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Answers to a number of questions concerning the modernized Statutes of the Staff Association

We hope that you have all received your copy of the proposed modernized Statutes of the Staff Association which will be submitted for your approval during the Extraordinary General Assembly of the Staff Association foreseen for the 29th September. If not, copies are still available from the Secretariat of the Association.

Here we would like to answer a number of questions which we have been asked about the new Statutes.

Question: what distinction do we make between “**negotiation**” and “**concertation**”¹? We can refer you to a judgement of the Administrative Tribunal of the International Labour Organization which explains what it understands by “consultation” and by “negotiation”. Consultation leads to a decision being taken by the party who consults, but with the decision taking into full consideration the views of those consulted, whereas negotiation is looking for a compromise leading to an agreement between the parties who negotiate. However International Organizations only negotiate when they so wish, for example on a particular question (at CERN for example, the summer 1990 negotiations). For us, “concertation” is an intermediate situation, where he who consults is ready to make certain concessions to have the agreement of his interlocutor to the proposed decision.

Question: in what sense do we use the term “**professional organization**”? It is clear that the Association constitutes a representative body of an international organization, and there is no question of obtaining a statute similar to that of a national union, in so far as that is not adapted to the international character of CERN. Nevertheless, as our aim, as that of any other representative body of an international organization, is to defend the employment conditions of the staff of the organization, the expression “professional organization” seems to us to be completely apt.

Question: what problems are linked to **the concept of freedom of association in the CERN context**? As we have already noted in the March issue of the PROTON, the present Statutes of the Association which oblige all members of the personnel (Staff Members, Fellows, Paid and Unpaid Associates, etc.) to be members of our Association is contrary to the right of freedom of association recognised by the Universal Declaration of Human Rights, and it seemed to us necessary to correct this anomaly which has existed far too long.

The difference between the present situation and that proposed is as follows: at present, the members of the personnel are divided into two parts, those who subscribe to the Association and those who do not. The first, those who subscribe, show their support for the Association in this way and participate in its work, in particular during elections or General Assemblies. They can continue to do so in remaining subscribing members of the Association. For them nothing changes.

¹ we are aware that the word does not exist formally in the English language, but this French word has been accepted at CERN for a long time in English texts to have the same meaning as in French.

The others, those who do not subscribe, also divide into two parts. There are those who are not interested or even are in disagreement with the Association, which is clearly their right. At the moment they have no other way of expressing this than by not paying their subscription to the Association, since they are obliged to be members. With the proposed Statutes, they can abstain from joining the Association and keep their full liberty. The difference for them, will be their full freedom of adhesion and the clarification of their situation.

Lastly are the members of personnel who, whilst participating in the work of the Association do not pay their subscription. The difference for them will be that they will have to face up to their responsibilities, to stay in the Association and pay their subscription, as is the norm for all associations and participate fully in its work, or to withdraw if they so wish. Their situation will be clearer.

Question: what is the sense of the expression **“independent group”**? The Association wishes to be independent of all authorities external to the Organization. Within the Organization, the expression **“independent group”** demonstrates the vocation of the Association, in the execution of its task, to have an opinion independent of the Management, as moreover that of any other authority of the Organization. The Association is not a service of the Director General.

Questions concerning **“participation in seeking and implementing means of ensuring the Organization’s purposes”, “collective negotiation”, “taking part in drawing up of statutory rules”**. We can reply to these like this: it is clear that the statutes of the Staff Association cannot confer upon it rights or prerogatives other than those it has already or will be recognised (other than the general applicability of general principles of law), by the texts in force. In the first place those of the Act constituting the Organization, the decisions of Council and its subsidiary bodies, or those of the Director General.

But the Statutes of the Association must take into account these rights or prerogatives, for example our right of collective negotiation which the Director General recognised in 1981, in the case of conflict and the deposit of an advance notice of a strike. The right to take part in the drawing up of statutory rules, via the Standing Concertation Committee, is recognised by the articles appearing in Chapters I and VII of the Staff Rules and Regulations; it is the same for our participation in the Tripartite Advisory Committee on Conditions of Employment (TRACE), a consultative subsidiary body of the Council of the Organization.

Question: what will be exactly the **Statute of affiliated members**? Article 6 (d) of the proposed modernized Statutes of the Association shows that affiliated members will have the status of observer, without voting rights.

Question: how, if not all members of the personnel belong to the Association, can it represent them towards the Organization? In the same way as any professional Organization, the Association has the task of defending and representing all the personnel: this means that the Association does not intend to limit the collective defence of the personnel to only its members, but that it wants to continue to extend it to include all of the personnel. This is the current practice elsewhere since it is rare that 100% of the workers are members of unions or professional organizations, but they assure nevertheless the representation of all the personnel.

Having said that, we believe that the defence of the personnel will be more effective if it is made by a united personnel. Within the framework of the proposed Statutes, the Staff Association must conduct a policy taking into account fully the interests of all the members of personnel, so that most, **if possible all of them join voluntarily**.

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