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TIPS AND INFORMATION NEWSLETTER

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UN Justice Reform Update

What is the status of the UN Justice Reform? The new system, originally scheduled for operation beginning in January 2009, consists of two (2) separate Tribunals staffed with professional judges: the United Nations Dispute Tribunal which will hear and decide the initial appeal of the decision, and be able to issue binding orders. The UNDT replaces the current system of review and recommendations by the peer-review Joint Appeals Board system. Appeals from decisions of the UNDT may be lodged with the United Nations Appeals Tribunal (UNAT), the latter replacing the UN Administrative Tribunal (UNAT).

Over the summer, the five-member Internal Justice Council continued working on the UN Justice Reform. The Council has a four-year mandate to make ongoing review and recommendations about the new system to the General Assembly, and to oversee the recruitment of judges for the tribunals. It advertised for positions and received some 230 applications from 54 Member States. It was expected to interview short-listed candidates in September and to make recommendations to the General Assembly for appointment. Since the implementation of the new system is delayed, it is doubtful whether interviews and offers for appointment will be extended any time soon. Indeed, the two draft statutes providing for the legal basis for the two tribunals have not yet been adopted. The Council expects to make recommendations to the General Assembly this month.

An interesting question arises as to whether international organizations in the UN family which also utilize the peer-review Joint Appeals Board system but will not be subject to the new system (UNIDO, FAO and IAEA for example) will nonetheless embark on internal justice reforms. Some of these organizations subscribe to the jurisdiction of the ILO Administrative Tribunal. Given the indictment of the Joint Appeals Board system by the Redesign Panel (2006), which included a judge from the ILOAT, some reform should be expected and called for by staff representatives. The ILOAT has held that the right of appeal is fundamental and that the appeal process itself should be of the highest standard.

"The integrity of the internal appellate process is of fundamental importance to the proper functioning of the international civil service. Like the process before the Tribunal itself, it must be free of any taint of fraud or abuse of power. If mere delay in the completion of an internal appeal is enough to vitiate the process, how much more will that be the case where the process is corrupted at its very source by an attempt to keep staff members from exercising

their legal rights. The Tribunal asserts unhesitatingly that intimidation or threats of reprisal in such circumstances will be severely sanctioned. Indeed, there is a positive obligation on the part of the administration of every international organisation to assist staff in the exercise of their recourse and to place no obstacle in their way."

Judgment No. 2282, consideration 11.

The Tribunal holds its 106th Session from 27 October to 14 November 2008, and will announce its decisions in public in Geneva on Wednesday 4 February 2009.

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