

The Legal Implications of the International Job Association: International Employee as a Model

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Abstract

After the development of the international community and the emergence of international organizations, which is considered as an advanced phase in the international community's endeavor to enhance cooperation and communication and achieving international solidarity in all areas that maintain collective security and advancement for mankind. It is noticed that the phenomenon of international organization in the course of its development has gone through many stages that revealed the emergence of the international function, which consequently, its existence is linked to the existence of international organizations. It also shows a special importance of legal responsibility, whether at the internal or external level, and it is called a group of international employees who occupy permanent jobs and enjoy a special legal system to regulate their relations with the organization and indicate their obligations and rights describing them *international employees*. The international organization managing its internal affairs alone requires having an independent functional character, which is one of the most important features in which the legal personality of the international organization and its independent will of the member of the states appear.

Keywords: international employee - legal implications - international organization

Introduction

1 - The Topic of the Study

the dimensions of the independent international job have been crystallized and defined far from the states' association with it, and the legal adaptation of the international job appeared and revealed its features and special structure after the opinions of jurisprudence and international and administrative work. Since the international employee is considered as one of the most influential elements in the systems of international organizations, it is noticed that there is a set of controls, instructions and duties that are considered among the mechanisms of the international job, as it is a deterrent tool for the international employee in the event that he exceeds the performance of his work and is a guarantor of the proper functioning of his work. The international employee works for the organization with which he is bound by a contract and in return the organization is obligated to protect its employees.

2 - The Value of Study

The significance of study lies in the seriousness of the tasks that the international employee undertakes, and given the prominent role the international employee exercises in achieving the goals of the organization to

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which he belongs, so it is one of the important things that must be focused on is to provide legal protection for him of all kinds, for the smooth functioning of the international public office in a way that affects the independence, impartiality and integrity of the international employee, and the protection of this employee from under the influence of political pressures from countries, including the countries of his nationality.

3 - The Problem

The main problem lies in identifying the legal status of the international employee, and defining his concept. The study tries to answer the following questions:

1. Are there rights and obligations for this international employee?
2. What are the necessary elements and criteria for acquiring international employee status?
3. What are the distinctions between categories of international employees, administrative and state representatives?
4. . Can the organization to which he belongs provide legal protection for this category of employees in the event that he may be exposed to international pressure and harm?
5. Are there sufficient guarantees for the independence of the international employee to perform his duties?

4 - Methodology of the Study

The legal approach has been adopted, with this study since being included in the legal studies by presenting the various legal texts, and the analytical method, by tracking and analyzing treaties and agreements and the opinions of international courts in this regard that address the issue of providing protection for international employees.

5 - The Procedures

In order to discuss the topic under investigation, the study is divided into two sections. The first section includes defining the international employee, ways of being chosen and the conditions of appointment. While the second implies the rights, duties and privileges of the international employee.

Section One

International Employee, Ways of being chosen and the Conditions of Appointment

This section is divided into three subtopics which are as follows:

1. Identification of the International Employee

1.1: Definitions of the International Employee

Linguistically, the Arabic word : "Moudhaf" " The employee " is the active noun of the triple verb "employ", meaning that "he is employed" and the employment means what is estimated in terms of work, food, livelihood and so on at a certain time, and the specific position and service .⁽¹⁾

It is noted that all international organizations depend, in the performance of their work, on a certain group of workers, including administrative and technical employees, some of them work permanently and others

temporarily so as to complete their work. The majority of international agencies. It is remarked that the international division of the international law exaggerate in defining the international employee using several terms and phrases. The definition laid down by the International Court of Justice in its advisory opinion April 11, 1994 regarding the compensation owed to the United Nations for damages inflicted on its employees while performing their duties is the most important. It states that the international employee is "every employee with or without pay, works permanently, or he is not appointed by any of the organization's systems to practice or assist in the exercise of one of the organization's functions, i.e. it is every person under whom the organization works".⁽²⁾

It is clear that this definition does not differentiate between the international agent and the international employee.⁽²⁾

Some scholars believe that the international agent is "everyone who performs an international mission on behalf of certain countries with international authority", noting that the distinction between the two categories lies in the fact that international employee work for an international goal, and therefore subject to a legal status determined by the international organization to which they belong, and they see that this element does not exist for agents working for the international organization.⁽³⁾

It is noticed that both international jurisprudence and judiciary have addressed the development of a definition of the international employee, and international jurisprudence has paid attention to define the international employee as "every person assigned by the representatives of a number of countries or a body acting in the name of a number of countries as a result of an agreement between those countries and under their supervision of those representatives or this institution, to continuously exercise functions aimed at achieving the interests of the countries concerned, and be subject to a set of legal rules".⁽⁴⁾

This opinion's owners see that there are basic elements restricting the idea of the international employee, including that the employee works at the service of the organization and his work leads to the achievement of the common international interest of its members, and that he works under the directives and recommendations of the organization in an exclusive way.⁽⁵⁾

Prof. Dr. Muhammad Sami Abdul Hamid defines the international employee as "every person who works at the service of an international organization to perform a permanent job, and is subject to its relations to the legal system established by the organization so as to regulate his position and the position of his colleagues and not being subject to a specific national law".⁽⁶⁾

Accordingly, the researcher concludes that the international employee can be defined as everyone who is entrusted to work at the service of an international organization, on a permanent and continuous basis, and he is under the supervision of its competent agencies, and distinguished by the existence of a special legal system established by the organization to clarify the rights and duties of everyone who works for it and outside the authority of any. Actually, he is subject to the system of the organization alone. It is obvious that the employee, in the case of joining to work in the international position, does not mean that the person relinquishes its nationality or loses it, nor does it exempt him as a citizen of the country of whose nationality he holds, so his loyalty should be only within the framework of the international organization.

1.2: The Elements Needed to Acquire International Employee Status

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Having various opinions, it is noted that most of the ideas agreed that there are basic elements available in the employee so that he is considered within the group of international employees, represented by the following:

1_ The work that the employee performs is for the benefit of an international organization or one of its apparatus. An international employee is not considered a person working for a specific country, or an international institution that does not meet the description of the international organization, because international non-governmental organizations: such as the International Committee of the Red Cross are not considered workers in it international employees.⁽⁷⁾ In the sense that this element requires the presence of a link between the international organization and the employee who works for it and aims at achieving the goals of the organization.

2_ The employee's performance is subject to the supervision and control of the international organization's systems in the exercise of his work, and all that is related to an organization from its provisions, charter and regulations, meaning that the employee is not affiliated with the currency of a particular country .⁽⁸⁾

3_ The third element requires that the employee be free to perform his work in the organization, and the employee is obligated to keep all job secrets and not to use this information for the benefit of the person or for any member state of the organization.

4_ The legal system within the international organization for which the employee works is determined in an international manner, that is, through an international agreement, or it is determined under an official contract between the employee and the organization .⁽⁹⁾

5_ A time standard, and it does not require working in the organization on a permanent basis, rather it is limited to the fact that the employee performs the work of the organization exclusively for a specific period and in accordance with Article (101/6) of the United Nations Staff Regulations, thus the employee cannot practice any other temporary external work except after obtaining approval Secretary General .⁽¹⁰⁾

In conclusion, one can state that with the availability of these elements, the person has the status of an international employee and is under the protection of the international organization.

2. Ways of Choosing the International Employee and Conditions of Appointment

2.1 - Ways of Choosing the International Employee

The international organizations have complete freedom to choose their employees without requiring the approval of a specific country or the country of whose nationality the organization's mission is to appoint employees, and this is the task of the supreme head of the administrative system, and the United Nations Charter affirmed in Article (97) stipulates that: "The commission shall have a secretariat, and a general secretary shall be appointed for it, and he shall be appointed upon the recommendation of the Security Council which is considered the largest employee in the commission and those whom needed as the staff and it does not rely on the approval of the country whom they belong or their nationality."⁽¹¹⁾

Nominations may be submitted from countries in the names of those who work as international employees based on the organization's request to fill its vacant positions, because the organization has the right to choose and often follows this method to select those who occupy major positions, but it is noted that there are international organizations such as the African Union that are still taking informal opinion of the governments concerned before appointing the staff .⁽¹²⁾

Sometimes, some believe that the document of establishing the organization is the one that defines the appointment system in it, but it is noticed that the practical reality sometimes contradicts the reduction of the appointment department by the members of the organization. Some countries exert a sort of pressure on the international organization when choosing the staff, making prior approval for appointing its nationals in the organization, and these interventions usually take two ways:

1 - Some countries rely on personal pressure on the organization's administrative officials in order to achieve their interests and the purpose of which is to appoint some of their nationals.

2 - As for the second method, some countries adopt internal laws that prohibit their nationals from joining the organization except after obtaining their prior approval, for example Egyptian Law No. 22 of 1956/ which it prohibits their nationals from contracting with any international organization without its permission from the Minister of Interior affairs.⁽¹³⁾

To sum up, the task of appointing international employees is authorized only by international organization and its administrative head in preserving the independence of the international position, and that states sometimes interfere in appointing international staff may have a positive and negative side.

2.2 - Conditions of appointing International Staff

There is an awareness of the objective and formal conditions that the international employee must meet, which will be dealt with briefly as follows:

1 - *Objective conditions*: It is generally accepted that appointment, whether at the national or international level, requires the availability of a set of conditions for the person applying for appointment, as for the objective conditions that are represented by the principle of competence and integrity and the principle of geographical distribution, and they are considered as two basic principles, related to the principle of (efficiency and integrity). As for competence, this is determined by the qualification or the special capabilities required to perform the job. As for the employee's integrity, it is that the employee's loyalty to the international community is limited while maintaining his national loyalty to the country of whose nationality he holds, provided that his international loyalty does not conflict with the national. Once being a conflict, he provides international professional loyalty.⁽¹⁴⁾ For equitable geographical distribution, it is noted that many constitutions of international organizations are concerned with the issue of the need for a geographical distribution of jobs to member states on the basis of fair and equitable regional representation, and this condition guarantees the participation of various continents and places in the organization, although international organizations have complete independence in recruiting international staff, but it also does not dispense with the confidence of the member states of the organization.⁽¹⁵⁾

2- *Formal conditions*: International organizations set certain formal conditions for appointing their employees in order to ensure the independence and the sole of their employees. The formal conditions are represented by two important criteria or two conditions, namely (the writing requirement and to administer the oath of office), and the purpose of the requirement to write confirmations is to facilitate the process of proof in disputes that may arise between the employee and the organization, as well as what is related to granting the employee privileges and immunities by states, which therefore requires ensuring the performance of the employee's work, and there are very few exceptional cases so that this condition is abrogated and the appointment decision is approved orally.⁽¹⁶⁾ Administering the oath of office is a basic condition that requires be performed by all employees,

regardless of their grades, when starting the service, and the oath is taken in front of one of the main bodies, and this is related to the most senior staff in the organization. To say, we conclude that the international employee differs from the national employee in terms of the important elements that must be met in the appointment decision and the employee's performance for Yemen in front of the concerned authorities in the organization, which therefore does not require the employee to deal with pain. The national level is if he does such a matter and the international employee is loyal to the organization to which he belongs only, not the country of whose nationality he carries.

Section Two

The Rights, Duties and Privileges of the International Employee

It is noticed that the international job is the same as the internal job in relation to rights and duties as the international job association generates several effects and results that are represented by the rights and duties imposed on the employee. Therefore, this topic will be divided into two subtitles. The first deals with rights and duties and the second one discusses privileges.

2.1 Duties of the International Employee

The international organization imposes a set of duties that the employee is obligated to perform, which is represented by a set of duties, including:

2.1.1 Full-time Employment

It is considered one of the most important elements that receive the responsibility of the employee, which requires that the employee be completely free to carry out the work of his job and does not perform any other work outside the scope of the job except with a permit from his presidential side, and he has a permit from the party to which he belongs, and this is considered a primary and basic duty and this also requires that there are no international influences or pressures from certain broads or countries on the employee's performance.⁽¹⁸⁾ The United Nations Staff Regulations referred to this duty as Article (1/4) stipulates that the organization's employees are obligated to practice their work at all times. In a manner consistent with their status as international civil servants, Article 101/6 in Clause (a) prohibits employees from carrying out foreign work continuously or intermittently without the prior approval of the Secretary-General.⁽¹⁹⁾

2.1.2: Integrity, Honesty and Impartiality

The international employee is required to have good moral qualities, and to perform his work in complete safety and integrity, outside of any personal goals for the employee or for a specific entity and devoid of everything that may affect his work. He is not biased in his work for any member state of the organization even if it is his country, and Article 1/4 of the United Nations Charter indicates that "every employee is prohibited from doing any possible work that affects his integrity, impartiality, independence and standing as an international employee. The employee has no right to be influenced by national feelings or political or religious beliefs, and he is required to transcend all that would affect his international standing or the performance of his work "and this characteristic remains associated with the international employee even after the end of his service in the organization and during a limited period after his leaving the service, but the practical reality took another direction completely different from these duties. An example of what is mentioned, The international inspection

of the United Nations, which has been entrusted with the task of investigating the alleged weapons of mass destruction in Iraq, notes that the division did not adhere while carrying out its work in accordance with the principles and conditions of the international job of integrity, honesty and impartiality. He is affected by international pressures, especially the United States of America, which exploited the work of the committee to spy on Iraq, which has been resulted in its work that it had failed. The committee has been resumed by the UNMOVIC Monitoring, Verification and Inspection Commission. This was stated by Hans Blix that the committee headed by UNMOVIC ban all its actions were based on specific goals . It is not free to do its work. Rather, it carries out its work under great pressure from the government of the United States of America. In conclusion, this statement comes too late and after Iraq has been accused of possessing weapons of mass destruction, so that they would have a clear excuse to enter America into Iraq This statement was made in 2003.⁽²⁰⁾

2.1.3: The Independence of the International Employee's the nationality of the country belonging to, and loyalty to the organization

This is considered an important duty in the employee's responsibility and therefore he is committed to full loyalty to the international organization, and this loyalty overrides any other loyalty even with regard to loyalty to the nationality of his country. The employee's actions have complete independence from his state and free to all restrictions that lead to subjecting him to any higher authority, but this does not mean that the international employee cuts off his relationship with his country of which he holds the nationality, but rather maintains good relations with his country, meaning that from the legal point of view he remains linked to a state with regard to some obligations such as military service and taxes, which do not give him the right to get rid of these obligations if he is appointed as an international employee.⁽²¹⁾

2.1.4: Observing Confidentiality and Preserving job Secrets

It is also deemed that one of the important duties that require the employee be committed to preserving job secrets and observing confidentiality, which imposes on him not to divulge the organization's secrets, give any opinions or information, or publish news whose publication is prohibited, except with the permission of the Secretary- General.⁽²²⁾

2.1.5: The Inadmissibility to Accept Honorary Decorations

It is noticed that this duty has been categorically prohibited by the Arab League for its international employees, as well as stipulated by the personnel system of the Organization of American States. In contrast, it is noted that international organizations have provided an exception to it, but in certain cases, an example of which is granted to the international employee in terms of honor or benefits as a tribute to him in relation to his good performance in the work of military or national service, as stipulated by each of the United Nations Organization in its Article 6/1 of the United Nations Staff Regulations, as well as the European groups in Article 11 of the list of permanent employees in European groups, as it has been observed that the last article prevented the employee from accepting such matters except what is in return for services he has performed before his appointment or during the leave he obtains to summon him to perform military or national service. There is

another possible exception through which the employee is honored, such as obtaining a university degree or a Nobel Prize, since imitating the employee in such cases is an honorary manner for the organization .⁽²³⁾

In summary, it is viewed that these rights are obligatory on the international employee. Added to that, there is another duty imposed on the international employee which is not to participate or engage in business of a political nature, despite giving him the right to vote, but he is prevented from participating in any political activity that conflicts or affects his independence and impartiality. This has been referred to by the United Nations personnel list and also by the statute for the staff of the Arab League, and the international organization also prohibited the employee from nominating or applying for some jobs because it may lead to obstruction of the organization's work, except in one case, the organization permits the nomination that he has obtained approval or prior permission from them.

2.2. International Employee's Rights

The international employee is also bound by a set of duties. In return, he deserves a set of rights that are defined either by the organizations charters or basic bylaws as well as by their internal regulations, and they are close to what national employees enjoy in return for the services he provides to the international administration system, and these rights are directly assigned to the international employee, and he these rights are as follows:

1. Having a Certificate of the International Status

It is considered one of the most important rights enjoyed by the employee, and as soon as they enjoy this capacity, the employees are independent from their governments and exercise their work in complete independence and this has been affirmed by the United Nations Charter in its Article (100/2), which stipulates: "every member of the United Nations is bound to respect the capacity". The international employee is subject to a special legal system imposed by the organization, which emphasizes the need for independence from any country, and all states are obligated to respect its independence and not influence it at all.⁽²⁴⁾

2. Freedom of Opinion and Thought

It is pointed out that this right has been affirmed by the international administrative judiciary in various matters, because it is considered among the basic freedoms that are decided for any ordinary person, provided that there is no conflict with his independence and impartiality.⁽²⁵⁾

3. Forming Societies and Unions

This proves the right of international employees to form associations and unions that guarantee the defense of all their affairs, but the category of senior international employees under ordeal are excluded from this sect, and it is remarked that the associations established by international employees are not considered a moral person in their own right, unlike the moral character of the international organization to which international employees belong, but there is an exception, and it is very rare, which is if the association carries out its work in accordance with the internal laws of the country, such as cultural or sportive associations that are independent from the organization, and in light of the recent development of the international administrative judiciary, it is observed that unions are allowed sharp criticism is directed at the international administration, provided that it uses full respect in its dealings, that the criticism is not offensive, and that the words do not include an appeal to the governments of one of the countries.⁽²⁶⁾

4. The Right to Strike

It is regarded that at the international level, international organizations have been strict in granting and exercising this right to international employees. Although they do not address the issue of organizing the strike, but it is considered as an inconsistent act with the duty of office. It is clear that ensuring it by the organization, it still has excluded in this regard some of its employees who work in the organization's security apparatus, and it has also prohibited senior officials from exercising this right, and at the same time the international organization may not consider exercising this right as a disciplinary violation, nor It may consider the employee cut off from his work.⁽²⁷⁾

5.The Financial Rights of the International Employee

All international organizations agree that the international employee enjoys a set of rights in return for the services he provides, as he obtains benefits and rights that guarantee him a decent and appropriate level to meet the requirements of the international job, and these rights include salaries. (Article 3) of the United Nations Personnel Affairs Regulations stipulates that "The Secretary-General determines the salaries of the employees. As for the statute for the employees of the League of Arab States, Article (3/2) states that salaries are determined according to what is contained in the tables attached to this system. Article (15 2) of association of Arab League employees states that the employee deserves it annually if his sufficiency report is good, and it also indicates that he deserves a monthly family compensation granted to employees working in the university offices outside the headquarters country as an additional compensation to meet the living expenses determined by the Secretary-General. He has a dependent child in one of the educational facilities so-called education grant and he specifies the conditions for its disbursement and its value, , and he has the right to leave and enjoy social security, either with regard to remuneration. This right is also determined for the employee in certain cases and are determined according to the United Nations personnel regulations, or the Arab League employee affairs bylaw, such as the end of service remuneration that is left for non-disciplinary reasons and the reward for borrowers, and among the rights granted to the international employee is the right to be promoted to the top after availability of conditions and rules. The employee also has the right to leave, whether regular, special or sick, as the organization does not have the right to deprive the employee of this right. In summary, the financial rights are similar to a large degree between international employees and public ones, in addition to the aforementioned matters, he is also entitled to social security and retirement at the end of the employee's service.⁽²⁸⁾

Conclusions and Recommendations

1- Conclusions

1-The international employee is regarded as the backbone of the international organization and since the emergence of international organizations, especially after the emergence of the United Nations Organization, his legal position has become very important and he is subject in performing his work to international administrative law, as he is considered the relevant law that deals with the issue of organizing the international job.

2-It is concluded that the international employee is distinguished, rather, independent in the performance of his work, which thus contributes to the promotion of the employee in carrying out his role, and what is related to the

appointment of the international employee is done by the international organization and then they are subject to the legal regulation of the organization.

3-What is related to the nature of the relationship of the international employee with the organization affiliated is a mixed relationship and a regulatory relationship.

4-Despite the great similarity between the international job and the job at the local level in many aspects, especially with regard to salary, remuneration, bonus and promotion, there is a problem that raises for the international job due to the multiplicity of its employees' nationalities and their different affiliations.

2- - Recommendations

1-It depends on the extent to which it is possible to have a judicial system that is independent in the performance of its work to consider the grievances of international employees outside the borders of their international organizations far from the International Court of Justice

2- It is imposed that international staff be selected with regard to the committees and teams of the United Nations that undertake the investigation of important and crucial issues for the countries. They do not have the nationalities of the countries that have political interests in the issues being investigated, so that their work is based on integrity and professionalism.

3- It is recommended to unify the legal rules that regulate the international civil service, provided that they are applicable in all international organizations.

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