



## International Administrative Law & Dispute Resolution

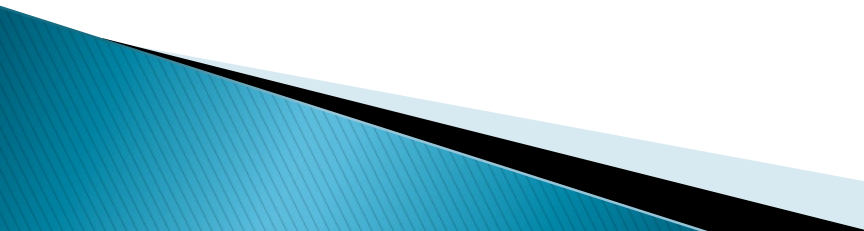
Dražen Petrović

Former Registrar, ILO Administrative Tribunal

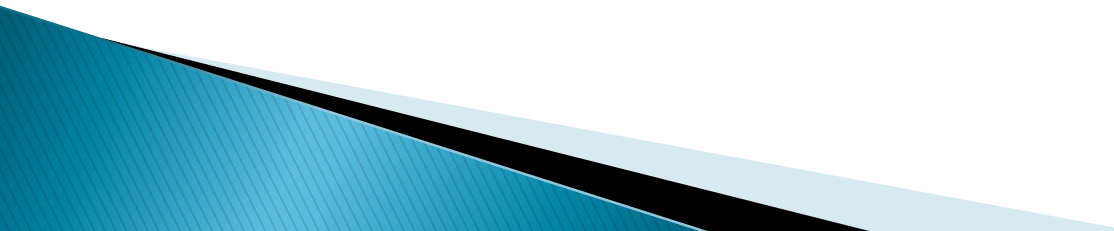
# Why alternative dispute mechanisms?

- ▶ Operational necessity not a simple choice
- ▶ Independence of international organizations
- ▶ Immunity from national jurisdiction – privileges and immunities (bilateral or multilateral treaties, national law)
  - Acta iure imperii v. acta iure gestionis – not applicable to the IOs
  - Swiss Federal Tribunal Judgment 1/2004 – CERN and ECHR case n° 1742/05
- ▶ Operation in various States – equality of treatment
- ▶ Language

# Types of disputes

- ▶ Labour disputes – staff members
  - ▶ Disputes with non-staff – consultants, various types of collaborators
  - ▶ Commercial disputes – construction, supplies, services
  - ▶ Disputes with States
  - ▶ –disputes with other international organizations
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# Applicable law

- ▶ International administrative law v. law of international civil service
  - ▶ A comprehensive set of internal rules: staff rules and regulations, internal instructions and individual decisions
  - ▶ Law of contract, including general conditions
    - commercial disputes
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# Why labour issues?

- ▶ Access to justice: no power given to another organ; necessity to provide remedies
  - Article 8 of the UDHR:
    - Everyone has the right to an effective remedy by the competent national tribunals for acts violating the fundamental rights granted him by the constitution or by law.
- ▶ Self-contained system of law – internal law of international organizations (labour law):
  - ILC: «the internal law of an international organization cannot be sharply differentiated from international law. At least the constituent instrument of the international organization is a treaty or another instrument governed by international law; some further parts of the internal law of the organization may be viewed as belonging to international law. “
- ▶ Equality of treatment
- ▶ Status of officials in host State
- ▶ Exclusive or parallel jurisdiction?

# International Administrative Tribunals: how many?

- ▶ ILO
- ▶ UN system of justice
- ▶ International financial organizations and development banks (WB, IMF, EBRD, AsDB, AfDB, IADB, Islamic DB, Black Sea Trade and Development Bank, BIS)
- ▶ OECD
- ▶ Council of Europe, European Stability Mechanism
- ▶ OAS, African Union, Caribbean Community, Mercosur
- ▶ NATO, Commonwealth, UNIDROIT, Francophonie, GAVI, OPEC, OPEC Fund
- ▶ International Centre for Migration Policy Development (ICMPD)
- ▶ Others???

# ILOAT « clients » – UN system

- International Labour Organization (ILO), including the International Training Centre of the ILO (ITCILO)
- World Health Organization (WHO), including the Pan American Health Organization (PAHO)
- International Telecommunication Union (ITU)
- United Nations Educational, Scientific and Cultural Organization (UNESCO)
- Food and Agriculture Organization of the United Nations (FAO), including the World Food Programme (WFP)
- International Atomic Energy Agency (IAEA)
- World Intellectual Property Organization (WIPO)
- World Tourism Organization (UNWTO)
- United Nations Industrial Development Organization (UNIDO)

# ILOAT « clients » – other IOs

- World Trade Organization (**WTO**)
- Inter-Parliamentary Union (IPU)
- International Criminal Police Organization (**Interpol**)
- International Federation of Red Cross and Red Crescent Societies
- International Criminal Court (**ICC**)
- Organisation for the Prohibition of Chemical Weapons (**OPCW**)
- International Organization for Migration (**IOM**)
- Intergovernmental Council of Copper Exporting Countries (CIPEC) (until 1992)
- African Training and Research Centre in Administration for Development (CAFRAD)
- International Center for the Registration of Serials (CIEPS)
- International Office of Epizootics (OIE)
- International Union for the Protection of New Varieties of Plants (UPOV)
- Customs Co-operation Council (**CCC**)
- International Service for National Agricultural Research (ISNAR) (until 14 July 2004)
- International Centre for Genetic Engineering and Biotechnology (ICGEB)
- International Hydrographic Organization (IHO)
- Energy Charter Conference
- Preparatory Commission for the Comprehensive Nuclear-Test-Ban Treaty Organization (CTBTO PrepCom)
- International Plant Genetic Resources Institute (IPGRI)



# Other IOs ...

- International Institute for Democracy and Electoral Assistance (International IDEA)
- International Olive Council (**IOC**)
- Advisory Centre on WTO Law
- African, Caribbean and Pacific Group of States (**ACP Group**)
- Agency for International Trade Information and Cooperation (AITIC) International Organization of Legal Metrology (OIML)
- International Organisation of Vine and Wine (**OIV**)
- South Centre
- International Organisation for the Development of Fisheries in Central and Eastern Europe (EUROFISH)
- International Bureau of Weights and Measures (**BIPM**)
- ITER International Fusion Energy Organization (**ITER Organization**)
- **Global Fund** to Fight AIDS, Tuberculosis and Malaria
- International Centre for the Study of the Preservation and Restoration of Cultural Property (ICCROM)
- Global Crop Diversity Trust (Crop Trust)
- Consortium of International Agricultural Research Centers (CGIAR Consortium)
- Centre of Excellence in Finance (CEF)
- Global Community Engagement and Resilience Fund
- **Green Climate Fund** (GCF)
- ASEAN+3 Macroeconomic Research Office (AMRO)
- Global Green Growth Institute (GGGI)
- International Cocoa Organization (**ICCO**)
- **Pacific Community** (SPC)
- Global Water Partnership Organisation (GWPO)

# European organizations

- ▶ European Organization for Nuclear Research (CERN)
- ▶ European Organisation for the Safety of Air Navigation (Eurocontrol)
- ▶ European Patent Organisation (EPO)
- ▶ European Southern Observatory (ESO)
- ▶ European Molecular Biology Laboratory (EMBL)
- ▶ European Free Trade Association (EFTA)
- ▶ Court of Justice of the European Free Trade Association (EFTA Court)
- ▶ Surveillance Authority of the European Free Trade Association (ESA)
- ▶ European and Mediterranean Plant Protection Organization (EPPO)
- ▶ European Telecommunications Satellite Organization (EUTELSAT)

# ILOAT: Created in 1927

Article II of the Statute: The Tribunal shall be competent to hear complaints alleging non-observance, in substance or in form, of **the terms of appointment of officials** of [the International Labour Office], and of such provisions of **the Staff Regulations** as are applicable to the case.

# ILOAT Judges



7 Judges, elected for  
5 years, renewable

## **Credibility:**

- Professional – supreme court judges
- Political – elected by the International Labour Conference

# Judges: professional judges or other specialists

Jan Paulsson

Edith Brown Weiss

Francisco Orrego

Vicuña James

Crawford

Luigi Condorelli

Taslim Olawale Elias

Geoges Abi-Saab

Stephen M. Schwebel

Ahmed El-Kosheri

Abdul G. Koroma

Mónica Pinto

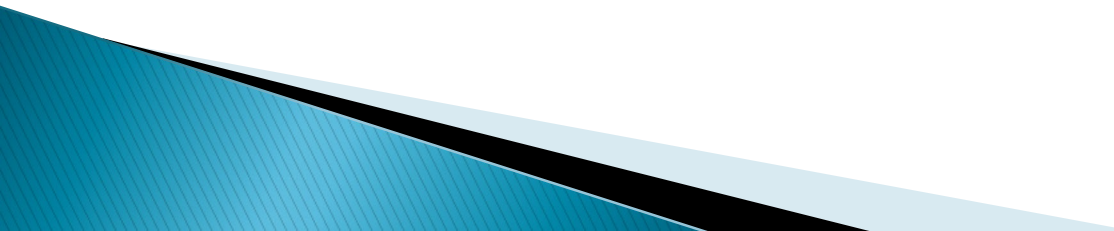
Prosper Weil

Eduardo Jiménez de

Aréchaga

Pierre Pescatore

# Types of cases – over 4,700 judgments

- ▶ End of contract (non-renewal, termination)
  - ▶ Entitlements (allocations);
  - ▶ Medical reimbursement
  - ▶ Harassment
  - ▶ J. 2232 – OPCW Director-General
  - ▶ J. 2757 ICC Prosecutor
  - ▶ J. 3359 and 3859 – Two ICC Judges
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# Sources of law

- Contract/terms of appointment
- Applicable staff rules and regulations
- Collective agreements
- General principles of law
- Practice

NO:

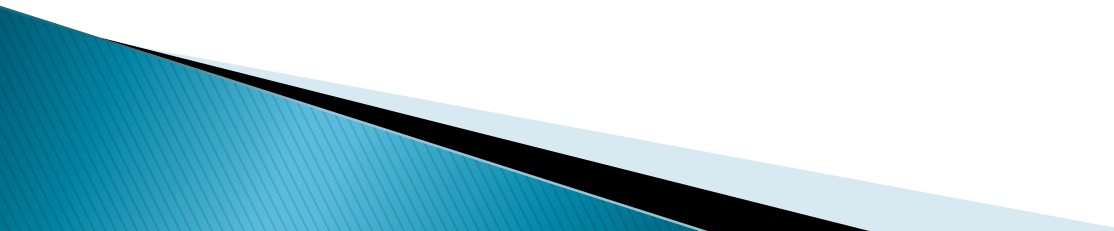
- ▶ National law – unless specific reference (J.1311(15))?
- ▶ Rules of other organizations?
- ▶ Other rules of international law?

# Procedure

- ▶ Complainants: acting and former officials, heirs
- ▶ Representation: «The complainant may plead her or his own case or appoint for the purpose a representative who shall be a serving or former official of an organization which has recognized the Tribunal's jurisdiction or of the United Nations, or a member of a bar in a Member State of one of those organizations, or, with leave from the President, someone who is qualified to deal with issues relating to the international civil service.» (Art. 5(1) of the Rules)
- ▶ Internal remedies exhausted (Article VII (1) of the Statute)



# Procedure – cont.

- ▶ Written procedure (Rules of the ILOAT): four set of submissions (complaint, reply, rejoinder and surrejoinder; additional submissions)
  - ▶ Languages – English and French
  - ▶ Oral proceedings – hearing of parties or witnesses?
  - ▶ Preparation of judgments
  - ▶ Deliberation of judges
  - ▶ Public delivery
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**Thank you!**

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