

## HUNGARY

- **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?**

Hungary generally agrees with the analysis concerning the settlement of disputes of a private character to which an international organisation is a party. Taking into consideration that this issue is gaining importance, we are open to a discussion of these questions.

- **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?**
- **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?**

In Hungary the immunity of international organisations may also raise questions concerning the fundamental rights of private characters.

In accordance with a case between an international organisation, whose head office is located in Hungary (Regional Environmental Center for Central and Eastern Europe) and its employee, the Constitutional Court of Hungary examined the relation between international agreements concerning immunity of an organisation and fundamental rights of private character. The Court stated that based on the agreement between the Government of Hungary and the international organisation, employees have no access to remedy in their disputes against their employers.

According to paragraph (1) of Article XVIII of the Fundamental Act of Hungary *“everyone shall have the right to have any charge against him or her, or his or her rights and obligations in any litigation, adjudicated within a reasonable time in a fair and public trial by an independent and impartial court established by an Act.”*

Based on this declaration, the Constitutional Court of Hungary found that if an international organisation did not expressly waived its immunity from jurisdiction of national courts in an employment dispute, then the national court shall examine if there are any other effective procedures guaranteed to the employee of the international organisation to lodge his/her claim.

The jurisdiction of national courts is excluded if and only there are other effective solutions to settle disputes between international organisations and its employees.

- **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?**

In view of the continuously growing number of international organisations and multiplication of their activities, Hungary considers that the strengthening of the settlement of disputes of a private character to which an international organisation is a party merits attention in order to ensure justice for those who work to reach the goals of these organisations, bearing also in mind the immunities of international organizations established in international law.

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

Hungary fully agrees that this issue merits attention.

In certain UN missions we also experienced that the respective sending nation itself settles the claim and the UN only gets a notification, but it is not involved in the actual settlement.

Therefore the aspect which is not described in the paper is that it could be discussed whether what the official standpoint of UN is with regard these settlements of claims, and whether the sharing of costs would seem reasonable between the UN and the nation which effectively caused the damage.

Another point is that we do not think that the waiving of immunity of the Organisation itself would be a good solution. Just because the CPIUN allows the waiver of immunity for UN officials, from that it does not follow that the same can be applied for the Organisation.