

## DENMARK

- **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?**

As Denmark has noted on 23 October 2014 in the Sixth Committee of the UN General Assembly on behalf of the Nordic Countries, the issue of settlement of disputes of a private character to which an international organisation is a party is gaining increasing importance. This is particularly true with regard to the dispute settlement procedures of UN peace operations which often do not seem entirely adequate, as is also noted in the analysis at hand. Denmark thus shares the view that there is room for further reflection on whether the present system and procedures are adequate to handle legitimate claims from private individuals both with regard to private claims arising from peacekeeping operations and from other operational activities of international organisations.

- **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 Danish Ministry of Foreign Affairs only has knowledge of one case (U.2000.478.Ø) in which the plaintiff attempted to sue an international organisation (UNICEF), on the basis that this organisation had allegedly failed to pay for a consignment of clothes and shoes delivered to it by the plaintiff.

With reference to article VII, para 29, litra a, in the 1946 Convention on the Privileges and Immunities of the United Nations in combination with article 3 of the 1983 Agreement between the United Nations and Denmark relating to the headquarters in Copenhagen of the Integrated Supply Centre of UNICEF the High Court of Eastern Denmark found that UNICEF enjoyed immunity with regard to civil disputes as the one at hand. On this basis it rejected the case.

- **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?**

We have come across no such examples.

- **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?**

Reference is made to question 1.

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

Denmark agrees that there is merit in considering whether the establishment of standing claims commission at the beginning of UN operation as originally envisaged by the SOFA would ensure that claimants have access to an impartial settlement mechanism. This presupposes that the substantive rules on UN responsibility adequately reflect the complex and highly volatile environment in which UN peacekeeping missions are undertaken.

Although Denmark is currently not supporting changing the general rules of immunity before domestic courts, the possibility of waiving immunity of the Organization in selected cases may also be considered in certain cases. Again, however, it is important to keep in mind that there are inherent risks in situations of conflict and instability and that it is of paramount importance not to jeopardize the effective and independent functioning of UN peace operations.

Finally, Denmark welcomes the further elaboration of thoughts regarding a possible ombudsinstitution which could consider complaints from individuals arising from the conduct of a peace operation.