

**STANDING COMMITTEE ON PROGRAMMES AND FINANCE**

**Thirty-fifth Session**

**ELEVENTH ANNUAL REPORT OF THE DIRECTOR GENERAL  
ON IMPROVEMENTS IN THE PRIVILEGES AND IMMUNITIES  
GRANTED TO THE ORGANIZATION BY STATES**



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1. This report is issued further to the request by the Council to the Director General in Resolution No. 1266 of 26 November 2013 on improving the privileges and immunities granted to the Organization by States, to report annually to the Council, through the Standing Committee on Programmes and Finance, on the implementation of the Resolution. The present report reviews both the progress made, and the continuing challenges, in the period from 1 September 2023 to 31 August 2024.

**Background**

2. The IOM Constitution states, in its Article 23, that IOM “shall enjoy such privileges and immunities as are necessary for the exercise of its functions and the fulfilment of its purposes”. It further provides that: “Representatives of Member States, the Director General, the Deputy Directors General and the staff of the Administration shall likewise enjoy such privileges and immunities as are necessary for the independent exercise of their functions in connection with the Organization.”

3. In Resolution No. 1266, the Council notes that IOM does not benefit from the existing multilateral conventions granting privileges and immunities to the United Nations and its specialized agencies and expresses concern about the consequential difficulties for IOM to exercise its functions and fulfil its purposes. The Council accordingly calls upon: “Member States, Observer States and other States where the Organization has activities to grant the Organization privileges and immunities substantively similar to those that the United Nations specialized agencies are entitled to in accordance with the Convention on the Privileges and Immunities of the Specialized Agencies (1947)” (“the 1947 Convention”).

4. The Council, in Resolution No. 1266, also requests the Director General to engage with all Member States, observer States and other States and places where IOM has activities (“relevant States and places”) that do not grant privileges and immunities substantively similar to those to which the specialized agencies are entitled in accordance with the 1947 Convention, with a view to concluding agreements that provide for the granting of such privileges and immunities to IOM. The Council also requests the Director General to report annually to the Council, through the Standing Committee on Programmes and Finance, on the implementation of Resolution No. 1266.

5. In 2016, IOM became a related organization of the United Nations pursuant to a relationship agreement between the United Nations and IOM, approved by the United Nations General Assembly in resolution 70/296 and by the Council in Resolution No. 1317. The status of IOM as a related organization of the United Nations reinforces the importance of ensuring that IOM is granted privileges and immunities comparable to those enjoyed by other organizations in the United Nations system.

**Current situation**

6. During the reporting period, three new agreements granting privileges and immunities meeting the criteria of Resolution No. 1266 to IOM, were concluded and entered into force. These agreements were between IOM and Ecuador, Samoa and Tuvalu, respectively. Additionally, an agreement that meets the criteria of Resolution No. 1266 was signed with Greece on 18 July 2024, but is yet to enter into force.

7. In summary, 107 of the 186 relevant States and places grant IOM privileges and immunities meeting the criteria contained in Resolution No. 1266, while 79 relevant States and places do not.

8. The absence of the following privileges and immunities continue to present particular operational and financial difficulties for IOM:

- (a) *Immunity from legal process.* Immunity from legal process protects the ability of the Organization to carry out its functions independently and without being subject to litigation before the national courts. IOM is currently not granted immunity from legal process in 34 of the 186 relevant States and places.
- (b) *Inviolability of premises and archives.* Such inviolability requires that the property and assets of IOM, including its archives, be immune from search, requisition, confiscation, expropriation and any other form of interference. The inviolability of IOM premises and archives is currently not granted in 33 of the 186 relevant States and places.
- (c) *Exemption from taxation.* Exemption from taxation refers to the exemption of IOM from direct taxation (except charges for public utility services), as well as customs duties on items imported for official use and duties on publications. It encompasses the remission or return of indirect taxes on important purchases for official use. IOM is not exempt from direct taxation in 34 of the 186 relevant States and places, nor from indirect taxation in 46 of the 186 relevant States and places.
- (d) *Immunity of officials from legal process.* The immunity of officials from legal process in respect of official acts is essential to allow them to carry out functions on behalf of IOM in an independent manner. IOM officials are not granted immunity from legal process in respect of official acts in 30 of the 186 relevant States and places.
- (e) *Exemption of officials from taxation on salaries and emoluments.* Exemption of officials from taxation on the salaries and emoluments paid to them by IOM ensures equality in the conditions of service of IOM staff, irrespective of their nationality and permanent residence status. It also serves to reduce the financial burden on the Organization. Currently, internationally recruited IOM staff members are not exempt from taxation on their salaries and emoluments in 31 of the 186 relevant States and places, and locally recruited IOM staff do not enjoy such an exemption in 57 of the 186 relevant States and places.
- (f) *Immunity from immigration restrictions.* Immunity of officials, together with their spouses and dependent relatives, from immigration restrictions facilitates the effective and independent conduct of the IOM mandate. IOM staff members are currently not immune from immigration restrictions in 39 of the 186 relevant States and places.

#### **Recurring challenges for IOM related to privileges and immunities**

9. The Tenth annual report of the Director General on improvements in the privileges and immunities granted to the Organization by States (S/33/5) highlighted three recurring challenges:

- (i) Exercise of national jurisdiction over employment claims filed by IOM staff members;
- (ii) Seizure of IOM funds despite IOM's immunity from legal process and interference;
- (iii) Taxation on staff salaries and emoluments.

10. At its Thirty-third Session, the Standing Committee on Programmes and Finance took note of document S/33/5 and requested the Working Group on IOM Partnerships, Governance and Organizational Priorities to consider the recurring challenges, with a view to identifying options for consideration by the Standing Committee.<sup>1</sup>

11. The Working Group on IOM Partnerships, Governance and Organizational Priorities met on 13 May 2024 and considered document WG/PGOP/2024/1 on recurring challenges for IOM in the area of privileges and immunities. These matters remain under the consideration of the Working Group.

12. Regarding the three recurring challenges identified in the Director General's Tenth annual report (S/33/5), during the reporting period:

- (i) Over 25 employment claims were filed against IOM by former staff members before the local courts of at least 10 States, despite the availability of an internal justice system for IOM staff members. All but one of these claims were brought in States where IOM is granted immunity from jurisdiction and from the execution of judgments. The immunity of IOM from jurisdiction was upheld in 4 of the cases but was not upheld in 10 of the cases. In the remaining cases, the decisions of the relevant local courts are still pending.
- (ii) Funds amounting to USD 108,487 were seized from an IOM bank account pursuant to the order of a national court in relation to an employment claim in a State where IOM enjoys immunity from legal process, including immunity from the execution of judgments. The funds were returned following IOM engagement with the relevant Government via diplomatic channels.
- (iii) As stated in paragraph 8 above, IOM staff members continue to be subject to taxation on the salaries and emoluments paid to them by the Organization, despite exemption from such taxation being provided for in the 1947 Convention.

#### **Efforts to strengthen recognition of the Organization's privileges and immunities**

13. While there has been progress in improving the status of the Organization's privileges and immunities since the Council's adoption of Resolution No. 1266, there remains a significant number of relevant States and places where IOM does not enjoy the necessary privileges and immunities envisaged in the Resolution. The Organization also faces challenges in certain States and places where, despite IOM having been granted the necessary privileges and immunities, these are not respected in practice.

14. Since the adoption of Resolution No. 1266, the Director General and Deputy Directors General have regularly raised issues concerning the granting of privileges and immunities during their visits to relevant States and places.

15. The Administration is currently engaged in negotiations with over 20 relevant States and places to conclude agreements which meet the criteria of Resolution No. 1266.

16. In order to enhance States' awareness, understanding and technical capacity in respect of the application of privileges and immunities substantively similar to those in the 1947 Convention, the Administration stands ready to assist States through training and other outreach measures. Such assistance may be provided upon request and is subject to the availability of resources.

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<sup>1</sup> IOM, Report of the Standing Committee on Programmes and Finance on the Thirty-third Session (S/33/14 of 21 November 2023), paragraph 68.

17. The Administration will continue to work with States to improve the privileges and immunities of IOM in accordance with Resolution No. 1266. In this regard, the Director General acknowledges with appreciation the constructive efforts made by a number of States during the reporting period.

18. The continued engagement of the Council is critical to achieving improvements in the privileges and immunities of the Organization. It is therefore important for the Council to remain seized of the matter and reiterate its call for Member States, observer States and other States and places where the Organization has activities to grant the Organization privileges and immunities meeting the criteria contained in Resolution No. 1266.