in Sydney, 1st September 2009. As there have been no more than one nomination for each position the election of both officers can be made by consensus unless three or more Executive Committee members request that a secret ballot take place.

2. By-laws of our Society

After the discussions held in Freiburg, 2008, and consultations that were made thereafter I have finalized a new version of the revised by-laws that will be submitted to our Executive Committee meeting in Sydney, for final approval, then for ratification by the General Assembly. The revised text appears as an annex to this Bulletin. I will be grateful for our Executive Committee members to have a look thereinto and let me know, no later than August, 10, whether they have any objections to the new text.

3. Executive Committee meeting, Sydney, 1st September 2009

We will be holding a regular meeting of our Executive Committee in Sydney, Australia, before our World Congress opens. A provisional agenda will be shortly sent to our Executive Committee members. In principle we will discuss the following points:

- i. Report on Activities by the Secretary General
- ii. Financial Report by the Treasurer and the Auditors
- iii. Statutory appointments: appointment of a Secretary General, a Treasurer and six Vice-presidents for the term 2009-2012.
- iv. Date and agenda of our forthcoming American Congress, 2010 (Cartagena de Indias), European Congress, 2011 (Seville) and World Congress, 2012 (Santiago de Chile)
- v. Composition of our European and American regions (if needed)
- vi. Reform of our by-laws (for final approval and submission to the General Assembly for ratification)
- vii. Other business

4. XIX World Congress, Sydney, 1-4 September 2009

The preparation of this Congress is well underway. Up to date information is available at the webpage: <http://www.labourlawssydney.com/>

Below are the Congress main themes:

Theme 1: Regulatory frameworks and law enforcement in new forms of employment. General Reporter: Professor Rosemary Owens (Australia)

Theme for Workshops: Labour and Social Security Law in the Informal Economy

Theme 2: Workers' Representation and social dialogue at the workplace level. General Reporter: Professor Antoine Jeammaud (France)

Theme for Workshops: Networks and Voice in Working Life

Theme 3: Emerging patterns of social protection in light of structural changes (ageing population, changing family structures, immigration, budgetary constraints, political and ideological realignments). General Reporter: Professor Carlos Hernández Contreras (Dominican Republic)

Theme for workshops: To be determined.

Roundtable: Work and Family Life. Chair: Professor Gillian Lester (U.C. Berkeley School of Law, USA)

A detailed preliminary program, including the themes and chairs of workshops, is available at the following web address:

<http://www.labourlawssydney.com/desc-program.html>

5. VIII Americas Regional Congress

The host of this Congress is our Member Association of Colombia, the Colegio de Abogados del Trabajo y Seguridad Social. After extensive consultations with our members associations in the Americas it has been agreed to propose that the Congress be held at the Convention Center, Hotel Las Américas, Cartagena de Indias from 25 to 28 May 2010. Our Congress will take place together with the XXVIII National Congress of Labour and Social Security Law of Colombia.

Subject to the formal approval of our Executive Committee below are the Congress themes and names of reporters:

Theme 1: Current situation and the future of public and private pension systems in the light of the worldwide crisis. General Reporter: Carmelo Mesa-Lago, United States.

Theme 2: Public and private systems of settlement of individual and collective labour disputes. Co-reporters: G. Valdés S. (Colombia) and Steven Willborn (United States)

Theme 3: The protection of worker's privacy at the workplace. Co-reporters: Cristina Mangarelli (Uruguay) and Gilles Trudeau (Canada)

Round Table 1: The so-called "news forms of employment" and their impact on:

- a) individual employments relations;
- b) collective labour relations; and,
- c) the social protection of workers concernid

Moderator:

Round Table 2:

The use of international law by national courts in view of the adjudication of labor disputes.

Moderator: Xavier Beaudonnet (ILO)

Keynote Speech: Strike in the Public Service. Speaker: Carlos Álvarez Pereira (Colombia)

Registration rates for non-colombian participants vary from us\$180 to us\$220, depending upon the date of registration. Special reduced rates apply to students and local participants. For inquiries, please note the following address:

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Bogotá, Colombia

6. XX World Congress of ISL&SSL, Santiago de Chile, 2012

I have received the following proposals from our Chilean friends:

Dates: Either in the week beginning November, 5 or in the week beginning September, 24, 2012. The organizers feel that November is more suitable because weather is better and it is not high season for tourism so that there is more hotel availability. On the other hand in September there are many public holidays and school holidays so that hotels tend to be fully booked and hotel rates are higher than they are in September.

Agenda: It is proposed to select three major agenda items plus two additional themes for Round Table Discussion out of the following list

- a) The role of the Labour Inspection and of the workers' representatives in the enforcement of the Labour Law,
- b) The right to strike as a fundamental right and its possibility of conflicting with the fundamental rights of the people in the case of strike in essential services.
- c) Social protection of non-wage earners.
- d) Structure and effects of collective bargaining and the right to free competition
- e) The use of international law by national courts
- f) The future of private pension systems in the light of economic turmoil.
- g) Labour Law and small and medium-sized enterprises
- h) Individual and collective labour relations in the public administration.
- i) Bullying and sexual harassment at the workplace

The Executive Committee will be asked to take a decision on both the dates and the agenda items while at its forthcoming meeting in Sydney.

7. News from our members

Colombia

Attorney Andrés Dacosta Herrera is the new Governor of our Colombian Member, the Colegio de Abogados del Trabajo. I congratulate him for his appointment.

France

Professor François Gaudu is the new Chairperson of our French Chapter, the French Association for Labour and Social Security Law. *Toutes mes félicitations and bonne chance!*

Philippines

Professor Bach Macaraya informs that the Philippine Chapter has successfully conducted the National Conference on Philippine Labor Amidst a Global Crisis. This event benefited from the support of the Social Security System, ILO, FES, DOLE and other organizations. About 165 participants attended the national congress.

Peru

I regret to announce the death of Professor Luis Aparicio Valdez, who was a distinguished Peruvian jurist and Director of the well-known publication Analisis Laboral. Professor Aparicio Valdez was President of the International Industrial Relations Association IIRA from 2003-2006 and had very successfully organized the 14th World Congress of the IIRA in Lima, Peru in 2006, although illness prevented him from attending in person.

A tribute to Professor Aparicio Valdez has been published in the IIRA bulletin, which can be accessed via the following link:

<http://www.ilo.org/public/english/iira//bulletin/june2009/luiseng.htm>

We express our condolences to Professor Aparicio's family and our IIRA colleagues.

8. Publications

I am pleased to announce that my book **International and Comparative Labour Law: current challenges** is now out. It addresses the evolution of the labour law after 1975 and discusses some of the outstanding challenges that the labour law now faces throughout the world. It extensively draws on ILO and EC standards and case law, and has made thorough use of many of the general reports that were submitted to the World Congresses of our Society in 2003 and 2006.

I am very grateful to our President Kazuo Sugeno and our Treasurer Giuseppe Casale, who have accepted to introduce the book with a thought-provoking foreword.

This book has been co-edited by Palgrave and the ILO. An Executive Summary is available online at: http://www.ilo.org/wcmstp5/groups/public/---dgreports/---dcomm/---publ/documents/article/wcms_107847.pdf

It can be ordered through the ILO website and is also available at Palgrave's website: <http://www.palgrave.com/products/title.aspx?PID=357043> A sample chapter can also be downloaded from this site

European Employment Law Cases, EEL: I would like to draw your attention to this new online publication. *EELC* consists of summaries (in English) of national judgments in Europe that are of interest to all employment law professionals in particular lawyers and professors. The magazine also includes references to recent ECJ cases and conclusions. The associated website provides access to the (untranslated) full text of the judgments. More information is available through the webpage: <http://www.eelc-online.com/site/home.html>

9. Other

ILO information tools.

I recommend that you have a look into the ILO webpage: ONLINE INFORMATION RESOURCES: <http://www.ilo.org/public/english/support/lib/resource/index.htm> In addition to the formidable NATLEX and ILOLEX databases this page contains an impressive number of hyperlinks to labour law databases and other useful information for international and comparative search. To have an idea on it works browse, for example http://www.ilo.org/dyn/natlex/country_profiles.byCountry?p_lang=en

Kind regards to everybody. I look forward to seeing you in Sydney.

Arturo Bronstein
Secretary General

ANNEX

CURRICULUM VITAE

BRONSTEIN, Arturo Sergio

Born, 14 November 1945, in Buenos Aires, Argentina

Nationality: Argentina/France

Languages: Spanish (mother tongue). Also reads, speaks and writes in English and French.

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FRANCE

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Born in November 1945, in Buenos Aires, Argentina. Arturo Bronstein graduated as attorney at law at the Faculty of Law, University of Buenos Aires, Argentina, in 1967. He practiced law during several years in Buenos Aires, and started teaching at the Faculty of Law, University of Buenos Aires in 1968, as assistant lecturer (asistente de cátedra) in Labour Law. Between 1972 and 1974 he attended doctorate studies at the University of Paris, where he also lectured on comparative social security.

He joined the ILO in 1974 in the Labour Law and Labour Relations Branch. During his career he served as Head of the Labour Legislation Section (1987-1996), Director of the ILO Multidisciplinary Team for Central American, Mexico, Cuba and the Dominican Republic, in San José de Costa Rica (1996-2000), Deputy Director of the Government, Labour Law and Administration Department (ILO, Geneva) (2000-2002), and Senior Labour Law Policy Adviser since 2002 until his retirement from ILO in November 2005. After retiring from the ILO he taught International and Comparative Labour Law as visiting professor at the Universities of Buenos Aires, Católica Argentina, York (Toronto), Sydney (Australia) and Paris X-Nanterre.

In his capacity of ILO official he provided advice on the revision of the Labour Law to many countries of Latin America (e.g. El Salvador, Dominican Republic), Asia (Cambodia, Sri Lanka) and Central Europe (Serbia, Bosnia-Herzegovina, Slovakia, Ukraine)

He has authored many publications in the field of labour law and labour relations, the most recent of which is International and Comparative Labour Law: Current Challenges, co-published by the ILO and Palgrave

<http://www.palgrave.com/products/title.aspx?PID=357043>

He is the current Secretary General of the International Society for Labour and Social Security Law:

<http://www.asociacion.org.ar/ISLLSS>

VARGHA, Corinne

Nationality: Belgian/Hungarian

Position: ILO Senior Labour law and social dialogue specialist – vargha@ilo.org

Languages: French and English

Expertise:

Labour Law, Alternative Dispute Resolution mechanisms, Corporate social responsibility

Regional experience: Africa, Asia, Arab States

Background information:

Ms Vargha joined the ILO in 1988 and has served in various legal positions in the field and in Headquarters. Throughout these years, she provided technical advice on comparative labour law and international labour standards to governments, policy-makers and union and employers' organizations leaders. She facilitated a number of national tripartite discussions around labour law reforms, including when these reforms were undertaken as part of a broader policy agenda such as PRS, Private sector development, structural adjustment, etc.

She is currently the Senior Labour Law Specialist in the Industrial and Employment Relations Department (DIALOGUE) where she leads the Labour Law and the Asia Teams

ANNEX

Draft by-laws of the International Society for Labour and Social Security Law

By-laws approved by the General Assembly of the ISLSSL in Sydney, Australia, ... September 2009

(Changes appear in bold, underlined characters)

Preamble

The International Society for Labour and Social Security Law (Société Internationale de Droit du Travail et de la Sécurité Sociale) was constituted in Brussels in June 1958. It is the result of the merger of the International Society for Social Law (São Paulo Congress, 1954, and Brussels Congress, 1958) and the International Congresses of Labour Law (Trieste, 1951, and Geneva, 1957).

Name and Objects

Article 1

1. The International Society for Labour and Social Security Law, in the following articles called *the Society*, is established as an association for the purposes of studying labour and social security law at the national as well as international level, and promoting the exchange of ideas and information from a comparative perspective, and encouraging the closest possible collaboration among academics, lawyers, and other experts within the fields of labour and social security law.
2. The activities of the Society include the promotion of the study of labour and social security law amongst young academics and lawyers, and support for international comparative schools, seminars and other meetings in those fields.
3. The aims of the Society are of a purely scientific character, independent of all considerations of a political, philosophical or religious nature.

Location

Article 2

The seat of the Society is in Geneva. It may be transferred to another place by decision of the Executive Committee.

Members

Article 3

The Society membership shall consist of:

1. National associations or other entities which have decided to affiliate themselves as members of the Society and whose affiliation is accepted by the Executive Committee. This category of membership shall be referred to as the Society's *National Members*. **To be eligible, a National Member shall submit its by-laws or a brief on its purpose and activities and shall demonstrate that it has no less than 15 dues paying individual members. The Executive Committee may, however, accept a smaller number of members of an association in order for it to qualify as a National Member if that smaller membership is justified because of the applicant's individual situation.** There shall be no more than one National Member per country. In the event that more than one organization seeks recognition as the National Member for a country, the Executive Committee shall determine which shall be recognized as the National Member based on its dedication to the Society's goals and the capacity to participate meaningfully in its activities. All other national associations may be recognized and participate as Institutional Members of the Society.
2. Individuals elected by the Executive Committee. This category of membership shall be referred to as the Society's *Individual Members*.
3. Scientific societies, national associations (other than National Members), and research institutes which are elected by the Executive Committee. This category of membership shall be referred to as

the Society's *Institutional Members*. In order to get such recognition, the Executive Committee will require from the (relevant) National Member that it submits a report on the applicant's accomplishments, to confirm the above-referred dedication to the Society's goals, and the support and collaboration that it provides to the National Member.

Article 4

1. In each country where there is a national association of persons who, because of their scholarly work or professional activities, are interested in furthering the aims of the Society, that association shall be encouraged to become a National Member of the Society.

2. Individual Members are elected primarily among persons from countries where there is no National Member of the Society, and among the officials of international organizations dealing with labour and social security law.

Organs

Article 5

The organs of the Society are:

1. the General Assembly;
2. the Executive Committee, and
3. the Officers (the President, the President-Elect, the Secretary-General and the Treasurer).

General Assembly

Article 6

1. Individual members of National Members of the Society, Individual Members designated by the Executive Committee in keeping with article 7.3 here below and representatives appointed by Institutional Members of the Society constitute the General Assembly. Each member shall have one vote. However, the maximum number of votes from the National Member of one country shall not exceed the average number of individuals for whom contributions have been paid during the past three years immediately preceding the General Assembly, and in total be not more than 30. In the event that the maximum number is exceeded for a National Member, the votes for that group shall be reduced to the above-mentioned maximum of votes for a national group. Before the casting of votes takes place, the Treasurer shall report to the Assembly on the financial contributions and suggest for decision the maximum number of votes of each National Member. In addition, Individual Members and Institutional Members each have one vote.

2. The General Assembly shall meet on the occasion of each World Congress.

3. With the exception of Article 15, the voting shall be by simple majority.

4. The General Assembly shall approve increases in dues, changes in these statutes, and any issues over which the Executive Committee is deadlocked. It shall also elect Honorary Presidents on the proposal of the Executive Committee.

Executive Committee

Article 7

1. The Executive Committee is composed of the President, the President-Elect, the Honorary Presidents, the Secretary-General, the Treasurer, and of one representative of each National Member. **National Members may designate by a signed writing alternate representatives of the same national association who may vote in the absence of the representative.**

2. The Executive Committee may invite Institutional Members to participate at its meetings, **with the right to speak but not to vote.** To this purpose the Executive Committee shall determine which Institutional Member shall be invited, on the basis of its dedication to the Society's goals, its number of individual members and its capacity to participate meaningfully in the Society's activities.

3. The Executive Committee, upon a proposal by the Officers after consultation with the Vice-presidents, can also designate individual members in order to establish channels of communication with countries which otherwise would not be represented on the Executive Committee. Only one individual member per country shall be accepted. **Such individual members can participate, but not vote, at its meetings.** The Executive Committee shall also determine when an individual member will no longer participate at it, especially because of inactivity or when a national

association has been accepted as a national member of the Society in respect to that individual member's country.

4. In order to maintain the international character of the Society, the Executive Committee shall appoint, from among the National Member representatives, Vice-Presidents, to a maximum of six to act as advisers of the Officers.

5. In order to ensure diversity of advisory perspectives provided to the Officers and to the deliberations of the Executive Committee, the Executive Committee may appoint up to 2 additional Vice Presidents from among the National, Institutional or Individual Members.

Article 8

1. The Executive Committee shall hold two regular meetings in any period between two World Congresses. One of these meetings shall be held immediately before each World Congress. Normally, the second meeting shall be held in the year prior to each World Congress, and immediately before a Regional Congress, unless otherwise decided by the President after consultation with the Officers, Honorary Presidents and Vice-Presidents. The date and venue of these meetings shall be announced by the Secretary-General not less than six months before they are to be held.

2. After consultation with the Officers and Vice-Presidents, the President may convene additional meetings of the Executive Committee. He or she may also invite the Executive Committee to take decisions by correspondence when such is justified for reasons of urgency.

3. The Executive Committee has the power to decide any matter which in these by-laws is not reserved to the General Assembly or to specific officers.

4. **Subject to the provisions of paragraph 6 hereafter, each National Member has one vote on the Executive Committee, and the voting shall be by simple majority of those who take part in the decision.**

5. **Honorary Presidents and Officers have the right to vote on the Executive Committee but Officers shall not have the right to vote for the election of the Officers unless they are representing a national member.**

6. **Only National Members that have paid their dues until and up to the calendar year preceding the year in which a vote is conducted can cast a ballot when a vote is taken.**

Article 9

1. No less than eighteen months prior to a World Congress the Secretary-General shall issue a call for nominations for the President-Elect of the Society. Any nomination for the President-Elect shall be made in writing, and shall reach the Secretary-General no less than three months prior to the meeting of the Executive Committee that is normally held in the year before a World Congress. **At that meeting, if only one candidate has been nominated he or she can be elected by acclamation unless the Executive Committee upon request by three or more members having voting rights decides that the election be made by a secret ballot. If more than one candidate has been nominated the election for President-Elect shall be conducted by secret ballot and the nominee receiving a majority of more than fifty per cent of the votes cast shall be the President-Elect. If none of the nominees receives the described majority in that first round of voting, a second vote shall be taken in which only the nominees receiving the two highest numbers of first round votes shall be on the ballot, and the candidate receiving the highest number of votes in the second round shall be the President-Elect. In the event of a tie for the highest number of ballots in the second round, the Executive Committee will postpone the election of the President until its next meeting.**

The President-Elect shall assume the office of President at the closing ceremony of the World Congress.

2. The Vice-Presidents, the Secretary-General and the Treasurer shall be appointed by the Executive Committee at its meeting that normally takes place immediately before each World Congress. In order to appoint the Secretary-General and the Treasurer, the Secretary-General shall issue a call for nominations no less than six months prior to this meeting, and the nominations shall reach him or her no less than three months prior to that meeting.

3. All appointments made by the Executive Committee shall be for a time not exceeding the period between the close of a World Congress and the close of the next World Congress. The Secretary-General and Treasurer only may be re-elected for new periods.

4. In case of vacancy in the Presidency, if a President-Elect has already been appointed, he or she shall immediately succeed to that office. If the President-Elect has not yet been appointed the Secretary-General, after consultation with the Vice-Presidents will ask one of the Vice-Presidents to take up the office of President until a new President is appointed.

5. In case of vacancy of the Secretary-General or the Treasurer, the President, after consultation with the Vice-Presidents, shall provisionally appoint an Acting Secretary-General or an Acting Treasurer until the Executive Committee can meet and take a decision on these appointments.

6. The President and the Secretary-General are jointly responsible for the management of the Society and they shall, whenever practicable, consult with the President-Elect, the Honorary Presidents and the Vice-Presidents. The President and the Secretary-General have joint power of signature for the Society. For payments to cover the current administration of the Society, each of them has the power of signature.

Article 10

1. The Treasurer shall be responsible for the collection of the contributions from National Members, Institutional Members, and Individual Members, for the administration of the assets of the Society, and for presenting a financial report at each meeting of the Executive Committee.

2. The Treasurer is authorized to make payments to cover the current administration and expenses of the Society, and for that purpose has the power of signature for the Society.

Article 11

The Executive Committee shall grant discharge from liability for their administration to the President, the Secretary-General and the Treasurer upon a report of **one** or more auditors appointed by the Executive Committee. **If a vote is taken pursuant to this provision the President, the Secretary General and the Treasurer will not vote.**

Activities

Article 12

The Society shall meet in a World Congress every three years or at such longer or shorter intervals as the Executive Committee may find convenient.

Article 13

1. The President and the Secretary-General shall organize various activities for the promotion of the aims of the Society such as organizing conferences of experts for the exchange of ideas on specific subjects and encouraging and facilitating the creation of study groups.

2. National Members will be encouraged to arrange regional congresses and to invite members from other countries to attend national meetings.

3. The Society and its organs will do the utmost to promote the establishment of national associations of labour and social security law in countries where there is none and to assist them in their development and their participation in the activities of the Society.

Financial Contributions

Article 14

1. The resources of the Society are its assets, dues from its members, gifts, legacies and grants.

2. The Executive Committee shall determine the amount which each member shall pay annually by way of contribution to the Society. The Executive Committee shall have the power to decide upon such reductions of the ordinary contributions which may be justified because of the situation in each case. Payments of contributions shall be made to the Treasurer.

3. The decisions of the Executive Committee to increase dues shall be submitted to the General Assembly for approval.

Amendments of the Statutes

Article 15

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<http://www.asociacion.org.ar/ISLLSS/>

The Statutes of the Society may be amended at any General Assembly by a vote of two thirds of members present and entitled to vote.

Article 16

Proposals for changes in these statutes must be adopted first by the Executive Committee.

Coming into Force and Interim Arrangements

Article 17

1. These Statutes will come into force immediately.

2. The Officers in consultation with the Vice-presidents are instructed to propose a list of the associations that meet the criteria for being recognized as National Members pursuant to article 3.1 above, which list shall be submitted to the approval of the Executive Committee at its next meeting, in 2011, Seville.