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Part Three. Judicial decisions on questions relating the United Nations and related inter-governmental organizations

Chapter VIII. Decisions of national tribunals



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Chapter VIII
DECISIONS OF NATIONAL TRIBUNALS
Belgium
BRUSSELS COURT OF FIRST INSTANCE

MANDERLIER V. UNITED NATIONS AND BELGIAN STATE: JUDGEMENT OF 11 MAY 1966¹

The United Nations enjoys immunity from every form of legal process under section 2 of the Convention on the Privileges and Immunities of the United Nations. This immunity is unconditional and is not limited either by section 29 of the Convention in question or by article 10 of the Universal Declaration of Human Rights.

The plaintiff had instituted proceedings with a view to obtaining compensation from the United Nations or the Belgian Government or from both jointly, for damage he claimed to have suffered “as the result of abuses committed by the United Nations troops in the Congo”. The Court dismissed the proceedings in so far as they pertained to the United Nations on the ground that the Organization enjoyed immunity from every form of legal process under section 2 of the Convention of 13 February 1946 on the Privileges and Immunities of the United Nations.

The Court pointed out that that Convention, having been approved in Belgium by the Act of 28 August and ratified on 25 September 1948, had the force of law in Belgium. The plaintiff cited section 29 of the Convention, which states that “The United Nations shall make provisions for appropriate modes of settlement of: (a) disputes arising out of contracts or other disputes of a private law character to which the United Nations is a party; . . .”, and contended that that section qualified the immunity from legal process afforded by section 2 of the Convention. In that connexion, the Court stated that, even though no legal instance had been established pursuant to section 29, section 2 was applicable and retained its validity and that the immunity of the United Nations was absolute.

The plaintiff also cited article 10 of the Universal Declaration of Human Rights, which states that everyone is entitled to a hearing by a tribunal; he argued that, in the absence of an international tribunal competent to adjudicate his case, he should be able to sue the United Nations in a domestic court. On that point the Court recalled that the Universal Declaration was not legally binding and could not have abrogated, either conditionally or absolutely, the immunity proclaimed in section 2 of the Convention on the Privileges and Immunities of the United Nations.

Lastly, the plaintiff argued that Article 105 of the United Nations Charter only conferred on the United Nations such privileges and immunities as were necessary for the fulfilment of its purposes. In this connexion, the Court emphasized that section 2 of the Convention of 13 February 1946 conferred on the United Nations a general immunity from legal process, which was not limited to the minimum strictly necessary for the fulfilment of the purposes stated in the Charter and that, since the Convention and the Charter had equal status, the former, which was dated 26 February 1945, could not limit the scope of the latter, which dated from 13 February 1946.

¹ Published in the *Journal des Tribunaux*, Brussels, No. 4553, 10 December 1966.