

THE UNITED NATIONS' NEW SYSTEM FOR SETTLEMENT THE DISPUTES BETWEEN ORGANIZATION AND ITS EMPLOYEES

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Abstract

In accordance with the Resolution of the UN General Assembly A/RES/61/261 in 30 April 2007 within the United Nations was established a new system in order to settle the internal disputes and disciplinary matters between Organization and its employees designed to meet the current needs of the Organization and which became operational on 1 July 2009. The establishment of this system was based on the conclusions of several reports of the UN Secretary - General, of the Panel on the Redesign of the UN system of administration of justice, of the Advisory Committee on Administrative and Budgetary Questions what pointed out that the old system of administration of justice at UN became a slow, heavy, ineffective and lacking professionalism and that the system of administrative review has no longer corresponded to current needs of this important international Organization. Given these considerations and based on the premise that a transparent, impartial, independent and efficient system of administration of justice is essential for each of the employees of the Organization to be guaranteed a fair and equitable treatment in the performance of professional duties and taking into account the need to reform the management of human resources at the UN, the Organization has decided to establish a new, independent, transparent, professionalized, adequately resourced and decentralized system of administration of justice who comply the rules of International Law and the right to a fair trial and to ensure the implementation of rights and obligations of the employees but also to establish the liability for their actions. Taking into account those mentioned above this study goals are to present the organization and functioning of this new system for settlement disputes between UN staff and administration and to make a brief comparative analysis with the old system.

Keywords: international litigations, international employees, international jurisdictions, rights and obligations of the employees, United Nations

Introduction

The diversification of the international relations and, at the same time, the increase of their complexity degree has necessarily led to a proliferation of the international organizations whose number has exponentially increased¹. The efficient operation of these international organizations, according to the constitutive act and to the orientations of the member states, also imposes a permanent activity, material, but also some human means to accomplish it. Considering these aspects, after the second world war, there was registered a spectacular increase of the number of persons working for these organizations². The term designing the persons working in frame of the international organizations is international employee by means of which we understand any person having targets given by an international organization to exert determined functions³ in the interest of

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¹ Năstase, A., *Economical International Law*, (Bucharest, Autonomous Overhead "Official Gazette", 1996), p.31.

² Beșteliu, R. M., *International Law – Introduction in Public International Law*, (Bucharest, All Beck Press, 1997), 128.

³ The staff of the international organizations consists of permanent employees recruited based on a contest, contractual employees employed for a determined or undetermined time and employees detached from the member states.

the ensemble of the member states of the respective organization⁴. The most important international organization (both by its universal feature – containing almost all the states of the world, and by the purposes that were offered to it, by the extent and the multitude of its activity) – the United Nations Organization⁵ - counted in frame of its Secretariat, on June, 30th 2010, 44134 employees⁶ representing 187 states. The Secretariat of the United Nations Organization⁷ includes both the international employees working at the central headquarters of the organization (New-York), and the ones employed at UNO subordinated organs, including the regional economical commissions⁸. But, no matter the location of the activities development, in any organization, inclusively in frame of UN, the existence of certain harmonious work conditions is essential for productivity. Therefore, the institution of certain systems, norms and procedures meant to provide a climate necessary for the development of the employees' activity in good conditions contributes to the efficient reaching of the organization purposes and objectives. At UN level, there is a series of regulations, like the ones contained in UN Charter, in UN Regulations and Staff Status, regarding the employees' behaviour and actions and that define the exertion of their essential rights. Also, there are regulations regarding deontology, gender equality, policies referring to human resources. Other aspects following the providing of the employees' integrity, equity and equality are established by means of the circulars of UN General Secretary⁹ allowing the organization to accomplish its current attributions in the most efficient way. However, the work litigations that may appear between the organization and its employees are about the same as the ones that may appear in every work place and that may regard aspects related to contracts renewal, to an equitable treatment, to promotion, discrimination, harassment or institution of disciplinary measures. But, this time, in UN case, we must add an additional size, namely the cultural and geographical diversity. In this context and considering the fact that both UN and its employees, according to art. 105 of UN Charter, benefit from the privileges and immunities needed for the accomplishment of the organization purposes, at its level it was created an intern justice system¹⁰ in order to be responsible for those situations where the UN

(http://www.diplomatie.gouv.fr/fr/ministere_817/emplois-stages-concours_825/70.-mission-fonctionnaires-internationaux_4338/travailler-oi_20037/votre_statut_20420/fonctionnaireinternational_61828.html#sommaire_1).

⁴ In other words, the international employee must work for the organization, its activity must have a certain permanence and continuity and he must obey the rules resulting from "his international status". (Beștelu, R. M., *Intergovernmental International Organizations*, Bucharest, All Beck Press, 2000, 97-98). An extended definition of the international employee may also be found in the Notice of the International Justice Court since April, 11th 1949 – CIJ, *reparation des dommages...*, avis du 11 avril 1949, Rec. 1949, p. 177- where it is shown that the international employee is a employee waged or not, employed for an indefinite time or not, employed by an organ of the organization in order to exert or to support the exertion of its functions, shortly any person by means of which the organization acts in accomplishing its purposes. (Combacau, J., Sur, S., *Droit international public*, Paris, Montchrestien, 2006, 738).

⁵ Bolintineanu, Al., Năstase A., Aurescu, B., *Contemporary International Law*, (Bucharest, All Beck Press, 2000), 104.

⁶ Considering all the employees, no matter the type of employment: for an indefinite or definite time or for a stage time and no matter the type of recruitment (local or international). For the year 2010, at the mentioned number we add 1450 employees who activated in frame of the United Nations Development Programme (UNDP) unregistered in the integrated administration system. At the same time, to these numbers we must add 189 more employees in leave without pay and 60 employees detached from other international organizations. (The Report of the UN General Secretary regarding the composition of the Secretariat: demographical data referring to the staff since September, 8th 2010 - A/65/350- http://www.un.org/french/documents/view_doc.asp?symbol=A/65/350)

⁷ Further, we will refer to the United Nations Organization by using the abbreviation UN.

⁸ Beștelu, R. M., *Intergovernmental International ...*, 202.

⁹ For example, the Circular of the UN General Secretary regarding the Employees' status, rights and obligations since November, 1st 2002.

(http://www.un.org/french/documents/view_doc.asp?symbol=ST/SGB/2002/13), The circular of the UN General Secretary regarding Special Stipulations related to the prevention of the exploitation and of the sexual abuses since March, 22nd 2005

(http://www.un.org/french/documents/view_doc.asp?symbol=ST/SGB/2003/13).

¹⁰ <http://www.un.org/fr/oaj/unjs/why.shtml>

employees consider their rights were disrespected and the organization regulations were not complied with. This system is considered to be the angular stone of the global effort meant to reinforce the principle of responsibility and of providing the fact that everybody is responsible for the way of accomplishment of the entrusted targets¹¹. At the same time, the access to this system is a fundamental right of all the UN employees.

Presentation of the new United Nations' system for settling the litigations between the organization and its employees.

In accordance with the Resolution of the UN General Assembly A/RES/61/261 in 30 April 2007 within the United Nations was established a new system in order to settle the internal disputes and disciplinary matters between Organization and its employees¹² designed to meet the current needs of the Organization and which became operational on 1 July 2009. The establishment of this system was based on the conclusions of several reports of the UN Secretary - General¹³, of the Panel on the Redesign of the UN system of administration of justice¹⁴, of the Advisory Committee on Administrative and Budgetary Questions¹⁵ what pointed out that the old system of administration of justice at UN became a slow, heavy, ineffective and lacking professionalism and that the system of administrative review has no longer corresponded to current needs of this important international Organization. Given these considerations and based on the premise that a transparent, impartial, independent and efficient system of administration of justice is essential for each of the employees of the Organization to be guaranteed a fair and equitable treatment in the performance of professional duties and taking into account the need to reform the management of human resources at the UN, the Organization has decided to establish a new, independent, transparent, professionalized, adequately resourced and decentralized system of administration of justice who comply the rules of International Law and the right to a fair trial and to ensure the implementation of rights and obligations of the employees but also to establish the liability for their actions. The way the new system was thought follows both the improvement of the UN employees' performances and the ones of the reports between them and the organization administration¹⁶.

According to the current regulations, within UN there are two procedures operating in relation to the management of the internal litigations and the disciplinary matters: an informal one and a formal one.

Therefore, UN employees are encouraged to try, at first, to settle the litigation by using the informal procedure, considering the fact that the litigation settlement by negotiation, mediation and other methods of this kind has a shorter extension and it is much easier than an informal procedure¹⁷. Considering that the amicable regulation of the litigations is a basic element of the system of justice administration, it proceeded to the reorganization of the Ombudsman Office for UN Secretariat that

¹¹ <http://www.un.org/fr/oaj/unjs/why.shtml>

¹² In the reports between the states, and also in the reports between other international law subjects, there may be contrary interests, misunderstandings or litigious problems. In order to design different states of misunderstanding that may appear in the international relations, the special literature and the documents in matter use a varied terminology, namely: legal dispute, litigation, crisis etc. in report to the seriousness of the misunderstanding state and its implications on the reports between the respective subjects.

(Popescu, D., Năstase, A., Public International Law, Bucharest, "Șansa" Publishing House, 1997, 320). The creation of the international organizations has determined the creation of the specific procedures of settling the legal disputes that may appear in the relations between the member states, between a member state and the organization as such, or between the organization and its employees. (Bolintineanu, Al., Năstase, A., Aurescu, B., Contemporary International Law, Bucharest, All Beck Press, 2000, 207).

¹³ A/61/342

¹⁴ A/61/205.

¹⁵ A/61/815.

¹⁶ http://www.un.org/french/documents/view_doc.asp?symbol=A/RES/61/261

¹⁷ <http://www.un.org/fr/oaj/unjs/informalres.shtml>

also serves all the UN funds and programmes, having three locations: Geneva, Vienne and Nairobi. Also, for the efficient materialization of the informal procedure, the organization considers, at the same time with the implementation of the new system of settling the litigations, mediation – as an important component of this type of procedure – that should be opened to all the parties placed in litigation.

In this sense, within the Ombudsman Office, it was instituted a Department of mediation in order to provide mediation services both to the UNO Secretariat¹⁸, and to the organization funds and programmes¹⁹.

The formal procedure of justice administrative contains a double degree of jurisdiction: a basic court named The United Nations Dispute Tribunal and an appeal court named The United Nations Appeals Tribunal, jurisdictions preceded, in some cases, by the existence of a prior procedure, namely the one of the hierarchical control.

Thus, if a UN employee considers he is prejudiced in one of his rights by an administrative decision and the litigation could not be settled amicably, he may contest the respective decision, by appealing to the formal procedure with the strict respect of the stags and the terms stipulated in this sense.

In a 60-day term from the date he was notified regarding the administrative decision by means of which he considers he was prejudiced, the employee must require a hierarchical control²⁰. This hierarchical control that lasts maximum 45 days (30 days for the headquarters in New-York) wants to identify if the contested decision was emitted with the respect of the regulations incident in the field. Within the UN General Secretariat, the hierarchical controls are made in the Hierarchical Control Group placed under the coordination of the Office of the Under-Secretary-General for Management, and the UN funds and programmes exert the hierarchical control in frame of their own administrative structures. The objective of this prior procedure is to give the administration the possibility to rectify certain errors when their existence is found or to suggest acceptable remediation measures and also to reduce the number of cases submitted to the formal contentious procedures.

A hierarchical control is not required if the contested decision regards the imposing of a disciplinary measure or if this decision was taken by the administration based on the notice of an expert or of a consultative body such as the Consultative Committee regarding the compensating requirements. In this case, the action may be directly submitted to the United Nations Dispute Tribunal²¹.

If they fail to reach an amicable agreement and the conclusions of the hierarchical control are not satisfying for the employee, he may submit an action the United Nations Dispute Tribunal²².

The solution of the United Nations Dispute Tribunal may be attacked by appeal at the United Nations Appeals Tribunal that is competent to judge the litigations for which the United Nations Dispute Tribunal crosses its competence, did not correspondingly exert the competence it was invested with or pronounced wrongly on a factual, legal or procedural element²³.

¹⁸ Mediation is an alternative for the judicial procedures, having the purpose to help the parties to amicably settle the litigation by means of mediation within the Department of mediation. It is a voluntary process involving the consent of the parties that, even if the process is at the jurisdictional courts, may require sending the cause to mediation, a situation where the process is suspended during the mediation development. There is also the possibility for the judge to suggest to the parties the use of the mediation, but he cannot impose this. (<http://www.un.org/fr/oaj/dispute/faq.shtml#faq6>)

¹⁹ http://www.un.org/french/documents/view_doc.asp?symbol=A/RES/61/261

²⁰ This term may be suspended during the appeal to the services of Ombudsman Office and of the Direction of mediation.

²¹ <http://www.un.org/fr/oaj/unjs/formalres.shtml>

²² According to the new system of the United Nations of settling the litigations between the organization and the employees – the UN Administrative Contentious Court will replace the consultative bodies of the old administrative system, the par appeal commissions and the par disciplinary committees and also other organs, if it is needed.

²³ <http://www.un.org/fr/oaj/unjs/formalres.shtml>

A new element brought by the changes regarding the system of settling the litigations between the organization and its members is given by the fact that an Office of Administration of Justice managed by an executive assigned by the UN General Secretary that will have the mission to coordinate the UN administration system of the intern justice²⁴ and to compete for the equitable, efficient and transparent functioning of the system²⁵.

Short comparison between the new and the old system of the United Nations litigations settlement between the Organization and its employees.

A comparative analysis of the two systems of justice administration spotlights the following aspects:

- if the old system was mainly financially administrated by the Management Department improved by taking decisions regarding the matters related to the human resources and the disciplinary questions, the new system is independent, being coordinated only by the Office of Administration of Justice²⁶.

- if, in the past, there was the United Nations Administrative Tribunal – established by Resolution 351 A (IV) of the UN General Assembly from November, 24th 1949, consisting of seven members of different nationalities assigned by the UN General Assembly for a four-year mandate renewable only once – that worked like an independent organ settling the complaints for disrespecting the stipulations of the work contracts of UN employees and whose decisions were definitive and with no appeal right²⁷, nowadays, there is a judicial system with two degrees of jurisdiction: the United Nations Dispute Tribunal and the United Nations Appeals Tribunal, in whose frame the judges act²⁸. The United Nations Dispute Tribunal²⁹ is the first instance court of the new internal system of justice administration in whose competence there are the actions introduced by UN active employees or by former employees against the administrative decisions³⁰ related to employment or against the decisions contracting the rights involved by the employee's quality in the United Nations system (for example, the lack of promotions or of selections, matters related to the job attribution, the refusal to renew the mandate, non-granting benefits and rights, firing and other disciplinary measures etc³¹). The court may be announced only after the requirement addressed to the General Secretary (actually, to the Hierarchical Control Group of the UN Secretariat or to the office that received such an attribution delegation for the UN funds or programmes) in order to accomplish a hierarchical control for those decisions that cannot be attacked directly at the Court.

²⁴ http://www.un.org/french/documents/view_doc.asp?symbol=A/RES/61/261

²⁵ Circular of the UN General Secretary regarding the organization and the mandate of the Office of justice administration - ST/SGB/2010/3 since April, 7th 2010.

(http://www.un.org/french/documents/view_doc.asp?symbol=ST/SGB/2010/3).

²⁶ <http://www.un.org/fr/oaj/unjs/oldnew.shtml>

²⁷ However, according to art. 12 of the Status of the Administrative Court of the United Nations, one of the parties could require the review of a decision if it was discovered a fact able to exert a decisive influence and that, before the pronouncement of the decision, had not been known by the Court or by the party demanding the review. The review could be required in a 30 days term since the date when the fact is discovered, but not later than a year since the decision is pronounced.

(http://untreaty.un.org/unat/FAQ_French.htm)

²⁸ <http://www.un.org/fr/oaj/unjs/oldnew.shtml>

²⁹ The UN Dispute Tribunal works at Geneva, Nairobi and New-York, having binds in all these locations.

³⁰ In the absence of an express definition of the phrase of administrative decision and by means of it we will understand any decision taken in the United Nations system, wither it is taken by the UN General Secretariat, by a UN mission, by a UN fund or programme, by a UN specialized institution or by other organism accepting the jurisdiction of the UN Dispute Tribunal.

(<http://www.un.org/fr/oaj/dispute/decisions.shtml>)

³¹ Art. 2 and 8 of the Status of the UN Dispute Tribunal.

(http://www.un.org/french/documents/view_doc.asp?symbol=A/RES/63/253)

The court consists of five permanent judges, 3 of them with full-time jobs³² and 2 of them with part-time job³³. The UN General Assembly temporarily decided to assign three more temporary judges in order to support the settling of the causes taken over from the old system of justice administration³⁴. The candidates for the judge job are nationals of different member states of UN that should enjoy a high moral consideration and justify at least ten years of experience in the administrative law field. The judges are assigned by the UN General Assembly from the list of the candidates recommended by the Council of the internal justice for a seven-year mandate, without the possibility to renew it. At the same time, at the expiring date of the mandate for a five years term they are forbidden to have a non-judicial job in the United Nations system³⁵. The employees and the administration may contest the decision of the United Nations Dispute Tribunal at the United Nations Appeals Tribunal³⁶. Beside the competence to pronounce regarding the decisions of the United Nations Dispute Tribunal, this also has the competence to pronounce regarding the decisions taken by the permanent Committee acting in the name of the Joint Committee of the Common House of Pensions of the United Nations staff and the leaders of other organisms and entities acknowledging its competence³⁷. The United Nations Appeals Tribunal consists of seven judges³⁸ working in panels of 3 judges. The decisions of this court are final and binding for both of the parties. The main headquarters is in New-York, where there is also the bind, but it also has secondary headquarters in Geneva, Nairobi.

- if, in the past, the par appeal commissions and the par disciplinary committees formulated only recommendations that could be considered or not by the UN General Secretary, now the decisions pronounced by the two courts are binding for the parties³⁹.

- if, according to the old system, the employees could attack the decisions of the General Secretary at the UN Administrative Tribunal, now the UN employees and administration may attack a decision of the United Nations Dispute Tribunal at the United Nations Appeals Tribunal⁴⁰.

- in the past, the General Secretary could impose a disciplinary measure only after a recommendation formulated by the Par Discipline Committee, a situation totally different from the current one, when it directly has this possibility⁴¹.

- if, in the past, legal assistance was provided to UN employees wanting to contest an administrative decision or a disciplinary by volunteer appearing on the Counsellor List, juridical counselling is currently provided by jurists with acknowledged professional competences working within the Office of Juridical Assistance of the UN staff settled within the Office of Administration of Justice on July, 1st 2009 by the materialization of the Resolution of the General Assembly from December, 24th 2008⁴². But we should say that the appeal to the juridical assistance provided by the

³² Thomas Laker (Germania), Vinod Boolell (Maurice), Memooda Ebrahim-Carstens (Botswana). (<http://www.un.org/fr/oaj/dispute/judges.shtml>)

³³ Goolam Hoosen Kader-Meeran (Anglia), Coral Shaw (New Zealand). (<http://www.un.org/fr/oaj/dispute/judges.shtml>)

³⁴ Jean-François Cousin (France), Nkemdilim Amelia Izuako (Nigeria), Marilyn J. Kaman (USA). (<http://www.un.org/fr/oaj/dispute/judges.shtml>)

³⁵ Art. 4, paragraph 6 of the Status of the UN Dispute Tribunal.

³⁶ <http://www.un.org/fr/oaj/dispute/>

³⁷ The International Civil Aviation Organization, the International Sea Organization, the Supporting Agency of the United Nations for the Refugees from Palestine in the Middle East and the International Authority of the Submarine Territories. (<http://www.un.org/fr/oaj/appeals/jurisdiction.shtml>).

³⁸ Jean Courtial, Court President (France), Sophia Adinyira, Court Vice-president (Ghana), Kamaljit Singh Garewal, Court Vice-president (India), Mark P. Painter (USA), Inés Weinberg de Roca (Argentina), Rose Boyko (Canada), Luis María Simón (Uruguay)

³⁹ <http://www.un.org/fr/oaj/unjs/oldnew.shtml>

⁴⁰ <http://www.un.org/fr/oaj/unjs/oldnew.shtml>

⁴¹ <http://www.un.org/fr/oaj/unjs/oldnew.shtml>

⁴² <http://www.un.org/fr/oaj/unjs/oldnew.shtml>. Willing to support the UN employees (including the former employees) who have the intention to contest an administrative decision or a disciplinary measure taken against them, the UN General Assembly settled the Office of juridical assistance of the UN staff formed of qualified jurists full-time

jurists of the Office is not mandatory for the UN workers contesting a certain disciplinary measure or decision, as they have the possibility to require juridical counselling also outside UN but this time there is the mandatory feature of personally supporting the costs. Also, there is the possibility for the personal representation in the procedures within the internal system of justice administration. The juridical counselling requirement may be accomplished at any moment of the litigation, even before the litigation occurs, and the juridical assistance consists of granting notices regarding the juridical validity of the employees' pretensions and indicating the options offered by the legal regulations. If an employee decides to announce the formal justice system, the Office will determine whether there is the possibility to support and represent it during the entire time of the procedures⁴³.

- if, in the old system, the Ombudsman Office worked only in New-York, according to the new regulations it was reorganized, being offered several locations and including a Department of mediation⁴⁴.

- if, in the past, the judges of the UN Administrative Tribunal were assigned by the member states and chosen by the General Assembly without going through a special selecting procedure, nowadays, in order to be a judge at the United Nations Dispute Tribunal and the United Nations Appeals Tribunal, one must prove a professional experience of 10, respectively 15 years and the candidatures are evaluated by the Internal Justice Council, an independent organism⁴⁵, before being recommended to the General Assembly in order to be assigned⁴⁶.

- if, in the past, an employee wanted to officially contest a decision, in the first place he had to demand a review of the administrative decision that was entrusted to the Administration Office of the human resources, nowadays the employee wanting to contest an administrative decision has to demand, at first, a hierarchical control made by the Hierarchical Control Group within the Office of the Under-Secretary-General for Management⁴⁷.

- if, in the past, the procedure of reviewing the administrative decisions was criticisable based on the existence of a long time, nowadays the hierarchical control is accomplished in strict terms⁴⁸.

employee who develop their activity both at the central headquarters of the organization in New-York, but also in Addis-Abeba, Beirut, Geneva and Nairobi. The office works independently from the syndicates of the UN staff and administration. In exerting their attributions, the employees of this Office must respect the legal, deontological and professional stipulations and they have to respect a behaviour code review on March, 10th 2010, and they can claim or accept no kind of material compensation or no other type of payment (in addition to the wage received for the activity they performed in frame of the Office) from their clients or from other parties in exchange for the services of juridical counselling.

(<http://www.un.org/fr/oaj/legalassist/>)

⁴³ <http://www.un.org/fr/oaj/legalassist/>

⁴⁴ <http://www.un.org/fr/oaj/unjs/oldnew.shtml>

⁴⁵ The Council of the intern justice is a new organ having a very important role in the UN system of justice administration composed of three independent experts and two employees whose main target consists of presenting recommendations to the UN General Assembly regarding the candidates to the judge job at the UN Administrative Contentious Court and at the Appeal Court of the United Nations. At the same time, it received the mandate to elaborate the Behaviour Code for judges and to communicate its viewpoint regarding the implementation of the new system of justice administration in frame of UNO. (<http://www.un.org/fr/oaj/unjs/internal.shtml>)

⁴⁶ <http://www.un.org/fr/oaj/unjs/oldnew.shtml>

⁴⁷ <http://www.un.org/fr/oaj/unjs/oldnew.shtml>

⁴⁸ <http://www.un.org/fr/oaj/unjs/oldnew.shtml>. The hierarchical control must be demanded in a 60-day term since the employee was notified regarding the decision he contests, the answer of the UN administration to the demand of accomplishing a hierarchical control must be accomplished in a 30 days term for the employees developing their activity at the UN central headquarters and a 45 days term for the employees not developing their activity at the UN central headquarters, a 90 days term – since the employee received the answer for the requirement of accomplishing the hierarchical control or since he should have received this answer – for introducing the action on the role of the UN Dispute Tribunal, the contestation of the decision of the UN Dispute Tribunal at the UN Appeals Tribunal must be accomplished in a 45 days term since the employee received the decision.

(<http://www.un.org/fr/oaj/unjs/timelines.shtml>).

Conclusions.

Created in 1945 and applied in a time when UN counted only a few hundred employees, its system of internal justice has been often criticized and made the object of several reforms, across the years. Being governed by the principle of depleting the internal appeals, the system of internal justice that worked until 2009 contained two permanent bodies – the Par Appeal Commission and the Par Discipline Commission with headquarters in New-York, Vienne and Nairobi – and the Administrative Tribunal of the United Nations with the headquarters in New-York and it crossed, with no doubt, a legitimacy crisis.

The litigations were solved by the two par commissions formed of employees activating on volunteering principles and that owned neither the expertise nor the impartiality needed for the settling of the entrusted cases. Also, the appearance of the interest conflicts was frequent. The cases presented to the par commissions were tergiversated also up to four years, getting to situations where the plaintiffs left the UN system for another work place even before being given the final decision. The legitimacy crisis had got so far that they spoke about the existence of an apparent system of internal justice administration within UN. A general climate of scepticism often encouraged the UN employees to elude the organization system of settling the litigations⁴⁹.

At the same time, they got to a paradoxical situation: while UN gave lessons to some countries for the way of respecting the civil rights, it was proved that the Organization did not apply its own principles in the matter of the human rights at the internal level, as there were no independent judicial courts or appeal courts at its level⁵⁰. No doubt, all of these spotlighted the need to reform the system of justice administration within UN, a change that would be accomplished in the context of the ensemble reform of the entire organization. Being initiated in 1997 by the former General Secretary of UN, Kofi Annan, the UN reform – that was necessarily imposed considering the fact that the organization was settled in 1945 in a historical and political context totally different from the one at the end of the 90s – it refers to major changes at the institutional and operation level in order to increase the organization efficiency, considering the numerous challenges faced by the world in the 21st century. In this context, at the World Summit of the United Nations in 2005⁵¹ the world leaders decided to develop many analyses on the UN operation and organization.

As a consequence of this decision, there were elaborated several considered reports – historical reports – that outlined a modern vision reforming on the administration of the UN intern problems. Regarding the examination of the justice administrating way in UN, in July 2006, the Redesign Group formed of judicial experts outside the Organization presented its conclusions regarding this problem that spotlighted the fact that the system was old, had different dysfunctions, was inefficient and had deficiencies regarding its independence. Considering these aspects, the Group recommended the creation of a completely new, professional, independent and decentralized system.

The UN General Secretary received with satisfaction this report that was presented at the first session of the General Assembly in 2007, after tight consultations with the Secretariat staff and after doing some math regarding the total cost of implementing a new system⁵². The way the current system was thought creates the premises for implementing a real system of justice administration in UN and contributes to the creation of a new culture of responsibility, proceeding to the removal of the par commissions and containing two procedures regarding the administration of the internal litigations and disciplinary matters: an informal one and a formal one. The informal procedure is

⁴⁹ <http://www.ledevoir.com/societe/justice/150315/repenser-la-justice>

⁵⁰ <http://www.ledevoir.com/societe/justice/150315/repenser-la-justice>

⁵¹ Developed between September, 14th – 16th 2005 at the UN headquarters in New-York. (http://www.amosnews.ro/2005/Summit_ul_Mondial_al_Natiunilor_Unite_cea_mai_mare_reuniune_a_liderilor_lumii-109039)

⁵² <http://www.un.org/sn/spip.php?rubrique4>

reinforced around the ombudsman and the mediation⁵³, and the formal one contains a double degree of jurisdiction, being distinguished by the settlement of an appeal court for reviewing the decisions pronounced firstly by the UN Dispute Tribunal.

The new system of internal justice offers a rare occasion of reinforcing the employees' rights⁵⁴, being at the same time meant to allow the organization to accomplish its missions as efficiently as possible, respecting at the same time its staff's rights. At the same time, we must say that the analyses of some famous specialists accomplished on the way the current system was thought also determined the formulation of certain opinions supporting that, if there is a response as it is expected and the system pertinently responds to the current needs of the organization, in ten years the new system of justice administration within UN will have a larger sphere regarding the competence, that will not be limited only to the work litigations and administrative relations, but it will extend towards the civil litigations and, in time, there is the possibility to transform it in a supreme world court⁵⁵.

How much this fact will be expressed is something that remains to be found out in the future, but it is certain that the system of justice administration in UN will not be able to operate efficiently in the absence of a real reform of the entire international institutional edifice, quite hard to accomplish, considering significant organizing and financing problems⁵⁶. Although, the creation of this system has become imperative, considering the UN decisive actions for elaborating, promoting and developing the international norms in the field of human rights and of the realities of the 21st century⁵⁷.

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⁵⁴ <http://www.unspecial.org/UNS672/t31.html>

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