

BELARUS

- **Do you share our analysis concerning the current state of the settlement of disputes of a private character to which an international organization is a party?**

Belarus generally agrees with the analysis presented by the delegation of the Netherlands. Taking into account that Belarus is the host to the Executive Committee of the Commonwealth of Independent States (CIS) and to its Economic Court, to the Court of the Eurasian Economic Union, as well as to a number of regional and country offices of other international organizations, Belarus pays special attention to the matter of ensuring the favourable terms and conditions for these international organizations and at the same time to the respect for fundamental rights of those who have a private-law relations with these organizations.

- **What is your experience with the settlement of disputes of a private character to which an international organization is a party in your legal system?**

The Ministry of Foreign Affairs of the Republic of Belarus has no information about disputes of a private law character against international organizations, which could have been settled so far in the domestic courts of the Republic of Belarus.

However, according to the Economic Procedural Code of the Republic of Belarus judicial immunity of international organizations shall be determined by international treaties of the Republic of Belarus. The waiver of judicial immunity should be carried out in accordance with the legislation of the relevant State or the rules of international organization. In case of the immunity waiver courts shall consider economic cases in the Republic of Belarus with respect to the rules prescribed by this Code (Art.239). The Civil Procedure Code of the Republic of Belarus regulates only questions of privileges and immunities of individuals, including officials of international organizations.

The bilateral host agreements of the Republic of Belarus grant to the international organizations functional (restrictive) immunity in the majority of cases.

Thus, the host Agreement between the Government of the Republic of Belarus and the Eurasian Development Bank sets that the Bank and its Representative office shall be immune from any prosecution, except the cases not related to the exercise of its powers or to the implementation of these powers (Art.3). The host Agreement of the CIS Economic Court prescribes that the property of the Economic Court, located in the territory of the Republic of Belarus, shall be immune from search, seizure or other forms of legal process, except in cases when:

a) against the Economic Court or its official a civil action was brought for damages arising from an accident caused by a vehicle belonging to the Economic Court or the official or operated on behalf of the Economic Court, if the loss is not compensated by insurance payments;

b) against the Economic Court or its official a civil action was brought for compensation for damage caused to life and health of a citizen injured by an act or omission of the Economic Court or its official (Art.4).

In some cases, the immunity of the organizations is rather absolute, nevertheless relevant agreements allow for a waiver of such immunity.

For example, the host Agreement of the Eurasian Economic Court provides that the property and assets of the Court shall be immune from any form of administrative or judicial intervention, except in cases where the Court itself waives the immunity (Art.5).

Concerning labour relations between the Eurasian Economic Union's bodies and its employees, we would like to note that there is an advisory opinion of the Eurasian Economic Court on this matter, which provides in particular that, the employees of the Eurasian Economic Commission have a practical possibility for settlement of probable labour disputes and other conflicts through the legal tools that have been created in this Commission by analogy with the practice of the other international organizations. Thus, paragraph 21 of the Regulation on the qualifying evaluation of the employees of the Eurasian Economic Commission, approved by the decision № 98 of the Council of the Eurasian Economic Commission of 12 November 2014, provides the employees with the right to appeal the evaluation results in accordance with the legislation of the host State, as well as the right to apply to the commission on ethics at the Eurasian Economic Commission.

- **In particular, are there examples in your legal system of perceived shortcomings in the settlement of disputes of private character to which an international organization is a party leading claimants to turn to the member States?**

The Ministry of Foreign Affairs of the Republic of Belarus has no information about an appropriate case law. However, in our opinion certain shortcomings with the execution of a judicial decision may arise out because of the controversial provisions of the agreements.

For instance, the host Agreement between the Government of the Republic of Belarus and the CIS Executive Committee, defines the right of the Committee to be respondent in the court (Art.2) but at the same time confers to the Committee's property the immunity from search, requisition, confiscation, expropriation, confiscation or any other form of interference, whether by executive, administrative, judicial and other actions (Art.7).

- **Do you consider that the strengthening of the settlement of disputes of a private character to which an international organization is a party merits attention?**

Belarus agrees that this issue merits attention. We believe that the basic mechanism for the settlement of disputes of a private character to which an international organization is a party shall be laid in the relevant bilateral agreement between State and the international organization. Such mechanism should reflect the generally accepted international practice. However, taking into account specific features of the organizations, categories of disputes, jurisdictional peculiarities of States and other circumstances, case-by-case approach could supplement such basic mechanism.

- **Specifically in respect of settlement of private claims in UN peace operations, how do you see the merits of the possible measures described above?**

Taking into consideration that the settlement of private claims in UN peace operations is interconnected with a number of complicated issues, Belarus finds that the measures proposed by the Dutch delegation could be useful for the settlement of the appropriate claims.

However, these measures should be further examined, particularly in relation to sensible increase in budgetary expenditure of the relevant UN peace operation in the case of establishing a standing claim commission or to possible difficulties with implementation of the Ombudsperson's recommendations in the case if it would be established.