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Problems surrounding the legal status of international civil servant: the United Nations as a model

الإشكالات المحيطة بالمركز القانوني للموظف الدولي: منظمة الأمم المتحدة أنموذجا

ZAADI Mohamed Djelloul[1] *.

[1] University Akli M'hand Oulhadj-Bouira, Algeria.

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Abstract

The human element constitutes the foundation of the international organization, according to the words of a large part of specialists in the field of international administrative law. Indeed, the international organization, like other countries, needs an administrative apparatus that conducts its daily affairs and responds to the various needs of the States parties to it, and even more than that, the international civil servant has political tasks in a way that is revealed by the statute and administrative regulations of the United Nations staff, which show that the Secretary-General of the United Nations Organization, as the highest official in the administrative structure of the international organization, he holds political functions that amount to participation in resolving conflicts that may arise between States.

In view of the importance of the position of the international civil servant in the international organization, the latter has paid special attention to organizing the legal status of the international civil servant in its context, specifying precisely the duties entrusted to him until the conduct of the affairs of the organization on an ongoing basis, and on the other hand showing the rights he enjoys, whether on the professional side, or even personal.

الكلمات المفتاحية:

الموظف الدولي، المنظمات الدولية، الحقوق والواجبات، النظامان الأساسي والإداري لموظفي الأمم المتحدة، القانون الدولي الإداري.

ملخص

يشكل العنصر البشري ركيزة المنظمة الدولية على حد تعبير جانب كبير من المختصين في مجال القانون الدولي الإداري. وبالفعل فإن المنظمة الدولية تحتاج كغيرها من الدول إلى جهاز إداري يقوم بتسيير شؤونها اليومية، ويستجيب لاحتياجات الدول الأطراف فيها المختلفة، بل وأكثر من ذلك فإن للموظف الدولي مهام سياسية بشكل ما يكشف عنه النظامان الأساسي والإداري لموظفي الأمم المتحدة اللذان يبينان بأن للأمين العام لمنظمة الأمم المتحدة، بمثابته أعلى موظف في الهيكل الإداري للمنظمة الدولية، وظائف سياسية تصل إلى حد المشاركة في حل النزاعات التي قد تشوب بين الدول.

ونظرا للأهمية التي تنطوي عليها مكانة الموظف الدولي في المنظمة الدولية، أولت هذه الأخيرة اهتماما خاصا في تنظيم المركز القانوني للموظف الدولي في سياقها، محددة بشكل دقيق الواجبات الملقاة على عاتقه حتى تسيير شؤون المنظمة بشكل مستمر، ومن جهة أخرى بينت الحقوق التي يتمتع بها، سواء في الجانب المهني، أو حتى الشخصي.

* Corresponding author at: University Akli M'hand Oulhadj-Bouira, Algeria.
Email : m.zaadi@univ-bouira.dz

1. Introduction

The establishment of international organizations represents a crucial turning point in the field of international organization. States agreed to manage their various relations through a vertical body entrusted with resolving the major problems facing the world, most notably the maintenance of international peace and security, the protection of human rights, and the management of various crises that may occur on the international scene, such as economic crises like the one that struck the world in 2008, health crises like the spread of the COVID-19 pandemic, and even security crises like those in Yemen and Ukraine. Given the important role played by these international organizations, it was logical that they be provided with sufficient human and logistical capabilities to operate their various bodies. In this regard, all specialists in international organizations highlight the central role played by international officials in this field, with particular reference to international civil servants at the United Nations, regional organizations such as the League of Arab States, and other similar organizations.

The importance of the position of the international civil servant within the framework of the international organization is evident from the great care that the member states of these various entities have given to organizing the legal status of this category of employees within the framework of founding systems dedicated to managing the various aspects of their professional and personal lives throughout the period in which they hold their positions within the framework of the international organization. The least that can be said about these founding systems is that they differ from national systems in more than one respect, due to the specificity of the situation in which the international civil servant finds himself, and even through the goal that he sets before his eyes, which is to serve the international public interest.

Importance of the study

The study of the topic "The Legal Status of International civil servant" is most important, and we can note that from a number of points, perhaps the most prominent of which are:

-The international civil servant represents a concept that has attracted the interest of specialists in international administrative law, given that it encompasses elements unfamiliar to administrative law, such as those related to loyalty to an international organization, the realization of the international public interest, or even the nature of his relationship with the international organization;

-Given that an international civil servant works to achieve the international public interest, his relationship with the country of his nationality remains unbroken. However, this prevents him from disclosing the organization's secrets to any government agency. The problem, however, lies in the event that he commits a professional error and, consequently, the penalty imposed on him and the judicial authority competent to adjudicate the dispute between him and his administration, which may entail arbitrariness on the part of the latter.

Study objectives

The current study aims to achieve a number of objectives, perhaps the most important of which are:

-To shed light on the features of the concept of international civil servant, thus defining its nature and the type of relationship that binds them to the international organization, in a manner that allows us to distinguish it from other concepts such as national employee or international worker;

-To identify the type of rights they enjoy within the framework of the international organization and the duties imposed upon them;

-To identify the guarantees that international civil servants enjoy within the United Nations, which prevent the latter from abusing the rights of employees working within its framework.

The Problematic

It seems logical to us to ask the following problematic:

To what extent is the legal framework governing the status of international civil servants adequate with his professional duties, given the gaps within it?

Study division

We divided the current study into three complementary axes. In the first axis, we address the conceptual framework of the international civil servant; in this section, we present the various definitions attributed to the international civil servant at the doctrinal and judicial levels, and we then enumerate the characteristics inherent in this concept. Finally, we address the nature of the relationship between the international civil servant and the organization in which he or she works. In the second axis, we address the issue of the rights enjoyed by the international civil servant and the obligations imposed upon him or her within the framework of the international organization, in addition to the judicial guarantees he or she enjoys by virtue of his or her legal position within the international organization. In the third axis, we address the insufficient judicial guarantees for international civil servants in the UN legal system.

Scientific methodology

In preparing this research paper, we relied on a set of scientific methods, perhaps the most important of which is the **descriptive method**, which is consistent with the theoretical aspect of the study, specifically with the definitions attributed to international civil servants, whether at the doctrinal or theoretical level, or with regard to listing and enumerating the characteristics extracted from the definitions referred to above. We also relied on the **analytical method** to study the effectiveness of the rights recognized for international civil servants in order to perform their duties within the framework of the international organization in the best possible manner.

2. Problems concerning the conceptual framework of the International Civil Servant

The United Nations was established in 1945 by members of the international community, driven by the belief that establishing international organizations would help them find radical solutions to the major problems and crises they might face, which would require the coordinated efforts of countries, both large and small. This was achieved following the failure of the League of Nations earlier in the process. Among the points raised, and among the lessons learned by countries, was that related to ensuring the proper functioning of the international organization. This was supposed to entrust specialists and cadres to ensure its smooth running in various areas of concern, whether at the technical, administrative, legal, or even diplomatic levels. These individuals would enjoy a legal status that guaranteed their fundamental rights and precisely defined their duties as international civil servants.

This section of the study addresses the attempts made to outline the concept of the international civil servant **(2.1)** and, consequently, the characteristics associated with the latter **(2.2)**; then we point out the prevailing difference regarding the nature of the relationship that brings together the international civil servant and the international organization **(2.3)**.

2.1. Absence of legal definition of the international civil servant

The legal status of the international civil servant has attracted the attention of a section of international doctrine, whose most prominent representatives have begun to outline its features in a number of attempts (2.1.3), in light of the step taken by the judges of the International Court of Justice in this field (2.1.1), within which they relied on legal definitions through which they attempted to shed light on the nature of this concept (2.1.2).

2.1.1. The judicial definition of an International Civil servant

The international judiciary has played a fundamental role in shaping the concept of international civil servants. Reference in this regard is made to the findings reached by the judges of the International Court of Justice in the advisory opinion issued on April 11th, 1949, concerning compensation due to the United Nations for damages sustained by its employees while performing their duties. The opinion was issued following the killing of the UN mediator charged with reconciling the views of the conflicting parties—the Arabs on the one hand and the Israelis on the other. Investigations conducted on the ground revealed that he was killed by Israeli soldiers. The International Court of Justice ruled that the Israelis were responsible for this crime and, consequently, that

material compensation should be paid to the victim's family as reparation **(Khaleel, 2020-2021, p. 133)**. In this regard, the judges of the international judicial body stated that Count Bernadotte was killed while performing his duties, and as such, he falls within the category of international civil servants, meaning any person employed, with or without remuneration, permanently or temporarily, and who is assigned by the organs of the organization to perform or assist in performing one of its functions. The latter. In short, it is every person through whom the organization works **(Justice, 1949, p. 177).**

The above definition shows that the judges of the International Court of Justice based the definition of an international civil servant on the organic criterion. A person is considered an international civil servant as long as he or she performs service for the benefit of the United Nations, whether permanently or temporarily, and even more so, with or without remuneration. The judges of the international judicial body highlighted the objective that UN civil servants are supposed to strive for achieving the international public interest **(NEWMAN, 2007, p. 447)**.

2.1.2. Doctrinal attempts to define the concept of the international civil servant

Most experts in the field of international administrative law agree that the founding documents of various international organizations do not define the concept of an international civil servant but rather merely enumerate the rights they enjoy and specify the duties incumbent upon them. Even if the above-mentioned position expresses the common approach among the majority of international organizations, this does not mean, in any way, that there are no attempts by this type of international entity to address these shortcomings. Reference in this regard is to the 1994 Convention on the Safety of United Nations and Associated Personnel, which the text of Article 1 thereof states the following:

« For the purposes of this Convention:

(a) "United Nations personnel" means:

(i) Persons engaged or deployed by the Secretary-General of the United Nations as members of the military, police or civilian components of a United Nations operation;

(ii) Other officials and experts on mission of the United Nations or its specialized agencies or the International Atomic Energy Agency who are present in an official capacity in the area where a United Nations operation is being conducted;

(b) "Associated personnel" means:

(i) Persons assigned by a Government or an intergovernmental organization with the agreement of the competent organ of the United Nations;

(ii) Persons engaged by the Secretary-General of the United Nations or by a specialized agency or by the International Atomic Energy Agency;

(iii) Persons deployed by a humanitarian non-governmental organization or agency under an agreement with the Secretary-General of the United Nations or with a specialized agency or with the International Atomic Energy Agency, to carry out activities in support of the fulfilment of the mandate of a United Nations operation;… » **(Organization, The convention on the safety of United Nations and associated personnel, 1994, p. Article 1)**.

Among the narrow definitions attributed to "international civil servant," reference can be made to the Draft Articles of the Convention on the Responsibility of International Organizations, adopted by the International Law Commission in 2011. The participating states indicated that "agent" includes all: an official or other person or entity, other than an organ, who is charged by the organization with carrying out, or helping to carry out, one of its functions, and thus through whom the organization acts **(commission, 2011, p. Article 2(d))**. Within the framework of the United Nations Staff Regulations, we find a general reference to international civil servants, and its preamble states, "the expressions 'United Nations Secretariat,' 'staff members,' or 'staff' shall refer to all the staff members of the Secretariat, within the meaning of Article 97 of the Charter of the United Nations, whose employment and contractual relationship are defined by a letter of appointment subject to regulations promulgated by the General Assembly pursuant to Article 101, paragraph 1, of the Charter." The Secretary-General, as the

chief administrative officer, shall provide and enforce such staff rules consistent with these principles as he or she considers necessary" **(Organization, United Nations Staff rules and staff regulations of the United Nations, 2017, p. Preamble).**

2.1.3. The doctrinal definition of an international civil servant

There are many doctrinal definitions attributed to the concept of international civil servant. Despite the many formulations relied upon by each, they share a single meaning that reflects the position held by the judges of the International Court of Justice in the aforementioned advisory opinion. Among the definitions provided in this area is that provided by (ALVAREZ Jose E.), who sees it as any individual assigned by representatives of several states or by an institution acting on their behalf, based on an agreement between organizations and under the supervision of one or another, to perform functions for the benefit of all the states concerned, subject to special legal rules, on an ongoing basis **(E., 2008, pp. 597-598)**. (Alain PLANTEY and LORIOT Francois) define it as anyone who works in the service of an international organization on a permanent and continuous basis, in accordance with the provisions of its charter and regulations, with the aim of achieving the interests and objectives of the organization **(Alain & LORIOT, 2005, p. 40)**. (Safwan Maqsood Khaleel), on the other hand, limits it to anyone assigned by an international organization to devote full-time, continuous time to carrying out one of its functions under the supervision of its competent bodies and in accordance with the rules contained therein **(Khaleel, 2020-2021, p. 134)**. In its charter and regulations, we can finally point to (BETTATI Mario), who defines it as: Everyone who works in the service of one of the international organizations to perform a permanent function, subject in everything related to his relationship with it to a detailed legal system established by the organization to regulate his position and the position of his colleagues, not to a specific national law **(Mario, 1987, p. 375).**

2.2. Shared characteristics of the international civil servant:

The various definitions attributed to the concept of the international civil servant reveal the radical differences in the view held by various scholars specialized in this field regarding the issue of the international civil servant, which in turn results from the absence of a comprehensive and exhaustive legal definition in this regard. Despite the prevailing disagreement on this issue, they share a set of characteristics, perhaps the most important of which are:

2.2.1. The international civil servant must be active within the framework of an international organization

An international civil servant is a physical person who works for the benefit of an international organization, whether it is a global international organization or a regional organization. Therefore, this description excludes individuals who are active for the benefit of a specific country, an international non-governmental organization, or a multinational company, for example, as the latter does not qualify as an international organization, even if it is active at the international level **(Gerhard, 2018, pp. 38-39).**

2.2.2. To perform his duties in implementation of the organization's instructions and under its supervision

The international civil servant must perform his duties in compliance with the provisions of the Charter of the international organization, or its founding statute, and under the supervision of the international organization itself, which determines how he performs his duties through the amendments it issues in this area. If, in performing his duties, he is subject to the instructions of his country, for example, he will be stripped of the description of an international employee, as individuals who are active within the framework of the North Atlantic Treaty Organization **(AGHNIDES, 1953, p. 182);**

2.2.3. Serving the interest of the international organization:

When exercising his duties within the framework of the international organization, the international civil servant has in mind the achievement of the latter's

interest only. In other words, the international civil servant aims to achieve the international public interest, regardless of the nature of the agency or interest within which he works, and regardless of its location, whether in the territory of the country to which he belongs by nationality or in a foreign country. Consequently, the errors committed by the international civil servant can only be held accountable before the international organization. **(Dusko, 2017, p. 90);**

2.2.4. The international civil servant full-time dedication to the service of the international organization

Once the employment relationship between him and the international organization is established, the international civil servant is obligated to devote all his efforts to the latter, even if he is employed within it under a temporary contract. This is explained by the nature of the agency within which he is active, which aims to achieve the international public interest, the achievement of which requires the mobilization of significant capabilities on an ongoing basis, enabling the international organization to respond to the enormous challenges it faces due to the ongoing transformations taking place in the international arena.

This characteristic does not mean, in any way, that the international civil servant cannot engage in other activities in parallel with his duties within the framework of the international organization. On the contrary, he may do so provided he obtains the approval of the Secretary-General of the organization, who, in such a case, assesses the extent to which this side activity impacts his primary mission within the international entity **(Jan, 2015, p. 55).**

2.3. The debate about nature of the relationship between the international civil servant and the international organization:

There is hardly any disagreement that the legal status of the international civil servant only arises after the relationship between the latter on the one hand and the international organization on the other hand. However, this relationship has been characterized by ambiguity after the development of the international public service, that is, after the multiplication of international organizations and the diversification of their forms, as each one of them programmed its own administrative apparatus to perform all the tasks it needed to manage its daily affairs and, at the same time, adopted the system it relies on to formalize the relationship between it and the candidates for employment in it. The reality aroused the interest of international doctrine, whose most prominent representatives went on to present their own view on the nature of this relationship, between those who considered it a contractual relationship **(2.3.1)**, those who saw it as an organizational relationship **(2.3.2)**, and those who considered it a mixed relationship **(2.3.3)**. We will explain its details as follows:

2.3.1. Contractual Relationship:

Proponents of this approach base their determination of the nature of the relationship between an international civil servant and an international organization on the contract concluded between the two parties at the beginning of the relationship. Indeed, the appointment of an international civil servant is based on an employment contract concluded between the latter and the Secretary-General of the international organization or one of his assistants. According to this theory, the international civil servant enjoys equal legal status with the international organization as a party to the contract. In other words, and in accordance with the general rule that the contract is the law of the contracting parties, the existence of a relationship between the two parties is contingent upon their reaching an agreement on the terms of the contract that binds them. Both parties participate in determining the conditions for the validity of the relationship, the rights of the parties to the contract, and the cases of its termination, without either party dominating the other. Proponents of this approach emphasize the stability this theory attaches to the status of the international civil servant, making them unsurprised by any amendments to the international organization's founding statute that could negatively impact their legal status in the future.

This theory has been subjected to harsh criticism, given that its content contradicts the nature of the activity of the administrative apparatus in the

international organization, or even in any country, since subjecting the relationship between the two parties to an employment contract strips the activity of the international organization of the flexibility required by the continuous development of the international arena. These are amendments that can only be included after the approval of the international civil servant. Moreover, the statement or adoption of the contract theory goes back to the approval of the principle of the relativity of the effects of the contract, i.e., the confinement of the effects of the contract to its parties and no one else. However, the administrative apparatus is usually active in serving the interests of the member states in the international organization, which negates this distance from the theory. This is in addition to excluding the possibility of adopting the idea that the conclusion of the contract between the international civil servant and the international organization is preceded by negotiations conducted between the two parties and involves a review of the international civil servant selection system, which is usually based on a competition or interview on the basis of which the employee is appointed to a specific position **(Maqsood, 2021, pp. 136-137).**

2.3.2. Organizational Relationship

This theory is based on an idea that fundamentally contradicts the previous approach. Its proponents believe that the relationship between an international organization and an international civil servant is not governed by the contract concluded between the two parties but rather is governed by the charter of the international organization and the regulations established by its various bodies individually. Consequently, these regulations are subject to amendment whenever administrative interests deem it necessary. This ensures the stability of their legal status in advance and thus prohibits any arbitrariness by administrative bodies.

Proponents of this approach rule out the possibility of considering the international civil servant and the international organization as equal parties. Rather, they view this relationship as a contract of compliance by the civil servant with the conditions set in advance by the international organization. The international civil servant has no choice but to comply with the provisions of the organization's founding charter. He is also required to respect any amendments made by the international organization that may affect his legal status, without prejudice to his right to compensation in accordance with the applicable law.

This approach has also been criticized, and its opponents have highlighted the possibility of administrative interests being arbitrary with regard to the rights of international civil servants, as long as the contract that binds the international civil servant to the international organization is a contract of submission. The international organization can use the developments that occur on the international scene as a pretext to make amendments to the legal status of the international civil servant, which may entail a waste of his rights and even an arbitrariness of his rights **(Thevenot-Werner, 2025, pp. 405-406).**

2.3.3. Mixed relationship

This theory has been unanimously accepted by the majority of jurists, who believe that this relationship has two aspects. On the one hand, it is a contractual relationship, as the employee's work within the framework of an international organization begins under an employment contract concluded with the international organization, which outlines the rights and duties of the international civil servant. On the other hand, it is an organizational relationship, as it is unreasonable for an international civil servant to act according to his whims in performing his duties. Therefore, he follows the instructions and regulations issued by the international organization. In this regard, it is argued that the element of stability in this relationship lies in the founding charter of the international organization, which defines the basic principles governing this relationship. Meanwhile, the contract concluded between the two parties constitutes a flexible element, as it specifically defines the civil servant's rights and duties in a manner commensurate with the nature of his responsibilities.

Despite the conciliatory nature of this theory, it has not been immune to criticism. One of the most important points raised in this regard is that the organizational aspect dominates the relationship between the

international civil servant and the international organization, and that the contract concluded between the two parties is nothing more than a contract of submission, which makes these contracts merely a regulation for regulating the employment process. Moreover, the equality assumed by the concluded contract disappears as soon as the broad powers enjoyed by international organizations are returned, which can make radical changes to the legal status of the international civil servant under the pretext of achieving the international public interest **(Beigbert, 2007, p. 4 para.12).**

3. Imbalance of rights and Duties of International civil servant

To ensure the smooth running of its various interests, the United Nations, through the efforts of its member states, has worked to regulate the conduct of international civil servants working within its various interests and agencies around the world. This is achieved by preparing and issuing basic regulations that address the legal status of international civil servants in every detail, without ignoring any aspect of their professional or family lives. This is what the United Nations has actually done by issuing the United Nations Staff Regulations and Rules, which address various issues, including the rights enjoyed by international civil servants **(3.1)**, the duties they must respect **(3.2)**, and the recognized guarantees for the latter against any potential abuse **(3.3).**

3.1. Relative character of International civil servant Rights

Civil servants enjoy a range of rights, which are addressed in varying degrees of detail in the founding statutes of international organizations. Charters often detail the legal status of international civil servants. Indeed, the rights enjoyed by international civil servants are usually embodied in personal rights issued by the International Civil Servants Association, the purpose of which is to compensate the employees for the services they provide within the framework of their interests. These rights are a means by which the organization ensures that the employee remains within its interests and allows them to maintain a personal balance without compromising their professional life. Despite their differences, the rights enjoyed by international civil servants are similar across various international organizations, perhaps the most important of which are:

3.1.1. Enjoying international status

Enjoying international status and not infringing it is one of the fundamental rights recognized for international civil servants. This means that, upon joining an international organization, the latter acquires international status, which all member states are obligated to respect, including the state of nationality of the staff member. This status entails the independence enjoyed by the international civil servant vis-à-vis all member states of the organization, which refrain from imposing any form of pressure on him in the performance of his duties **(Georges, 1953, p. 89)**. This was emphasized by the United Nations in its 1945 Charter, which states in Article 100, paragraph 2, that each member of the United Nations undertakes to respect the exclusively international character of the responsibilities of the Secretary-General and of the staff and not to seek to influence them in the discharge of their responsibilities **(Organization, United Nations Charter, 1945, p. Article 100 para.2)**. This obligation applies throughout the various stages of an international civil servant's life, from appointment until the termination of his or her relationship with the international organization.

3.1.2. The right to receive a salary:

It is logical for an international civil servant to receive a salary for the duties they perform within the framework of the international organization. They also benefit from pensions and bonuses that are not subject to taxes imposed by the host country or the country of nationality of the international civil servant. The general body of the international organization usually determines the salary received by the international civil servant. In this regard, an examination of the various founding statutes of international organizations reveals that the main body

determines the salaries of senior employees, such as the Secretary-General or Assistant Secretaries-General, while the Secretary-General determines the salaries of lower-ranking civil servant based on a mandate he receives from the administrative body of the international organization. This is explained by the ability granted to the Secretary-General to estimate each employee's salary according to the nature and scope of the job they perform **(Gerhard, 2018, pp. 303-306).**

3.1.3. The Right to Promotion

The right to promotion is among the fundamental rights enjoyed by international civil servant, and is recognized as a public employee at the national level. Promotion within an international organization means moving an international civil servant to a higher grade or grades than he or she previously held. This is usually done on the basis of seniority, and in all cases, it is done in accordance with the rules contained in the international organization's founding charters and the regulations issued by the various organs of the international organization **(Georges, 1953, pp. 65-66)**.

With regard to the United Nations, the drafters of the United Nations Staff Regulations and Rules of the United Nations addressed the issue of promotion under rule 4 paragraph 2 of the United Nations Staff Rules, which states that the paramount consideration in the appointment, transfer, or promotion of staff shall be the necessity of securing the highest standards of efficiency, competence, and integrity, and due regard shall be paid to the importance of employment on as wide a geographical basis as possible **(Organization, United Nations Staff rules and staff regulations of the United Nations, 2017, pp. rule 4-2).**

3.2. Duties of the International civil servant

The relationship between an international civil servant and an international organization cannot be limited to the rights recognized for employees. It also includes the duties imposed on them, on the basis of which this category of individuals was employed, which ensures the proper functioning of the administrative interests of the international organization. Among the most important of these duties are:

3.2.1. The duty to serve the international organization:

An international civil servant, regardless of his or her rank on the administrative hierarchy of the international organization, is bound to perform the duties assigned to him or her under the statutes of the employing entity, under the supervision of his or her administrative superiors **(Organization, United Nations Staff rules and staff regulations of the United Nations, 2017, pp. rule 1-2(a))**, free from any governmental or foreign influence **(Organization, United Nations Staff rules and staff regulations of the United Nations, 2017, pp. Rule 1-2(h))**. Furthermore, the international civil servant performs his or her duties within the limits set by the internal regulations of the international organization, within the legally determined timeframe (Organization, United Nations Staff rules and staff regulations of the United Nations, 2017, pp. rule 1-2(b)). Consequently, he or she refrains from engaging in any external work or activity without obtaining permission from the competent authorities **(Organization, United Nations Staff rules and staff regulations of the United Nations, 2017, pp. rule 1-2(q)).**

3.2.2. Integrity, Honesty, and Neutrality

In the performance of their duties, international civil servants are bound by a set of good moral qualities, primarily integrity, honesty, and neutrality. They are therefore obligated to be free of any personal desires or influences, and to avoid bias toward any party, including the country of their nationality. They treat all member states equally, without favoritism or favoritism toward any one over another. In other words, international civil servants have a moral obligation to prioritize the international public interest over all other considerations.

This duty occupies an important place in the statutes and administrative regulations of various international organizations. The effect of this obligation is not limited to the period during which the civil servant

performs his duties within the framework of the international organization but rather continues even after the end of his relationship with the international organization. They may not accept any permanent or temporary position, paid or unpaid, until a reasonable period has passed since leaving their previous position **(organization, 2013, pp. 3-4).**

3.2.3. The duty to maintain professional secrecy:

The majority of the rules and regulations issued by international organizations stipulate the obligation of their civil servants to maintain the secrets of the organization in which they work. Each organization holds secrets related to its operations or those of its member states, which are only accessible to its civil servants. Therefore, disclosing these secrets could harm the proper functioning of the international organization and, consequently, its reputation and the interests of the member states concerned (Gran-Skjoldager, 2019, pp. 5-7). This explains the importance of this duty. This duty takes on a completely different dimension within international military organizations, given that the secrets contained within them could threaten international peace and security, as is the case with NATO, which performs security missions. Therefore, an employee's failure to comply with this obligation could jeopardize the security and safety of the countries they defend, for example **(GERXKI, 2014, p. 895).**

4. Insufficient judicial guarantees for International civil servant

The drafters of the United Nations Staff Regulations and Rules sought to establish new systems for international staff members subject to disciplinary action. This framework emerged within the framework of reforms included in the new internal justice system, represented by the United Nations Dispute Tribunal **(4.2)** and the United Nations Appeals Tribunal **(4.3)**. Through these tribunals, international staff members can appeal administrative decisions issued against them and establish their validity and legitimacy. This judicial system was found to face the authority abuse that the international civil servant might be subjected to **(4.1)**.

4.1. The UN Secretary-General's monopoly over the disciplinary authority over the international civil servant

The legal status of international civil servants within the UN has been the subject of sharp criticism regarding disciplinary matters. Indeed, the UN Staff Rules and Regulations place the decision to initiate an investigation into allegations of misconduct, initiate a disciplinary process, and impose a security measure at the discretion of the Secretary-General or the officials entrusted with this authority. This makes abuse of the staff member in question a potential and likely occurrence **(Organization, United Nations Staff rules and staff regulations of the United Nations, 2017, pp. rule 10-1 (c))**. One of the most significant manifestations of potential abuse by an international civil servant is the failure to define the acts that constitute the wrongdoing for which the latter is punishable. The drafters of the Staff Regulations and Rules referred to the actions that may give rise to disciplinary responsibility for an international civil servant in a general and vague manner, unreasonably expanding the Secretary-General's authority in this regard. Staff Rule N° 10.1 of the Staff Regulations and Rules states the following: "Misconduct may include the failure of a staff member to comply with his or her obligations under the Charter of the United Nations, the Staff Regulations and Rules, or other relevant administrative issuances, or failure to observe the standards of conduct required of an international civil servant" **(Organization, United Nations Staff rules and staff regulations of the United Nations, 2017, pp. rule 10-1 (a))**.

This text does not in any way imply that the Secretary-General has absolute powers in this area, nor that he can adopt arbitrary decisions against some international staff members working within the framework of the United Nations. This observation has been confirmed by the judges of the United Nations Dispute Tribunal, who have indicated on more than one occasion that disciplinary sanctions against a UN international staff member can only be applied by the Secretary-General if they are based on three essential elements, namely:

4.1.1. That the facts on which the disciplinary procedure is based be proven

This element concerns the rationality and good faith that both the secretary-general of the international organization and the international civil servant working within the framework of the United Nations are supposed to adhere to, which was clearly indicated in the judgment of the United Nations Appeals Tribunal in the case of Yasin v. Secretary-General of the United Nations, issued on 29 March 2019, in which the judges concluded, in operative paragraphs 42 and 43, the following:

"42. Under the applicable legislative framework, the Secretary-General is bestowed with the discretionary authority to, inter alia, impose a disciplinary or an administrative (non-disciplinary) measure on a staff member, who has failed to comply with his or her obligations under the Charter of the United Nations, the Staff Regulations and Staff Rules or the relevant administrative issuances, or to observe the standards of conduct expected of an international civil servant.

43. The Appeals Tribunal, however, recalls its jurisprudence that the discretionary power of the Administration is not unfettered. The Administration has an obligation to act in good faith and comply with applicable laws. Mutual trust and confidence between the employer and the employee are implied in every contract of employment. Both parties must act reasonably and in good faith" **(tribunal, 2019, pp. Paras. 42 and 43, p15.).**

4.1.2. That the actions of the international official constitute misconduct under the regulations and rules in force at the United Nations:

This issue is not generally referred to directly, and the need to adhere to the legal framework in force at the international organization is often emphasized when its provisions are ambiguous and not to deviate from the legal principles governing the international organization. An example of this is the judgment issued by the United Nations Appeals Tribunal in the case of Gehr v. Secretary-General of the United Nations, which stated in its operative paragraph 13 the following:

«13. The Secretary-General maintains that the UNDT correctly found that the UNDT Statute prevailed over the Staff Rules in case of conflict. In his view, even if there was ambiguity in the wording of Staff Rule 11.2(a) on whether former staff members are required to request management evaluation, the UNDT Statute prevails according to the hierarchy of the Organization's internal legislation» (tribunal, Gehr (Appellant) v. secretary-General of United Nations **(respondant), 2013, pp. Para.13, p 4.).**

4.1.3. The punishment must be proportionate to the offense intended to be committed:

Regarding the principle of proportionality that must be respected by the Secretary-General, the example is given of the judgment issued by the United Nations Disputes Tribunal in the case (BEDA v. Secretary-General of the United Nations), of which operative paragraph 82 states the following:

« 82. It is well-established jurisprudence that the Secretary-General has wide discretion in applying sanctions for misconduct and that at all relevant times he must adhere to the principle of proportionality (Applicant 2013- UNAT- 280). Once misconduct has been established, the level of sanction can only be reviewed in cases of obvious absurdity or flagrant arbitrariness (Aqel 2010-UNAT-040)» **(Tribunal, 2021, pp. Para.82, p19.).**

4.2. The United Nations Dispute Tribunal:

The United Nations Dispute Tribunal is a new tribunal established as a result of the reforms undertaken by the United Nations under the title of the New Establishment of Internal Justice. This tribunal is the first instance before which an international civil servant may appeal an administrative decision affecting them **(Organization, The statute of the United Nations Dispute tribunal, 2018, p. Article 1)**, and its rulings may be appealed before a higher judicial body. The statute of the United Nations Dispute Tribunal defines its jurisdiction to hear and adjudicate claims brought by individuals (Organization, The statute of the United Nations Dispute tribunal, 2018, p. article 2). Furthermore, it also defines the composition of the tribunal and the manner in which it performs its functions **(Organization, The statute of the United**

Nations Dispute tribunal, 2018, p. articles 4 and 5).

In order for the United Nations Dispute Tribunal to accept an appeal against disciplinary decisions issued against an international staff member, the appeal must comply with the time limits stipulated in the Statute of the United Nations Dispute Tribunal. Otherwise, the appeal may be dismissed by the Tribunal, which has set a period of 90 calendar days from the date of receipt of the administrative decision **(Organization, The statute of the United Nations Dispute tribunal, 2018, p. Article 8 para.3).**

4.2. The United Nations Appeals Tribunal

The United Nations Appeals Tribunal is a new tribunal established as a result of the reforms introduced within the United Nations framework referred to above. This tribunal is considered the second instance of litigation **(Organization, Statute of the united Nations appeals tribunal, 2016, p. article 1)**. Its judges hear and decide appeals filed against judgments issued by the United Nations Dispute Tribunal **(Reinisch & Christina, 2008, p. 459) (Organization, Statute of the united Nations appeals tribunal, 2016, pp. Article 2, para.1)**, whose judgments are final and binding on both parties **(Organization, Statute of the united Nations appeals tribunal, 2016, p. article 10 para.5)**.

To accept a claim, both parties must comply with the time limits for filing an appeal stipulated in the Statute of the United Nations Appeals Tribunal. These time limits are set 45 calendar days from the date of receipt of the judgment from the Dispute Tribunal, or within the time limit set by the Appeals Tribunal if it decides to waive the conditions related to this time limit **(Organization, Statute of the united Nations appeals tribunal, 2016, p. Article 7 para. 1'c').**

5. Conclusion

Based on the above, it is clear to us that defining the legal status of international civil servants constitutes one of the most important challenges facing international organizations, regardless of their nature, in recent years. This is due to the balance that must be struck and created by their interests and by the member states between the duties incumbent upon them, as the basis for their presence in such international entities, and the rights they enjoy, which allow them to perform their duties to the best of their ability without neglecting their personal lives. It is worth noting that these rights represent a fundamental means of attracting the various categories of individuals that the international organization needs and their skills and expertise in the various fields of interest to it, whether at the administrative, technical, diplomatic, legal, or political levels.

The importance of international civil servants within the framework of international organizations is reflected in the attention given by various international organizations to regulating their legal status within the framework of basic and administrative regulations that they issue in this regard. These regulations regulate the lives of international civil servants in every detail, starting with the conditions for joining the position they hold and consequently determining the criteria for their selection, through determining the conduct they must follow while performing their duties, and ending with the termination of the relationship between them and the international organization in normal or extraordinary circumstances.

Our study of the topic "The Legal Status of International civil servant" has enabled us to reach a set of conclusions, perhaps the most important of which are:

-The international civil servant represents the core of the administrative apparatus of any international organization, and their experience and skills are relied upon to ensure the smooth running of the services provided by the international organization to its various member states. Furthermore, the importance of this task requires the continuity of the interests within which international civil servants operate, and consequently, the employment of a sufficient number of employees to meet their needs in this area;

-Creating a balance between the professional and personal lives of international civil servants is one of the endeavors pursued by international organizations, as it is the best way to attract international expertise that enables them to manage their administrative interests in the best possible manner. This is achieved through the efforts made in their relevant founding

systems to create a legal arsenal that responds to this endeavor.

The completed study enabled us to uncover a number of legal gaps, for which we recommend the following:

-The need to amend the United Nations Staff Regulations and Rules, particularly by including a clear definition of "international civil servant." This allows for the identification of the category of individuals targeted by the UN's constitutive regulations, thus distinguishing them from other similar categories;

-The need to unify the legal rules governing international public service among international organizations to clearly shed light on the nature of the relationship between the international organization and the international civil servant, thus avoiding any ambiguity that could lead to disputes that would hinder the two parties' progress. What is said about the relationship also applies to the judicial system adopted by each organization, which would provide sufficient safeguards for any international employee against all types of disciplinary measures they may face in the course of performing their duties;

-Continuous training for international civil servants represents one of the essential tools for ensuring the smooth running of the various functions of the international organization and thus avoiding the serious errors they may commit, especially given the multiplicity of tasks they are entrusted with and the diversity of their nature, ranging from administrative to diplomatic;

-Adopting more precise standards in describing the civil servant's misdoing that requires his responsibility and determining the appropriate penalty, as the matter has always been subject to the will of the organization and its discretionary authority in determining that the servant's violating behavior is subject to this or that standard, and to ensure that this authority is not abused, it is supposed to separate the authority to classify the civil servant's action as a misbehavior and the authority to determine the appropriate penalty for the wrong act committed until the organizations adopt different standards;

-Selecting international civil servants on the basis of competence and objectivity can help avoid corruption and other problems that may hinder the smooth running of the organization's various administrative functions.

Conflict of Interest

The author of this article, declare no intended conflict of interest.

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