

MEXICO

- **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?**

Yes.

- **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?**

Such cases normally involve employment claims. In general, whenever the jurisdictional immunity of the Organization is provided in a juridical instrument signed by the Mexican Executive Branch and approved by the Mexican Senate, the Office of the Legal Adviser conveys commentaries to the labor boards in charge of deciding the case. Such commentaries on the applicable international law to the international organization involved are transmitted solely for the consideration of the board. Mexican labor boards respect such immunity and usually dismiss such lawsuits.

Plaintiffs who are affected resort to federal courts to strike down the dismissal of the labor boards. According to case law of the Mexican Supreme Court, an international organization will not enjoy immunity from jurisdiction for acts carried out in its private capacity. Conversely, immunity from jurisdiction will be recognized in such cases where international organizations act in official capacity.

Given that labor contracts between an international organization and locally employed staff are considered acts carried out in private capacity, federal courts consider there is no immunity from jurisdiction in such cases and remand them to the labor boards for its adjudication. However, Funds, Programmes and Specialized Agencies of the UN system do not recognize jurisdiction exercised by Mexican courts, arguing that the Convention on the Privileges and Immunities of the United Nations (applicable by the Headquarters Agreement) enshrines an absolute immunity. Therefore, it is common that the court renders a default judgment that cannot be executed, due to the immunity from execution.

In this regard, attention has been recently paid to the existence of alternative mechanisms for settlement of disputes within the international organizations legal framework.

Finally, in one case involving a civil dispute to which an international organization was a party, the Office of the Legal Adviser conveyed commentaries on the applicable international law and the lower court dismissed the case arguing the immunity of the international organization. However, the court of appeals considered that the lower court had to analyze thoroughly its jurisdiction over the case and determine whether there was a reason to dismiss it. Therefore, the case was sent back to the lower court for further analysis. Such lower has not decided whether or not it has jurisdiction over the matter.

- **In particular, are these 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 run to the member States?**

No.

- **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?**

Yes, especially due to domestic and international legal developments on this respect.

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

The ways to strengthening such mechanisms are correct since they would assure with greater weight an accurate settlement of private law claims in those respects.