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Towards a universal law governing the international civil service: a coalescence of international administrative law amid a proliferation of tribunals

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CHAPTER 2

THE INSTITUTIONAL EVOLUTION OF INTERNATIONAL ADMINISTRATIVE TRIBUNALS

I. INTRODUCTION

IATs have become standard features of many international organizations and those organizations that do not have their own IATs often provide their staff access to the IAT of another organization. But this was not always the case. For a long period, there existed only a handful of IATs, and in the time before this, the need for IATs was not even apparent, or at least widely accepted or acknowledged. This chapter will elaborate on these issues and trace the institutional evolution of IATs in the international community. It begins in the present Section with a discussion of the need for IATs and the legal basis for their establishment. It then looks in Section 2 at the institutional evolution of IATs, including their proliferation as well as the long-running debates concerning their possible merger or the harmonization of their work. In Section 3, the issue of the review of tribunal judgments is examined. Section 4 begins with a brief description of the functioning of a typical IAT and then provides an overview of the various IATs in existence. The chapter ends with several tables illustrating current and former IATs and comparing their relative levels of activity.

The principal and most often identified reason for the existence of IATs is the fact that international organizations, by their nature, are immune from the jurisdiction of the host State.⁴² Therefore, when a dispute develops between a civil servant and the organization with which they work, they cannot simply haul their employer before a national court to resolve it. For this reason alone, the international civil service needs a separate, internal adjudicatory system where the organization is not immune.

⁴² C.F. Amerasinghe, *The Law of the International Civil Service* (1994), vol. 1, at 8; C.F. Amerasinghe, 'International Administrative Tribunals', 2014 *Oxford Handbook of International Adjudication* 316, at 318-319.

A second, equally important reason for the establishment of IATs, and international administrative law, concerns the complicated issue of the law to be applied.⁴³ The application of national law raises the question: which national law? If the national law of the civil servant were applied (a situation which sometimes did occur in the first international organizations, when civil servants were seconded from their governments), different international civil servants would be subject to different law based only on their nationality. If the national law of the host State were applied, then international civil servants, even those working in the same organization, would be subject to different rules based on their different duty stations. By contrast, the adoption of autonomous rules for the international civil service ‘ensure[s] that all employees—whatever their nationality, their place of recruitment, or their duty station—be subject to comparable conditions of service and offered the same legal guarantees.’⁴⁴ Such rules could not and would not be applied by national courts, however. A separate adjudicatory system, in the form of IATs, had to be created.

A third reason for the establishment of IATs can be found in the growth of and development of the international civil service itself. In this regard, even if it were legally possible to settle disputes in national courts, or according to national law, it may no longer be desirable. As mentioned at the outset, the international civil service has grown in scope and importance. It has been argued in this regard that ‘the special position of the international civil servant referred to within international society does make it important that he have some independent system of law to protect him.’⁴⁵ Such a system has come into being in the form of IATs.

Finally, the development of IATs, and the law that they apply, can also be viewed as a product of the influence of human rights law on the creation of international institutional law. In this regard, a leading commentator has observed:

‘A cogent reason for international organizations submitting to the jurisdiction of specially created administrative courts, it now has come to be realized, is related to respect for human rights. In 1980, when the World Bank

⁴³ S. Villalpando, ‘The Law of the International Civil Service’, in J.K. Cogan, I. Hurd and I. Johnstone, eds., *The Oxford Handbook of International Organizations* (2016), at 1069-1071.

⁴⁴ *Ibid.*, at 1070.

⁴⁵ C.F. Amerasinghe, *The Law of the International Civil Service* (1994), vol. 1, at 8.

Administrative Tribunal (WBAT) was being established, one of the reasons given by the President of the World Bank for establishing a tribunal was one of principle. It was a principle accepted in many national legal systems and reaffirmed in the Universal Declaration of Human Rights. This principle required that where administrative power was exercised, there should be available machinery, in the event of disputes, to accord fair hearing and due process to the aggrieved party. Hence, there was a need for an independent *judicial* body to decide complaints relating to the exercise of administrative power.⁴⁶

The influence of human rights law on the creation of and continued strengthening of international administrative law has been made clear in multiple cases before regional human rights courts, in particular the ECtHR, as well as domestic courts, in which it has been found that the host State of an international organization could be found in breach of the ECHR if the IAT of that organization did not meet certain due process standards. The foundational case in this respect was the *Waite and Kennedy* judgment by the ECtHR⁴⁷. In that case, the ECtHR considered whether a decision of a German court upholding the immunity from jurisdiction of the ESA in a suit brought by two staff members regarding non-renewal of their contracts violated the individuals' rights to a hearing by a tribunal guaranteed in art. 6.1 of the ECHR.⁴⁸ The ECtHR stated that while 'the attribution of privileges and immunities to international organisations is an essential means of ensuring the proper functioning of such organisations free from unilateral interference by individual governments[, ...] a material factor in determining whether granting ESA immunity from German jurisdiction is permissible under the Convention is whether the applicants had available to them reasonable alternative means to protect effectively their rights under the Convention.'⁴⁹ While the ECtHR in *Waite and Kennedy* went on to conclude that the ESA Joint Appeals Board did satisfy this requirement,⁵⁰ the case established the 'reasonable alternative means' test for internal justice mechanisms and raised the possibility that an international organization in the territory of a member State of the

⁴⁶ C.F. Amerasinghe, 'International Administrative Tribunals', 2014 *Oxford Handbook of International Adjudication* 316, at 319.

⁴⁷ ECtHR, *Waite and Kennedy v. Germany*, Application No. 26083/94, 18 February 1999.

⁴⁸ *Ibid.*, paras. 3-8, 27-30.

⁴⁹ *Ibid.*, paras. 47, 52.

⁵⁰ *Ibid.*, paras. 53-58.

ECHR could have its immunity stripped and be hauled before a domestic court in an employment dispute if its internal justice mechanism was not found to provide a reasonable alternative means of protecting due process rights under the ECHR.⁵¹

National courts in member States of the ECHR now systematically apply the ‘reasonable alternative means’ test,⁵² and in certain cases this has led to denial of immunity. For example, in *Western European Union v. Siedler*, the Belgian Court of Cassation rejected the Western European Union’s immunity defence on the grounds that the Union’s internal appeals commission failed to meet the requirements of due process and independence guaranteed by art. 6.1 of the ECHR.⁵³ Similarly, in *Banque Africaine de développement v. MA Degboe*, the French Court of Cassation refused the AfDB’s immunity because it lacked an internal mechanism to deal with disputes between staff members and the Bank.⁵⁴ Other examples continue to multiply.⁵⁵

The reasons for the establishment of IATs, therefore, are numerous, and indeed they are mutually reinforcing. Viewed together, it can be said that IATs exist because the international civil service, which has grown into a cogent and permanent workforce, requires independent, specialized fora for the resolution of employment disputes, where immunities will not block suits and due process will be respected. While IATs are perhaps not the only solution to fulfil these needs — indeed arbitration is used in some organizations⁵⁶ or has been proposed for

⁵¹ A. Reinisch and U.A. Weber, ‘In the Shadow of Waite and Kennedy: The Jurisdictional Immunity of International Organizations, the Individual’s Right of Access to the Courts and Administrative Tribunals as Alternative Means of Dispute Settlement’, (2004) 1 *International Organizations Law Review* 59, at 79.

⁵² A. Reinisch, ed., *The Privileges and Immunities of International Organizations in Domestic Courts* (2013), at 61-69 (Belgium), 118-119 (France), 252-267 (Switzerland).

⁵³ Belgian Court of Cassation, *Western European Union v. Seidler*, jugement d’appel, Cass No S 04 0129 F (21 December 2009).

⁵⁴ French Court of Cassation, *Banque Africaine de développement v. MA Degboe*, Bull. civ. V, No. 04-41.012 (25 janvier 2005).

⁵⁵ For a detailed analysis of *Waite and Kennedy* and subsequent jurisprudence, see works cited in S. Villalpando, ‘Managing International Civil Servants’, in S. Cassese, ed., *Research Handbook on Global Administrative Law* (2016) 65, at 66 n. 4. See also A. Thévenot-Werner, ‘The Right of Staff Members to a Tribunal as a Limit to the Jurisdictional Immunity of International Organisations in Europe’, in A. Peters et al., eds., *Les Acteurs à l’Ère du Constitutionnalisme Global* (2014), at 111-139.

⁵⁶ See R. Gulati and T. John, ‘Arbitrating Employment Disputes Involving International Organizations’, in P. Quayle, ed., *The Role of International Administrative Law at International Organizations* (AIIB Yearbook of International Law, vol. 3) (2021), at 141-157.

certain stages of the process⁵⁷ or categories of staff members⁵⁸ — there can be no doubt that IATs now play the principal role in the resolution of employment disputes in international organizations, and a great many IATs have come into being.

Having established a need for IATs, the next question which arises is what legal basis exists for their creation. As noted by Amerasinghe, when the constitutive instrument of the organization expressly provides for an administrative tribunal then the issue is clear, but in the great majority of cases the constituent instrument makes no such explicit reference.⁵⁹ The extent of the implied powers of international organizations thus arises, a question on which the ICJ pronounced as early as 1949 in its advisory opinion in the case concerning *Reparation for Injuries Suffered in the Service of the United Nations*, when it concluded that '[u]nder international law, the Organisation must be deemed to have those powers which, though not expressly provided in the Charter, are conferred upon it by necessary implication as being essential to the performance of its duties.'⁶⁰

This doctrine of implied powers was tested in the specific context of establishing an IAT a few years later in the ICJ's 1954 Advisory Opinion on the *Effect of Awards of Compensation Made by the United Nations Administrative Tribunal*. In that case, the UNGA requested the Court to give an advisory opinion on whether the UNGA was required to give effect to an award of compensation made by the UNAdT. One of the arguments made for why the UNGA should be able to refuse to give effect to such an award was that the UN Charter contained no express provision for the establishment of the UNAdT. In considering whether an implied power to do so existed, the ICJ observed that it was inevitable that there would be disputes between the Organization and staff members as to their rights and duties.⁶¹ Observing that the Charter contained no provision authorizing any of the principal organs of the UN to adjudicate

⁵⁷ See A. Zack, 'The Step Below: Can Arbitration strengthen Administrative Tribunals?', in O. Elias, ed., *The Development and Effectiveness of International Administrative Law: On the Occasion of the Thirtieth Anniversary of the World Bank Administrative Tribunal* (2012), at 265-270.

⁵⁸ For a detailed discussion about the proposed use of arbitration to resolve disputes concerning non-staff personnel in the UN system, see Garrido Muñoz et al., *supra* note 2, Chapter 10.

⁵⁹ C.F. Amerasinghe, *Statutes and Rules of Procedure of International Administrative Tribunals* (1983), vol. 1, at i.

⁶⁰ ICJ, *Reparation for injuries suffered in the service of the United Nations*, Advisory Opinion, *ICJ Reports 1949*, at 182.

⁶¹ ICJ, *Effect of Awards of Compensation Made by the United Nations Administrative Tribunal*, Advisory Opinion, *ICJ Reports 1954*, at 57.

such disputes, the ICJ concluded, in a foundational passage for the development of international administrative law, that:

‘It would, in the opinion of the Court, hardly be consistent with the expressed aim of the Charter to promote freedom and justice for individuals and with the constant preoccupation of the United Nations Organization to promote this aim that it should afford no judicial or arbitral remedy to its own staff for the settlement of any disputes which may arise between it and them.

In these circumstances, the Court finds that the power to establish a tribunal, to do justice as between the Organization and the staff members, was essential to ensure the efficient working of the Secretariat, and to give effect to the paramount consideration of securing the highest standards of efficiency, competence and integrity. Capacity to do this arises by necessary intendment out of the Charter.’⁶²

The power of international organizations to establish IATs, and the power of such tribunals to render decisions binding on those organizations, has never seriously been questioned since.

⁶² *Ibid.*

II. The institutional evolution of International Administrative Tribunals

A. The establishment and proliferation of Administrative Tribunals

The very earliest international organizations were composed almost exclusively of national civil servants seconded by their governments and who remained subject to the jurisdiction of their home countries.⁶³ This situation began to change in the beginning of the twentieth century, when Italy, as host country of the International Institute of Agriculture, established in 1905, granted international status to the civil servants of that organization.⁶⁴ Nevertheless, organizations continued in this early period to exist without a forum for the resolution of disputes between staff members and the administration. When the LoN was established in 1920, its Covenant also did not foresee a formal system for the resolution of staff disputes.⁶⁵ In December 1920, the Council of the LoN passed a resolution whereby civil servants engaged for five years or longer could submit disputes to it or to the Governing Body of the LoN.⁶⁶ On the sole occasion when this procedure was invoked, in the 1925 *Monod* case involving a staff member claiming unilateral breach of his contract, the Council put the question of the legality of the administration's actions with respect to Monod's contract to a group of experts and ultimately adopted their recommendation.⁶⁷

The practice of having recourse to the Council, a political body, for the resolution of legal disputes with staff members was subject to significant criticism and, in 1925, in the course of the *Monod* affair, a rapporteur of the Supervisory Commission of the LoN was tasked with producing a report on the possible creation of a judicial body to handle staff disputes.⁶⁸ The

⁶³ S. Villalpando, 'Managing International Civil Servants', in S. Cassese, ed., *Research Handbook on Global Administrative Law* (2016) 65, at 67.

⁶⁴ *Ibid.*

⁶⁵ S. Villalpando, 'International Administrative Tribunals', in J.K. Cogan, I. Hurd, I. Johnstone, eds., *The Oxford Handbook of International Organizations* (2016) 1085, at 1087.

⁶⁶ S. Bastid, 'Les tribunaux administratifs internationaux et leur jurisprudence', (1957) 92 *Recueil des Cours* 343, at 368 (citing LoN Council resolution of 17 December 1920, Actes de la première assemblée, séances plénières, at 663).

⁶⁷ *Ibid.*, at 369-370. The recommendation was to grant Mr. Monod 750 pounds as compensation. The Council of the LoN passed a resolution on 5 September 1925 adopting the conclusions of the expert committee and instructing the Secretary-General to take the necessary action. No question was raised in the Assembly of the LoN concerning the propriety of making this payment. See Memorandum of the International Labour Office submitted in the case concerning *Effect of Awards of Compensation Made by the United Nations Administrative Tribunal*, *ICJ Pleadings 1954*, at 48-51.

⁶⁸ Memorandum of the International Labour Office submitted in the case concerning *Effect of Awards of Compensation Made by the United Nations Administrative Tribunal*, *ICJ Pleadings 1954*, at 51-52.

rapporteur considered such a body beneficial not only to the staff members but to the administration; this became the foundation upon which the draft statute was prepared.⁶⁹ The LoNAT was established by a resolution adopted by the Assembly of the LoN on 26 September 1927.⁷⁰ This same resolution put an end to the system of recourse to the Council.⁷¹

The LoNAT functioned between 1927 and 1946, during which time it rendered thirty-seven judgments.⁷² While the initial judgments concerned routine questions such as the right to join the pension fund or the question whether a staff member was internationally recruited, the final thirteen judgments rendered by the tribunal dealt with the same issue and set off the first major ‘legitimacy crisis’ in international administrative law.⁷³ The issue arose out of a budget crisis in the LoN brought on by the outbreak of Second World War. The Assembly of the LoN took measures to reduce the staff of the Secretariat and the International Labour Office, adopting amendments to the staff regulations in December 1939. According to these amendments, staff members were offered a choice of resigning with a large separation payment or having their contracts suspended and receiving a smaller *ex gratia* payment. The amended staff regulations also provided that staff members who rejected both of these options would have a reduced period of notice of termination and their termination indemnity would be made in instalments instead of by lump sum. Thirteen staff members who were terminated according to these latter conditions brought complaints in the LoNAT, arguing that the new conditions violated their acquired rights.⁷⁴ In a series of judgments rendered in February 1946, the LoNAT found for the complainants.⁷⁵ Before the amounts awarded by the LoNAT were paid, the matter was considered by, in turn, the Secretary-General, the Supervisory Commission of the LoN, the Second (Finance) Committee of the LoN and a specially appointed sub-committee.

⁶⁹ *Ibid.*, at 52. Between February 1926 and February 1927, a series of drafts of the statute were considered by the Supervisory Commission of the LoN and in February 1927 a text was submitted to the Eighth session of the Assembly. *Ibid.*, at 52-54. See also Bastid, *supra* note 66, at 371.

⁷⁰ LoN, Assembly resolution entitled ‘Establishment of an Administrative Tribunal’, Eighth Ordinary Session, 26 September 1927, Official Journal (May 1928), at 751.

⁷¹ *Ibid.* While the 1927 resolution established the tribunal on a temporary basis, giving the 1931 Assembly the power to ‘abrogate or amend’ its statute, the Assembly confirmed the LoNAT as a permanent tribunal without further changes to its statute in 1931. Bastid, *supra* note 66, at 371.

⁷² See the history of the ILOAT and its predecessor the LoNAT, available at <https://www.ilo.org/tribunal/lang--en/index.htm> (accessed 20 April 2024).

⁷³ Bastid, *supra* note 66, at 373.

⁷⁴ Memorandum of the International Labour Office submitted in the case concerning *Effect of Awards of Compensation Made by the United Nations Administrative Tribunal*, ICJ Pleadings 1954, at 59-60.

⁷⁵ *Ibid.*, at 60-61.

Ultimately, a majority of the Finance Committee recommended that the awards not be paid, concluding that it was not open to the LoNAT to question the validity of a legislative act of the Assembly, a conclusion which gave rise to a vigorous dissent in the Committee.⁷⁶ The report of the Finance Committee was adopted by the Assembly over the reservation of seven governments, and the awards ordered by the LoNAT were thus never paid.⁷⁷ Although less known than the situation confronted by the ILOAT which led to the Advisory Opinion of the ICJ in *Effect of Awards*,⁷⁸ the above episode before the LoNAT bore much in common with it, and ultimately lead to the establishment of the review procedure by the ICJ over ILOAT judgments.⁷⁹

Given this cold reception offered to the LoNAT, it is somewhat ironic that the resolution dissolving the LoN maintained its administrative tribunal, reinstating it (with the same composition) within the ILO as the ILOAT.⁸⁰ The newly created UN itself had no mechanism for the settlement of staff disputes since the ILOAT initially served only the officials of the ILO, as well as pensioners of the LoN and the Registry of the Permanent Court of International Justice. The Preparatory Commission of the UN recommended the creation of an administrative tribunal, but several governments which considered it an interference with the powers of the Secretary-General opposed this. It was thus not until 1949 that the UNGA established the UNAdT.⁸¹ This delay ultimately proved very significant for the overall development of IATs: during that period, the WHO was established (in 1948) and needed an administrative tribunal.

⁷⁶ Bastid, *supra* note 66, at 374-375; Memorandum of the International Labour Office submitted in the case concerning *Effect of Awards of Compensation Made by the United Nations Administrative Tribunal*, ICJ Pleadings 1954, at 61-69.

⁷⁷ Memorandum of the International Labour Office submitted in the case concerning *Effect of Awards of Compensation Made by the United Nations Administrative Tribunal*, ICJ Pleadings 1954, at 69-70.

⁷⁸ See *supra* notes 61-62 and accompanying text.

⁷⁹ In subsequent discussions in the Governing Body of the International Labour Office, the Chairman observed that there was nothing it could do except take note of the Assembly's decision to disregard the awards of the LoNAT, but he went on to suggest that provision be made for 'a court of appeal' such as the ICJ to be put in place in the future to reconsider the Tribunal's decisions from a judicial standpoint and avoid the situation of the Assembly taking matters into its own hands. This was taken up by the International Labour Office and an amendment to the statute establishing the ICJ review procedure was approved by the Staff Questions Committee and the Governing Body. Memorandum of the International Labour Office submitted in the case concerning *Effect of Awards of Compensation Made by the United Nations Administrative Tribunal*, ICJ Pleadings 1954, at 71-73. This procedure is discussed in detail below in Section III.A.

⁸⁰ Bastid, *supra* note 66, at 376 (citing LoN, *Resolution for the Dissolution of the League of Nations*, 18 April 1946, 194 *Journal official*, *Supplément special* 281, at 282-283, para. 15).

⁸¹ S. Villalpando, 'International Administrative Tribunals', in J.K. Cogan, I. Hurd, I. Johnstone, eds., *The Oxford Handbook of International Organizations* (2016) 1085, at 1088.

It approached the ILO seeking what was then an interim solution, to submit its staff disputes to the ILOAT. This led the International Labour Conference to amend Article II of the ILOAT statute, extending jurisdiction of the ILOAT to other international organizations under certain conditions.⁸² As we now know, the WHO was only the first of a great many international organizations to submit to the jurisdiction of the ILOAT. At the time of this writing, 59 organizations have done so, giving the ILOAT jurisdiction over some 58,000 staff members.⁸³ From this point forward, international organizations thus have all confronted the choice between joining a multijurisdictional tribunal such as the ILOAT which accepts outside organizations into its ambit or creating a new tribunal.⁸⁴

In establishing the UNAdT, the UNGA also included a provision in its statute by which the tribunal's jurisdiction could be extended to other bodies beyond the UN Secretariat, but in contrast to the ILOAT, the UNAdT statute provision was quite limited, applying only to UN specialized agencies. Only two such agencies accepted the UNAdT's jurisdiction: the ICAO in 1960 and the Inter-Governmental Maritime Consultative Organization (which became the IMO) in 1964.⁸⁵ Following an amendment to the UNAdT Statute in 1997, the tribunal's competence was also recognized by the ICJ Registry, as well as two organizations of the UN common system: the ISA and the ITLOS.⁸⁶

⁸² *Ibid.* For the text of the provision, see ILOAT Statute, art. 2.5. See also 'The Tribunal', available at <https://www.ilo.org/tribunal/about-us/lang--en/index.htm> (accessed 20 April 2024).

⁸³ 'ILO Administrative Tribunal: Organizations recognizing the jurisdiction', available at <http://www.ilo.org/tribunal/membership/lang--en/index.htm> (accessed 7 March 2025). For a list of the first adopters of ILOAT jurisdiction, see de Cooker, *supra* note 7, at 235.

⁸⁴ For a full analysis of this choice and the various considerations it entails, see K. Meighan and G. Rodríguez-Rico, 'To Join or Not to Join: A Comparative Analysis of Joining or Creating an International Administrative Tribunal', in P. Quayle, ed., *The Role of International Administrative Law at International Organizations* (AIIB Yearbook of International Law, vol. 3) (2021), at 119. An excellent summary of the various tribunals established can be found in de Cooker, *supra* note 7, at 234-238.

⁸⁵ S. Villalpando, 'International Administrative Tribunals', in J.K. Cogan, I. Hurd and I. Johnstone, eds., *The Oxford Handbook of International Organizations* (2016) 1085, at 1089.

⁸⁶ *Ibid.*

The ‘Co-ordinated Organisations’,⁸⁷ established in 1958 in an effort to harmonize rules and practices on remuneration, entitlements and pensions,⁸⁸ began with separate appeals boards. Despite repeated calls to establish a single administrative tribunal for all coordinated organisations,⁸⁹ these separate appeals boards, rather than merging, were ultimately converted into separate IATs, with the establishment of the OECDAT in 1992, the ATCE in 1994, the NATOAT in 2013 and the ESAAT in 2020.⁹⁰ Amerasinghe has noted that while problems can occur in the Co-ordinated Organisations due to conflicting judgments of its various IATs, ‘this happens infrequently’ and ‘there has been no desire to have a “common” court.’⁹¹ In 2014, the ATCE Statute was amended to allow other organizations to accept its jurisdiction.⁹² As of this date, four such organizations have done so.⁹³

Ultimately, the international financial institutions, like the Co-ordinated organizations, each formed their own IAT, beginning with the WBAT in 1980. This was a major development for international administrative law, the WBAT being the first IAT to set high qualifications

⁸⁷ The Co-ordinated Organisations are a group of six international organizations headquartered in Europe, initially made up of the CoE, ESA, NATO, OECD and WEU. The latter ceased to exist in 2011. ECMRWF joined the co-ordinated organisations in 1988 and EUMETSAT joined in 2012. See de Cooker, *supra* note 7, at 242; G. Ullrich, *The Law of the International Civil Service: Institutional Law and Practice in International Organisations* (2018), 45; W. Fürst and H. Weber, ‘Uniformity in service law and judicial remedies for staff members of the European coordinated organisations’, in C. de Cooker, ed., *International Administration: Law and Management Practices in International Organisations* (1990), at 1-31.

⁸⁸ See Fürst and Weber, *supra* note 87, at 2-3.

⁸⁹ See *infra* notes 160-163 and accompanying text.

⁹⁰ While the ECMWF retains an ‘Appeals Board’ in name, its procedural rules were substantially revised and extended in 2017. See G. Wettberg, ‘Appeals Board: European Centre for Medium-Range Weather Forecasts (ECMWF)’, 2019 *Max Planck Encyclopedia of International Procedural Law*, para. 16. Similarly, the EUMETSAT Appeals Board, despite its name, functions as an administrative tribunal issuing binding decisions. See EUMETSAT Staff Rules, last amended 1 July 2023, art. 38 and Annex VIII (available at www.eumetsat.int).

⁹¹ C.F. Amerasinghe, ‘The Future of International Administrative Law’, (1996) 45 *International and Comparative Law Quarterly* 773, at 777.

⁹² de Cooker, *supra* note 7, at 239.

⁹³ These include the Council of Europe Development Bank, the Central Commission for the Navigation of the Rhine, the Hague Conference on Private International Law and the Intergovernmental Organisation for International Carriage by Rail. See ‘Bodies and organisations subject to the jurisdiction of the Tribunal’ at <https://www.coe.int/en/web/tribunal/bodies-and-organisations-subject-to-the-jurisdiction-of-the-tribunal> (accessed 20 April 2024).

for judges,⁹⁴ mirroring the requirements for ICJ Judges,⁹⁵ and which quickly established itself as a leading IAT with its pathbreaking *de Merode* decision.⁹⁶ The establishment of the WBAT was soon followed by that of the IDBAT in 1981.⁹⁷ The ATBIS was then established in 1987,⁹⁸ the ADBAT in 1991,⁹⁹ the IMFAT in 1994,¹⁰⁰ the AfDBAT in 1997¹⁰¹ and the EBRDAT in 2007.¹⁰²

There has also been a steady growth of IATs in regional organizations, such as the creation of the OASAT in 1971,¹⁰³ the MERCOSUR Administrative Tribunal in 2003,¹⁰⁴ the EUCST in 2004 (abolished in 2016),¹⁰⁵ the AUAT in 2010¹⁰⁶ and the CARICOM Administrative Tribunal in 2019.¹⁰⁷

⁹⁴ WBAT Statute, art. IV.1 (stipulating that members of the Tribunal ‘shall be persons of high moral character and must possess the qualifications required for appointment to high judicial office or be jurisconsults of recognized competence in relevant fields such as employment relations, international civil service and international organization administration’).

⁹⁵ ICJ Statute, art. 2. Indeed, it has been noted that the WBAT has seen three former presidents of the ICJ among its judges, as well as several former Judges of the ICJ. See Opening Remarks delivered by Jan Paulsson to the symposium on the Development and Effectiveness of international Administrative law (Washington D.C., 23 March 2010), in O. Elias, ed., *The Development and Effectiveness of International Administrative Law: On the Occasion of the Thirtieth Anniversary of the World Bank Administrative Tribunal* (2012), at 4.

⁹⁶ See discussion in Chapter 4, Section III.A.1. See also C.F. Amerasinghe, ‘The Implications of the *de Merode* Case for International Administrative Law’, (1983) 43 *Heidelberg Journal of International Law* 16-34.

⁹⁷ See ‘World Bank Administrative Tribunal’, available at <https://tribunal.worldbank.org/> (accessed 20 April 2024); ‘IDB: Administrative Tribunal’, available at <https://www.IDB.org/en/who-we-are/transparency/administrative-tribunal/administrative-tribunal-frequently-asked-questions> (accessed 20 April 2024).

⁹⁸ See website of the Tribunal at https://www.bis.org/about/at_bis.htm (accessed 20 April 2024).

⁹⁹ See introduction to the annual report of the Tribunal, available at <https://www.adb.org/documents/administrative-tribunal-annual-report-2022> (accessed 20 April 2024).

¹⁰⁰ See C. Goldman, ‘The International Monetary Fund Administrative Tribunal: Its First Six Years’, (1994-1999) 1 *International Monetary Fund Administrative Tribunal Reports* (2000), 1.

¹⁰¹ ‘Terms of Reference of the African Development Bank Administrative Tribunal’, available at <https://www.afdb.org/fileadmin/uploads/afdb/Documents/Administrative-Tribunal/Administrative%20Tribunal%20-%20Terms%20of%20Reference.pdf> (accessed 20 April 2024).

¹⁰² See *infra* note 345.

¹⁰³ See information on the website of the Tribunal at <https://www.oas.org/ext/en/main/oas/our-structure/agencies-and-entities/tribad/> (accessed 20 April 2024).

¹⁰⁴ MERCOSUR, Grupo Mercado Común resolution 54/03, ‘Tribunal Administrativo-Laboral del Mercosur’, Doc. MERCOSUR/GMC/RES N°54/03, 10 December 2003, available at <https://www.tprmercotur.org/es/tal.htm> (accessed 20 April 2024).

¹⁰⁵ See *infra* note 290 and accompanying text.

¹⁰⁶ See *infra* notes 300-304 and accompanying text.

¹⁰⁷ See ‘Press Release on the Caribbean Community Administrative Tribunal (CCAT)’, available at <https://caricom.org/press-release-on-the-caribbean-community-administrative-tribunal-ccat/> (accessed 20 April 2024). See also de Cooker, *supra* note 7, at 238.

International organizations focused on other specific areas also have gradually established administrative tribunals, such as the CSAT in 1995¹⁰⁸ and the ESMAT in 2013.¹⁰⁹ The OIF set up a two tier-system, composed of the TPIOIF established in 2010 and the TAOIF established in 2014.¹¹⁰

It is also worth noting that several organizations have carried out significant reforms of their IATs. In a major development for international administrative law, dissatisfaction with the UNAdT brought about a full-scale reform of the UN internal justice system,¹¹¹ leading to the creation of the UNDT and UNAT in 2009.¹¹² Another significant reform occurred in the EU, with staff cases moving from the European Court of Justice to the newly-established EUCST in 2004, followed by another reform in 2016 with the abolition of the EUCST and the handling of staff cases returning to an enlarged GCEU.¹¹³ This reform was undertaken in conjunction with an expansion of the GCEU from 40 Judges in December 2015 to 47 judges on 1 September 2016 and ultimately to two judges per Member State as from 1 September 2019.¹¹⁴ Thus, the seven-judge EUCST was dissolved, while the GCEU was increased by seven members and given jurisdiction over administrative law matters previously handled by the EUCST. Other smaller organizations have also reformed their administrative tribunals,

¹⁰⁸ See CSAT Statute, art. I.

¹⁰⁹ ‘Administrative Tribunal ESMAT’, available at [https://www.esm.europa.eu/how-we-work#administrative_tribunal_\(esmat\)](https://www.esm.europa.eu/how-we-work#administrative_tribunal_(esmat)) (accessed 20 April 2024).

¹¹⁰ The *Règlement of the Tribunal de première instance* entered into force on 28 September 2010. The *Règlement of the Tribunal d’appel* entered into force on 20 January 2014.

¹¹¹ For the official report that triggered the reform, see ‘Report of the Redesign Panel on the United Nations System of Administration of Justice’, 28 July 2006, UN Doc. A/61/205. For additional scholarly commentary, see A. Reinisch and C. Knahr, ‘From the United Nations Administrative Tribunal to the United Nations Appeals Tribunal – Reform of the Administration of Justice System within the United Nations’, (2008) 12 *Max Planck Yearbook of United Nations law* 447-483; P. Hwang, ‘Reform of the Administration of Justice System at the United Nations’, (2009) 8 *Law and Practice of International Courts and Tribunals*, 181-224; L. Otis and E.H. Reiter, ‘The Reform of the United Nations Administration of Justice System: The United Nations Appeals Tribunal after One Year’, (2011) 10 *Law and Practice of International Courts and Tribunals* 405-428.

¹¹² UNGA resolution A/RES/63/253, 24 December 2008, *Administration of justice at the United Nations*, paras. 26-27.

¹¹³ See *infra* note 290 and accompanying text.

¹¹⁴ Regulation 2015/2422 of the European Parliament and of the Council of 16 December 2015, amending Protocol No 3 on the Statute of the Court of Justice of the European Union.

including the EBRD¹¹⁵ and the Commonwealth Secretariat.¹¹⁶ Still others have carried out extensive reviews of their internal justice mechanisms without necessarily triggering a reform.¹¹⁷

Finally, mention should be made of the trend in recent years for international organizations having opted to submit disputes to the ILOAT to withdraw from that arrangement, either to establish their own dispute resolution mechanism or to join a different multijurisdictional tribunal, frequently out of dissatisfaction with a prior judgment of the ILOAT, creating a potentially dangerous trend of ‘forum shopping.’¹¹⁸ For example, the IFAD left the ILOAT in March 2020, having joined the UNAT in December 2019.¹¹⁹ It cited three reasons for this departure: (1) ‘lack of jurisprudential consistence and foreseeability, as well as appropriate weight of proportionality of decisions’; (2) dissatisfaction with the ‘beyond a reasonable doubt’ standard employed by the ILOAT in disciplinary cases; and (3) the length of time it took the ILOAT to render decisions.¹²⁰ The Universal Postal Union left the ILOAT in 2021, following an ILOAT decision reinstating several staff members whose posts had been abolished due to budgetary constraints.¹²¹ The Technical Centre for Agricultural and Rural Cooperation left the ILOAT in 2018 to establish its own tribunal, the organization ceasing operations in 2020.¹²² De Cooker comments that ‘It is rather obvious that the actions of the [Technical Centre’s] management were a reaction to the ILOAT’s jurisprudence regarding

¹¹⁵ N. Seiler, ‘Evolution of the Grievance System of the European Bank for Reconstruction and Development: Lessons Learnt and Way Forward’ in P. Quayle, ed., *The Role of International Administrative Law at International Organizations* (AIIB Yearbook of International Law, vol. 3) (2021), at 172-187.

¹¹⁶ A. Lacourt, ‘The Commonwealth Secretariat Arbitral Tribunal: The Evolution and Explanation of Changes to the Tribunal’s Statute’, in P. Quayle, ed., *The Role of International Administrative Law at International Organizations* (AIIB Yearbook of International Law, vol. 3) (2021), at 191-212.

¹¹⁷ See ‘External Panel of Experts’ Review of the IMF’s Dispute Resolution System’, *IMF eLibrary*, 9 June 2022, available at <https://www.elibrary.imf.org/view/journals/007/2022/032/article-A002-en.xml> (accessed 20 April 2024).

¹¹⁸ For a useful commentary on this issue, see de Cooker, *supra* note 7, at 239-241; see also ‘Initial review of the jurisdictional set-up of the United Nations common system: Report of the Secretary-General’, 15 January 2021, UN Doc. A/75/690, para. 17.

¹¹⁹ de Cooker, *supra* note 7, at 240.

¹²⁰ *Ibid.* (citing *IFAD’s Withdrawal from the Jurisdiction of the Administrative Tribunal of the International Labour Organization (ILOAT) and its Submission to the Jurisdiction of the United Nations Appeals Tribunal (UNAT) based on the Assessment and Recommendations Outlined in EB 2019/126/R.35*, IFAD EB 2019/126/C.R.P.1/Rev.2 (6 May 2019); *IFAD’s Appeals Process: Assessment and Recommendations*, IFAD EB 2019/126/R.35 (6 May 2019)).

¹²¹ de Cooker, *supra* note 7, at 240-241.

¹²² de Cooker, *supra* note 7, at 239-240.

it.’¹²³ The WMO left the ILOAT in 2017 to join the UNAT.¹²⁴ De Cooker states that ‘[t]here is not much information in the public domain concerning the reasons behind the withdrawal, but it was most likely prompted by some judgments from the ILOAT.’¹²⁵ Additional examples include the PCA (left the ILOAT in 2016 and established its own arbitration mechanism to resolve staff disputes)¹²⁶ and the Organisation for International Carriage by Rail (left the ILOAT in March 2018, having joined the ATCE in December 2017).¹²⁷

B. Proposals to merge or harmonize the work of the Tribunals

Ever since IATs began to proliferate, there have been voices trying to reverse this trend, calling for their merger, or at least the coordination of their work. Such calls have been particularly acute among organizations which form part of a coordinated system, such as the UN Common System, the Co-ordinated organizations and the EU.¹²⁸ Already in 1958, Bedjaoui wrote that the division of competence *ratione personae* between two tribunals was a sort of historical accident and the creation of a common tribunal for the UN and all its specialized agencies ‘remained the end goal.’¹²⁹ In 1973, Lachs in a declaration appended to the Advisory Opinion on *Application for Review of Judgement No. 158 of the United Nations Administrative Tribunal*, called for the creation of a new appellate tribunal, both to remedy weaknesses he saw in the review procedure by the ICJ and to avoid divergent jurisprudence between the ILOAT and UNAdT on common questions.¹³⁰

In 1978, following an advisory opinion requested by the ILO and issued by three ILOAT judges in their individual capacity, which concluded that the introduction of a new salary scale

¹²³ *Ibid.* at 240.

¹²⁴ Initial review of the jurisdictional set-up of the United Nations common system: Report of the Secretary-General, *supra* note 118, para. 17.

¹²⁵ de Cooker, *supra* note 7, at 239.

¹²⁶ ‘Initial review of the jurisdictional set-up of the United Nations common system: Report of the Secretary-General’, *supra* note 118, para. 17.

¹²⁷ de Cooker, *supra* note 7, at 239.

¹²⁸ For a description of these coordinated systems, see Ullrich, *supra* note 87, at 43-46.

¹²⁹ M. Bedjaoui, *Fonction publique internationale et influences nationales* (1958), 573.

¹³⁰ ICJ, *Application for Review of Judgement No. 158 of the United Nations Administrative Tribunal*, Advisory Opinion of 12 July 1973, Declaration of President Lachs, *ICJ Reports 1973*, at 214. See also his further reflections on this question in M. Lachs, ‘The Judiciary and the International Civil Service: Some Suggestions’, in *Liber amicorum honouring Ignaz Seidl-Hohenveldern* (1988), 301 at 310-313.

in Geneva required prior negotiation with the staff union,¹³¹ the UNGA expressed concern about the discordant responses of several organizations and requested the UNSG ‘to study the feasibility of establishing a single administrative tribunal for the entire common system’¹³². Working papers on the possibility of a joint tribunal were prepared by the UN Office of Legal Affairs, the International Labour Office and by an external consultant.¹³³ Taking stock of this research and comments at an *ad hoc* meeting of Legal Advisers, the UNSG took the position that ‘over the nearly 30 years that the two Tribunals have operated side by side, no real divergence in jurisprudence has arisen.’¹³⁴ He thus called for efforts to be concentrated on harmonizing the statutes, rules and practices of the two tribunals.¹³⁵

In 1984, following inter-agency and staff consultations, the Secretary General revisited the issue, publishing a report on the feasibility of establishing a single administrative tribunal. In it, he proposed replacing review by the ICJ with a review by a grand panel of senior judges of the UNAdT and the ILOAT, or judges of other administrative tribunals such as the WBAT.¹³⁶ The proposal was reiterated by the UNSG in subsequent reports and in 1988 the UN Legal Counsel chaired fourteen consultative meetings on the topic, bringing together stakeholders from both the UNAdT and the ILOAT.¹³⁷ However, when discussions reached the Fifth Committee, States were reticent to change the status quo, noting that ‘for historical reasons, the administrative tribunals of the International Labour Organisation and of the rest of the United Nations system had remained separate.’¹³⁸ The UNGA ‘[d]ecided to retain, pending

¹³¹ UNGA, ‘Report of the International Civil Service Commission’, UN Doc. A/33/30 (Supp), paras. 21-25.

¹³² UNGA resolution A/RES/33/119, 19 December 1978, *Report of the International Civil Service Commission*, para. I.2.

¹³³ ‘Initial review of the jurisdictional set-up of the United Nations common system: Report of the Secretary-General’, *supra* note 118, paras. 44-45.

¹³⁴ ‘Feasibility of establishing a single administrative tribunal: Report by the Secretary-General’, 9 November 1979, UN Doc. A/C.5/34/31, para. 6.

¹³⁵ *Ibid.*, para. 13. For a detailed doctrinal description of this episode and analysis of the possibility of merger or harmonization, arguing firmly in favour of the latter, see P. Tavernier, ‘La fusion des tribunaux administratifs des Nations Unies et de l’O.I.T. : nécessité ou utopie ?’, (1979) 25 *Annuaire Français de Droit International* 442-459.

¹³⁶ ‘Administrative and Budgetary Co-ordination of the United Nations with the Specialized Agencies of the International Atomic Energy Agency: Feasibility of Establishing a Single Administrative Tribunal, Report of the Secretary-General’, 20 September 1984, UN Doc. A/C.5, 39/7, para. 75.

¹³⁷ ‘Feasibility of establishing a single administrative tribunal: Report by the Secretary-General’, *supra* note 134, paras. 51-52.

¹³⁸ UNGA, Fifth Committee, Summary record of the 43rd meeting held on 17 November 1989, UN Doc. A/C.5/44/SR.43 (24 November 1989), para. 15 (intervention of the Federal Republic of Germany).

further consideration, the existing statute of the Administrative Tribunal of the United Nations' and '[r]equested the Secretary-General to revert to this matter, when appropriate, taking into account ... comments of Members States.'¹³⁹

In 2000, a report of the JIU recommended that closer working relationships be encouraged between the UNAdT and the ILOAT, with a view to rationalizing their competence and harmonizing their jurisprudence.¹⁴⁰ In 2001, the UNGA took note of the intention of the JIU to continue to examine this question,¹⁴¹ and in 2002, a JIU report recommended the establishment of an *ad hoc* panel that would review judgments of the ILOAT and UNAdT, or a future single tribunal.¹⁴² The President of the UNAdT strongly opposed this recommendation, stating that the UNAdT was 'itself, in effect, a court of appeal from lower-level quasi-judicial bodies and, as such, satisfies the need for such a review.'¹⁴³ In 2003, the UNGA noted 'that the staff of the United Nations Secretariat and the specialized agencies are subject to two different systems of administration of justice, and in this regard requests the Joint Inspection Unit to continue to study the possibility of harmonizing the statutes of the United Nations Administrative Tribunal and the International Labour Organization Administrative Tribunal.'¹⁴⁴

In its 2004 report, the JIU backed away from any notion of merger towards the firm position that the statutes of the UNAdT and the ILOAT should be harmonized. It stressed that while it considered 'that a single internal justice system [was] a desirable future goal of the

¹³⁹ UNGA Decision 44/413, *Harmonization of the statutes, rules and practices of the administrative tribunals of the International Labour Organisation and of the United Nations*, paras. (a)-(b), published in Resolutions and Decisions adopted by the General Assembly during its Forty-Fourth Session, Volume I, 19 September – 29 December 1989, UN Doc. A/44/49, at 335. See also discussion of the matter in 'Feasibility of establishing a single administrative tribunal: Report by the Secretary-General', *supra* note 134, paras. 49-54.

¹⁴⁰ 'Report of the Joint Inspection Unit on the administration of justice at the United Nations', prepared by Fatih Bouayad-Agha and Homero L. Hernández, UN Doc. JIU/REP/2001/1 (annexed to 'Report of the Joint Inspection Unit on the administration of justice at the United Nations: Note by the Secretary-General', 12 June 2000), UN Doc. A/55/57), Recommendation 5.

¹⁴¹ UNGA resolution A/RES/55/258, 14 June 2001, *Human resources management*, Part XI, para. 10.

¹⁴² JIU, 'Reform of the Administration of Justice in the United Nations System: Options for Higher Recourse Instances', prepared by F. Bouayad-Agha and H. L. Hernández, June 2002, UN Doc. JIU/REP/2002/5 (annexed to 'Report of the Joint Inspection Unit on Reform of the Administration of Justice in the United Nations System: Options for Higher Recourse Instances: Note by the Secretary-General', 27 September 2002, UN Doc. A/57/441), Recommendation 5.

¹⁴³ Letter dated 8 November 2002 from the President of the United Nations Administrative Tribunal addressed to the Chairman of the Fifth Committee, 20 November 2002, UN Doc. A/C.5/57/25, at 3, para. 9.

¹⁴⁴ UNGA resolution A/RES/57/307, 15 April 2003, *Administration of justice in the Secretariat*, para. 15.

United Nations system’, unification of the two tribunals did ‘not appear to be achievable in the short term for a number of reasons, including the strong opposition to it by staff of both the United Nations and the ILO,’ adding that ‘[n]either would such unification achieve, as has been stressed in previous reports, any significant benefits or efficiency gains.’¹⁴⁵ In 2005, the UNGA stressed ‘the importance of the eventual harmonization of the statutes of the United Nations Administrative Tribunal and the International Labour Organization Administrative Tribunal.’¹⁴⁶ It was at this point that the UNGA created the ‘redesign panel’ and mandated it with proposing an entirely new model for internal justice within the United Nations.¹⁴⁷ In its 2006 report, the redesign panel observed that while ‘complete harmonization [was] not possible’, it considered that ‘there should be harmonization of jurisprudence, powers and status so as to ensure, so far as is practicable, equal treatment of the staff members of specialized agencies and those of the United Nations itself.’¹⁴⁸

Most recently, discussions on merging or at least coordinating the work of the ILOAT and the UNDT/UNAT surfaced yet again in the context of conflicting decisions by those tribunals relating to a decision of the ICSC to change the Post Adjustment Multiplier for staff members in Geneva, leading to a reduction in their salary. Geneva-based staff members of organizations within the UN common system who were subject to the ICSC decision contested it in the ILOAT and the UNDT (depending on which tribunal had jurisdiction over their respective organization). The ILOAT annulled the decision, holding that the ICSC did not have the power to establish post adjustments.¹⁴⁹ Even while the matter was still pending before the UNDT, the UNGA was already weary of a conflict. In December 2019, it expressed ‘concern at the application of two concurrent post adjustment multipliers in the United Nations common system at the Geneva duty station’ and noted ‘with concern that the organizations of the United Nations common system face the challenge of having two independent administrative tribunals

¹⁴⁵ JIU, ‘Administration of Justice: Harmonization of the Statutes of the United Nations Administrative Tribunal and the International Labour Organization Administrative Tribunal’, prepared by W. Münch, Victor V. and M. D. Wynes, 2004, UN Doc. JIU/REP/2004/3, para. 10.

¹⁴⁶ UNGA resolution A/RES/59/283, 13 April 2005, *Administration of justice at the United Nations*, para. 45.

¹⁴⁷ *Ibid.*, paras. 47-50.

¹⁴⁸ ‘Report of the Redesign Panel on the United Nations System of Administration of Justice’, 28 July 2006, UN Doc. A/61/205, para. 96.

¹⁴⁹ ILOAT Judgment No. 4134 (2019), *B. and others v. ILO*; ILOAT Judgment No. 4135 (2019), *K. A. and others v. WHO*; ILOAT Judgment No. 4136 (2019), *A., G., P. and R. v. IOM*; ILOAT Judgment No. 4137 (2019), *C.B. (No. 2), d. A.-P., M. and R. v. ITU*; ILOAT Judgment No. 4138 (2019), *G. and others v. WIPO*.

with concurrent jurisdiction among the organizations of the common system¹⁵⁰. Accordingly, it requested the UNSG to conduct a review of the jurisdictional setup of the common system and submit the findings of the review and recommendations to the General Assembly as soon as practicable.¹⁵¹ In mid-2020, the UNDT handed down its judgments on the same question, reaching the opposite conclusion as the ILOAT, i.e. that the ICSC had the power to establish post adjustments.¹⁵² These judgments were upheld by the UNAT.¹⁵³

In response to the UNGA's request, the UNSG's initial report proposed various options for harmonizing the jurisprudence, ranging from maintenance of the status quo to the abolition of the current tribunals and creation of a new single tribunal.¹⁵⁴ While the creation of a new tribunal did not find favour among any of the stakeholders, there was some support for a proposal to establish a joint chamber of the ILOAT and UNAT to issue interpretative, preliminary and/or appellate rulings in cases involving ICSC recommendations and decisions.¹⁵⁵ While less drastic options — such as facilitating submissions by the ICSC during litigation on matters relevant to it before either tribunal and facilitating the provision of guidance by the ICSC on how best to implement such decisions — gained even more favour among stakeholders, the idea of establishing a joint chamber was further pursued in subsequent reports of the UNSG, which went so far as to offer detailed suggestions as to its composition, competence, procedure, costs and implementation,¹⁵⁶ as well as to provide draft amendments to the statutes of the ILOAT, UNDT and UNAT in order to establish the joint chamber.¹⁵⁷ However, the proposal was not well-received by the ICSC, UNAT or ILOAT.¹⁵⁸ Ultimately,

¹⁵⁰ UNGA resolution A/RES/74/255(B), 27 December 2019, *United Nations common system*, paras. 7-8.

¹⁵¹ *Ibid.*, para. 8.

¹⁵² UNDT/2020/106, *Abd Al-Shakour et al.*; UNDT/2020/107, *Cardenas Fischer et al.*; UNDT/2020/133, *Abd Al-Shakour et al.*; UNDT/2020/154, *Aksioutine et al.*

¹⁵³ See, e.g., 2021-UNAT-1107 (en banc), *Abd Al-Shakour et al. Aksioutine et al. v. UNSG*, paras. 48-49.

¹⁵⁴ 'Initial review of the jurisdictional set-up of the United Nations common system: Report of the Secretary-General', *supra* note 118, paras. 94-132.

¹⁵⁵ 'Review of the jurisdictional set-up of the United Nations common system: Report of the Secretary-General', 5 August 2022, UN Doc. A/77/222, paras. 97-105.

¹⁵⁶ 'Review of the jurisdictional set-up of the United Nations common system: Report of the Secretary-General', 4 August 2023, UN Doc. A/78/154, paras. 25-53.

¹⁵⁷ *Ibid.*, Annex I.

¹⁵⁸ *Ibid.*, Annexes II-IV.

both the Governing Body of the ILO and the UN Fifth Committee decided not to pursue the matter further.¹⁵⁹

A strong case for a single IAT could be made with respect to the ‘Co-ordinated Organisations’,¹⁶⁰ since the very purpose of that co-ordination, when established in 1958, was to harmonize rules and practices on remuneration, entitlements and pensions.¹⁶¹ Calls to establish a single administrative tribunal for all Co-ordinated organisations were made as early as 1962, just four years after the creation of the co-ordinated system. They were revived again in 1978 in the context of coordination of pension scheme rules and in the 1980s following diverging decisions of the organisations’ appeals boards relating to a crisis levy and abatement on salaries. The legal advisors of the Co-ordinated organisations discussed the idea of a common appeals board in 1977, 1978, 1980, 1981 and 1986.¹⁶² Ultimately, however, the separate appeals boards within each of the Co-ordinated organisations, rather than merging, were generally converted to separate IATs.¹⁶³

One may also have expected that the international financial institutions could have adopted a common tribunal but, as discussed above, they also established individual IATs.¹⁶⁴

Ultimately, these various false starts appear to prove Amerasinghe’s earlier pronouncement that ‘[t]he idea of ‘unification ... is really not generally accepted and is not likely to become a reality in the foreseeable future’ and — as he put it perhaps more bluntly — ‘would seem to be impractical, unwelcome and, therefore, a lost cause.’¹⁶⁵

¹⁵⁹ See ‘Conclusion of the review of the jurisdictional set-up of the United Nations common system’, 2 February 2024, ILO Doc. GB.350/PFA/INF/11, paras. 4, 6.

¹⁶⁰ For a description of the Co-ordinated Organisations, see *supra* notes 87-93 and accompanying text.

¹⁶¹ See Fürst and Weber, *supra* note 87, at 2-3.

¹⁶² *Ibid.*, at 11. See also de Cooker, *supra* note 7, at 242.

¹⁶³ See *supra* notes 87-90 and accompanying text.

¹⁶⁴ See *supra* notes 97-102 and accompanying text.

¹⁶⁵ C.F. Amerasinghe, ‘The Future of International Administrative Law’, (1996) 45 *International and Comparative Law Quarterly* 773, at 776.

III. REVIEW OF TRIBUNAL JUDGMENTS

While the growing number of IATs share many common features, one noticeable area of divergence concerns the question of review of tribunal judgments, with the statutes of many tribunals stating clearly that the judgments are ‘final and without appeal’,¹⁶⁶ while some internal justice systems include a full-fledged appellate body.¹⁶⁷ This difference can partly be explained by the evolution of the tribunals themselves: while it used to be the common and accepted practice that the IAT was itself a sort of ‘court of last resort’ in an internal justice system which already included a recommendation by a joint appeals board followed by a decision by the head of the administration, some newer systems — most notably those put in place in the UN and the OIF — have embraced a two-level judicial procedure.¹⁶⁸ In the meantime, longstanding tribunals such as the ILOAT continue to work with a number of organizations maintaining appeals boards,¹⁶⁹ and other tribunals coming onto the scene have been established without an appeals instance,¹⁷⁰ perhaps modelled on this more traditional structure. Rather than attempt to hypothesize on the reasons for these differences, which no doubt vary from one organization and tribunal to the next, the present section will examine two different solutions for the review of tribunal judgments which have been implemented during the continuing evolution of IATs: first, the former review procedure by the ICJ and, secondly, the growing number of appeals tribunals.

¹⁶⁶ See, e.g., ILOAT Statute, art. VI.1.

¹⁶⁷ See *infra* Section III.B.

¹⁶⁸ On the issue whether appeals boards can still today be considered to constitute a neutral first-instance process, see, 2019-UNAT-949, *Sheffer v. Secretary-General of the International Maritime Organization*; 2019-UNAT-952, *Rolli v. Secretary-General of the World Meteorological Organization*; 2019-UNAT-957, *Spinardi v. Secretary-General of the International Maritime Organization*; 2019-UNAT-958, *Dispert and Hoe v. Secretary-General of the International Maritime Organization*; 2020-UNAT-983, *Webster v. Secretary-General of the International Seabed Authority*. See also the comparative analysis of several joint appeals boards in international financial institutions offered in Omari, ‘Should an appeal mechanism be introduced against ruling by the courts of International Financial Institutions? Multilateral Development Banks: The Good, the Bad and the Ugly’, in V. Ranaldi, ed., *Le droit d’appel dans le cadre de la justice administrative internationale* (2020) 43, at 44-70.

¹⁶⁹ For example, a number of organizations which provide access to the ILOAT appear to maintain a joint appeals board as a precondition to seizing that tribunal, including: EPO, FAO, IAEA, ICC, INTERPOL, IMO, OPCW, UNESCO, UNIDO, WHO, WIPO and WTO.

¹⁷⁰ For example, the EBRDAT established in 2007 and the NATOAT established in 2013. For a discussion of these mechanisms, see C. de Cooker, ‘Pre-Litigation Procedures in International Organisations’, in *International Administration: Law and Management Practices in International Organisations* (2009), 784.

A. The former review procedure by the International Court of Justice

Two major IATs, the ILOAT and the UNAdT, had for a period the rather novel arrangement providing for the possibility of judicial review of their judgments by way of an advisory opinion of the ICJ.¹⁷¹ With respect to the ILOAT, the procedure was introduced in 1946, when the former LoNAT was converted into the ILOAT, through inclusion of Article XII in the ILOAT statute.¹⁷² As discussed above, this was due in no small part to a ‘legitimacy crisis’ for international administrative law during the period of the LoN, in which amounts awarded to thirteen staff members by the LoNAT were not paid after the Second (Finance) Committee of the LoN concluded that it was not open to the LoNAT to question the validity of a legislative act of the Assembly.¹⁷³ The procedure with respect to the UNAdT had an equally colourful beginning: although its statute adopted in 1949 provided for no such review, stating that judgments of the tribunal were ‘final and without appeal’, in 1953 it awarded a relatively large sum to staff members from the United States of America who had been dismissed for ‘subversive’ activities.¹⁷⁴ Disappointment of certain UN Member States over these awards led to the request for an advisory opinion of the ICJ on whether the UNGA could refuse to honour them.¹⁷⁵ When the Court concluded that the UNGA could not refuse, those same Member States were doubly disappointed. The representative of the United States of America in the Fifth Committee raised the importance of judicial review of the UNAdT’s judgments to avoid ‘miscarriages of justice’ in the future.¹⁷⁶ A Special Committee was established and, on its recommendation, after a lengthy and sometimes lively discussion among Member States in the

¹⁷¹ For a full treatment of this former practice, see C.F. Amerasinghe, ‘Cases of the International Court of Justice relating to employment in international organizations’, in *Fifty Years of the International Court of Justice: Essays in honour of Sir Robert Jennings* (1996), at 193-209; W. Choi, ‘Judicial review of International Administrative Tribunal judgments’, in *Contemporary issues in international law: essays in honour of Louis B. Sohn* (1984), at 347-370; J. Gomula, ‘The International Court of Justice and Administrative Tribunals of International Organizations’, (1991) 13(1) *Michigan Journal of International Law* 83-121; J. Gomula, ‘The Review of Decisions of International Administrative Tribunals by the International Court of Justice’, in O. Elias, ed., *The Development and Effectiveness of International Administrative Law: On the Occasion of the Thirtieth Anniversary of the World Bank Administrative Tribunal* (2012), at 349-373; K.H. Kaikobad, *The International Court of Justice and judicial review: a study of the Court's powers with respect to judgments of the ILO and UN Administrative Tribunals* (2000); R. Ostrihansky, ‘Advisory Opinions of the International Court of Justice as Reviews of Judgments of International Administrative Tribunals’, (1988) 17 *Polish Yearbook of International Law* 101-122.

¹⁷² Ostrihansky, *supra* note 171, at 102.

¹⁷³ See *supra* note 79.

¹⁷⁴ Choi, *supra* note 171, at 347.

¹⁷⁵ *Ibid.*

¹⁷⁶ UNGA, Fifth Committee, summary record of the 474th meeting, 3 December 1954, UN Doc. A/C.5/SR.474, at 271, paras. 52-54.

Fifth Committee,¹⁷⁷ a new Article 11, providing for review by the ICJ, was included in the UNAdT statute as part of the UNGA's resolution 957(X).¹⁷⁸

According to (former) Article XII of the ILOAT statute, the Governing Body of the International Labour Office or the Administrative Board of the pensions Fund could challenge before the ICJ an ILOAT decision confirming its jurisdiction or argue that the decision was 'vitiating by a fundamental fault in the procedure followed' and '[t]he opinion given by the [Governing Body or Administrative Board] shall be binding'.¹⁷⁹ Under (former) Article 11 of the UNAdT statute, applications for review of UNAdT judgements could be submitted by Member States, the UNSG or the person in respect of whom a judgement had been rendered, to a Committee on Applications for Review of Administrative Tribunal Judgements, which was specially created for this purpose.¹⁸⁰ There were four grounds for applying for review: (a) the UNAdT exceeded its jurisdiction or competence, (b) it failed to exercise jurisdiction vested in it, (c) it erred on a question of law relating to the provisions of the UN Charter, or (d) it committed a fundamental error in procedure which occasioned a failure of justice.¹⁸¹ The Committee, a political body, could decide (in closed session) whether or not to forward requests for review on to the ICJ, which had a major chilling effect on the procedure as a whole: of the ninety-six requests for review filed with the Committee between 1955 and 2016, only three were submitted by the Committee to the ICJ and resulted in a review by the ICJ.¹⁸²

Thus, the system of review at the ILOAT and UNAdT differed quite substantially, including who could request review (at the ILOAT, notably, this possibility was not open to the staff member), how that review was requested (at the UNAdT in particular, requests had to be channeled through the Committee on Applications for review of Administrative Tribunal

¹⁷⁷ See UNGA, Fifth Committee, summary record of the 493rd-501st and 505th meetings, UN Docs. A/C.5/SR.493-501 and 505 (17-31 October 1955 and 4 November 1955).

¹⁷⁸ Choi, *supra* note 171, at 348; Ostrihansky, *supra* note 171, at 103.

¹⁷⁹ Former art. XII of the ILOAT statute, reprinted in *Judgment No. 2867 of the Administrative Tribunal of the International Labour Organization upon a Complaint Filed against the International Fund for Agricultural Development*, Documents transmitted to the Court by the IFAD, Annex III. By virtue of an Annex to the ILOAT Statute, the same procedure applied with respect to the Executive Board of an organization having accepted the jurisdiction of the ILOAT. *Ibid.*

¹⁸⁰ Ostrihansky, *supra* note 171, at 103. The Committee was composed of States the representatives of which had served on the General Committee of the most recent regular session of the General Assembly. *Ibid.*

¹⁸¹ *Ibid.*

¹⁸² H. Thierry, 'Some Changes in International Administrative Justice', (1996) 90 *ASIL Proceedings* 331.

Judgements), and on what grounds such a request could be made (the ILOAT having two limited grounds and the UNAdT having four different grounds).

In the life of this procedure, the ICJ reviewed judgments of the ILOAT and UNAdT on five occasions, beginning in 1956 with an application for review concerning the ILOAT, then considering three applications for review of the UNAdT (in 1973, 1982 and 1987) and, twenty-five years later, considering in 2012 another application for review emanating from the ILOAT. In all cases the ICJ affirmed the judgment of the tribunal in question.

In the 1956 case concerning *Judgments of the Administrative Tribunal of the ILO upon Complaints Made against UNESCO*, the ILOAT upheld the complaints of four UNESCO staff members whose fixed-term appointments had not been renewed. UNESCO challenged these judgments before the ICJ, contending that the staff members concerned had no legal right to renewal. The Court found in favour of the staff members, concluding that an administrative memorandum which had announced that all holders of fixed-term contracts would, subject to certain conditions, be offered renewals, might reasonably be regarded as binding on the Organization and that it was sufficient to establish the jurisdiction of the ILOAT.¹⁸³

After that first case, the procedure was not invoked again for almost twenty years. There then followed three applications for review of Judgments of the UNAdT during the 1970s and 1980s. The 1973 *Application for Review of Judgment No. 158 of the United Nations Administrative Tribunal*, initiated by the staff member, concerned the *Fasla* decision of the UNAdT upholding the UNSG's decision not to renew the staff member's fixed-term appointment. In its advisory opinion, the ICJ upheld the UNAdT judgement, finding that the Tribunal had not failed to exercise the jurisdiction vested in it and had not committed a fundamental error in procedure having occasioned a failure of justice.¹⁸⁴ Perhaps the most notable aspect of this advisory opinion is not the ICJ's treatment of Judgment No. 158 itself, but the lengthy analysis it engages in before reaching that review, in which it addresses overarching questions concerning the review procedure, including the legitimacy of the Committee on Applications for Review of Administrative Tribunal Judgments, as well as the

¹⁸³ ICJ, *Judgments of the Administrative Tribunal of the ILO upon Complaints Made against UNESCO*, Advisory Opinion, *ICJ Reports 1956*, at 95-97.

¹⁸⁴ ICJ, *Application for Review of Judgment No. 158 of the United Nations Administrative Tribunal*, Advisory Opinion, *ICJ Reports 1973*, at 213.

position of the individual staff member in the process and challenges concerning equality of the parties.¹⁸⁵

The 1982 *Application for Review of Judgment No. 273 of the United Nations Administrative Tribunal* concerned a case before the UNAdT in which a former staff member of the UN Secretariat had challenged the UNSG's refusal to pay him a repatriation grant. The UNAdT having found in favour of the staff member, the United States Government addressed an application for review of this judgment to the Committee on Applications for Review of Administrative Tribunal Judgements, which in turn requested an advisory opinion of the ICJ. The latter concluded that the UNAdT had not erred on a question of law relating to the provisions of the UN Charter, since it had only applied what it had found to be the relevant Staff Regulations and Staff Rules made under the authority of the UNGA. It further concluded that the UNAdT had not exceeded its jurisdiction or competence, since its jurisdiction included the scope of the Staff Regulations and Rules.¹⁸⁶

The 1987 *Application for Review of Judgment No. 333 of the United Nations Administrative Tribunal*, initiated by the staff member, concerned a UNAdT judgement upholding the UNSG's decision not to renew the appointment of a staff member of the Secretariat beyond the date of expiry of his fixed-term contract. In its Advisory Opinion, the ICJ found that the UNAdT had established that there had been 'reasonable consideration' of the applicant's case and that it had committed no error on a question of law relating to the provisions of the Charter.¹⁸⁷

The procedure for review of UNAdT judgements was discontinued in 1995 by virtue of UNGA Resolution 50/54, which deleted Article 11 from the UNAdT statute.¹⁸⁸ Another two decades passed before the ICJ reviewed one last judgment of the ILOAT. The 2012 case concerning *Judgment No. 2867 of the Administrative Tribunal of the International Labour Organization upon a Complaint Filed against the International Fund for Agricultural*

¹⁸⁵ *Ibid.*, at 170-183, paras. 11-40.

¹⁸⁶ ICJ, *Application for Review of Judgment No. 273 of the United Nations Administrative Tribunal*, Advisory Opinion, *ICJ Reports 1982*, at 364-366.

¹⁸⁷ ICJ, *Application for Review of Judgment No. 333 of the United Nations Administrative Tribunal*, Advisory Opinion, *ICJ Reports 1987*, at 48 and 72.

¹⁸⁸ UNGA resolution A/RES/50/54, 11 December 1995, *Review of the procedure provided for under Article 11 of the Statute of the Administrative Tribunal of the United Nations*, para. 1.a).

Development arose out of a dispute between IFAD, a UN specialized agency, and a former staff member of the Global Mechanism, which is housed by IFAD. Following a judgment by the ILOAT ordering IFAD to pay the staff member monetary compensation, as well as moral damages and costs, on account of the abolition of her post and refusal to renew her contract, IFAD requested review by the ICJ, arguing that the Global Mechanism was not an organ of IFAD and consequently that its acceptance of the jurisdiction of the ILOAT did not give the staff member access to that tribunal. The ICJ found in favour of the staff member, concluding that she was an official of IFAD and that the ILOAT was therefore competent *ratione personae* to consider her complaint. It also considered that her complaint concerned allegations of non-observance of her terms of appointment or of the provisions of the staff regulations and rules of the Fund, thus confirming the ILOAT's competence *ratione materiae*.¹⁸⁹

The review procedure was criticized for creating a situation of inequality between the parties, including both equality of access to the Court and equality before the Court. The Court in its advisory opinion noted that 'questions may now properly be asked whether the system established in 1946 meets the present-day principle of equality of access to courts and tribunals.'¹⁹⁰ Concerning equality before the Court, the ICJ acknowledged that 'the process was not without its difficulties', such as that the individual could only submit information to the Court through the Organization, i.e. the adverse party, and the Organization had initially failed to transmit such communications.¹⁹¹ Judge Greenwood in his declaration appended to the Advisory Opinion was even more forceful in his criticisms, calling the problem of equality of access 'a fundamental flaw in the system created by Article XII' which is 'at odds with contemporary concepts of due process and the integrity of the judicial function.'¹⁹² Concerning the potential inequality in the proceedings, he considered them 'incompatible with modern notions of justice and due process', which 'amounted to treating Ms Saez García as a spectator rather than a participant in proceedings whose outcome would have a direct and substantial

¹⁸⁹ ICJ, *Judgment No.2867 of the Administrative Tribunal of the International Labour Organization upon a Complaint Filed against the International Fund for Agricultural Development*, Advisory Opinion, ICJ Reports 2012, at 43-47.

¹⁹⁰ ICJ, *Judgment No.2867 of the Administrative Tribunal of the International Labour Organization upon a Complaint Filed against the International Fund for Agricultural Development*, Advisory Opinion, ICJ Reports 2012, at 29, para. 44.

¹⁹¹ *Ibid.* at 30, para. 46.

¹⁹² ICJ, *Judgment No.2867 of the Administrative Tribunal of the International Labour Organization upon a Complaint Filed against the International Fund for Agricultural Development*, Advisory Opinion, ICJ Reports 2012, Declaration of Judge Greenwood, para. 3.

effect on her.’¹⁹³ Similar critiques had been raised in the scholarly literature.¹⁹⁴ As a direct result of these concerns, Article XII of the ILOAT Statute was repealed in June 2016¹⁹⁵ and the system of review of IAT judgments by the ICJ came to a decisive conclusion.

B. The growth of appeals tribunals

It is generally accepted that, outside criminal proceedings, there is no requirement that legal systems include an appellate procedure in order to comply with international law.¹⁹⁶ Thus, the fact that an IAT has no possibility of appeal to a higher tribunal does not in itself violate international law. Nevertheless, there is a widespread view that such recourse to an appellate mechanism in international administrative law is desirable.¹⁹⁷

Beginning even before the dissolution of the ICJ review procedure, calls for a *bona fide* appellate procedure for the major IATs were sometimes raised. In this context, the majority of organizations accepting the jurisdiction of the ILOAT and the UNAdT provided a first level of review by means of an appeals board composed of staff members of the organization, who could make only non-binding recommendations to the head of the organization.¹⁹⁸ Thus, the ILOAT or UNAdT was the first and last truly judicial instance for the resolution of a dispute, a situation viewed by some as unsatisfactory. For example, during a symposium held in 1976 by the Federation of International Civil Service Associations on Recourse Procedures in the

¹⁹³ *Ibid.*, para. 4.

¹⁹⁴ See, e.g., Gomula, *supra* note 171, at 105; Ostrihansky, *supra* note 171, at 114-117; Choi, *supra* note 171, at 349-353.

¹⁹⁵ International Labour Conference, *Resolution concerning the Statute of the Administrative Tribunal of the International Labour Organization*, 7 June 2016 (stating in its first preambular paragraph that the General Conference of the ILO was '[c]onscious of the need to repeal article XII of the Tribunal's Statute and article XII of its annex in order to ensure equality of access to justice for employing institutions and official alike'). See also International Labour Office, Governing Body, 'Matters relating to the Administrative Tribunal of the ILO: Proposed amendments to the Statute of the Tribunal', ILO Doc. GB.326/PFA/12/1 (18 February 2016).

¹⁹⁶ See, e.g., Human Rights Committee, General Comment No. 32 (2007), para. 46 (referring to the right of appeal in criminal proceedings under Art. 15.5 of the International Covenant on Civil and Political Rights and stating that 'Article 14, paragraph 5 does not apply to procedures determining rights and obligations in a suit at law or any other procedure not being part of a criminal appeal process, such as constitutional motions'); ECtHR Registry, 'Guide on Article 6 of the European Convention on Human Rights, Right to a Fair Trial' (updated August 2022), para. 63 (referring to the rights to a fair trial guaranteed in art. 6 of the ECHR and stating that 'Article 6 does not compel the contracting states to set up courts of appeal or of cassation').

¹⁹⁷ Ullrich, *supra* note 87, at 517-518.

¹⁹⁸ As Chris de Cooker observed in 2009, '[a]lmost every international organisation has a joint body, composed of staff members appointed by management and staff representatives, which gives advice to the appointing authority concerning complaints lodged by staff members.' See de Cooker, *supra* note 170, at 784.

Organization of the United Nations, ‘there was a large degree of agreement that there would be considerable merit in having two degrees of jurisdiction.’¹⁹⁹ One of the recommendations made at that symposium was the establishment of two instances of appeals jurisdiction, either by the conversion of the joint appeals boards into full-fledged tribunals issuing binding decisions or by the establishment of a supreme tribunal to rule on appeals from the existing tribunals²⁰⁰. The JIU in 1986 took the position that a ‘system of two-stage judicial appeals is one of the basic principles of democratic law and is established in most countries. It is, therefore, natural that “such a system should be desired by the United Nations staff for their claims against their employer.”’²⁰¹ In 1994, the UNSG proposed reforms to the UN internal justice system, including the transformation of joint appeals boards into independent ‘arbitration boards’ with an external chairperson and with the possibility of issuing binding decisions.²⁰² He further elaborated this proposal the following year, even providing a draft Statute of a new ‘United Nations Arbitration Board’, as well as consequent changes to the Statute of the UNAdT, the UN Staff Regulations and the UN Staff Rules.²⁰³ His proposal, however, did not garner the necessary support in the UNGA.²⁰⁴

Following the discontinuation of the ICJ review procedure with respect to the UNAdT in 1995, calls for an appellate body intensified. For example, during the General Conference of UNESCO in 1997, the Director-General of that organization submitted proposals to reform the internal justice system that would offer staff and the administration the possibility of appealing a decision of the ILOAT.²⁰⁵

¹⁹⁹ JIU, ‘Report of the Joint Inspection Unit on the administration of justice in the United Nations’, prepared by E. Ferrer-Vieyra, UN Doc. document JIU/REP/86/8 (annexed to ‘Administration of justice in the United Nations: Note by the Secretary General’, 23 September 1986, UN Doc. A/41/640), para. 57.

²⁰⁰ *Ibid.*, para. 58.

²⁰¹ *Ibid.*, para. 57 (quoting Report of the Consultant to the Administrative Management Service, G. Wattles, ‘Review of Methods and Procedures for Administrative Reviews, Appeals and Processing of Cases for the Administrative Tribunal’, November 1981, at 3, para. 5).

²⁰² ‘Reform of the internal system of justice in the United Nations Secretariat: Report of the Secretary-General’, 8 November 1994, UN Doc. A/C.5/49/13, paras. 10-13.

²⁰³ ‘Reform of the internal system of justice in the United Nations Secretariat: Report of the Secretary-General’, 18 March 1995, UN Doc. A/C.5/49/60, paras. 14-33 and Annexes I-III.

²⁰⁴ JIU, ‘Report of the Joint Inspection Unit on the administration of justice at the United Nations’, prepared by F. Bouayad-Agha and H. L. Hernández, UN Doc. JIU/REP/2001/1 (annexed to ‘Report of the Joint Inspection Unit on the administration of justice at the United Nations: Note by the Secretary-General’, 12 June 2000), UN Doc. A/55/57), para. 12.

²⁰⁵ *Ibid.*, paras. 160-162.

Beginning in 1998, the Legal Advisers of the UN discussed the advisability of introducing a second-tier appellate mechanism for the ILOAT and UNAdT on several occasions, the Legal Adviser of UNESCO arguing particularly strongly in favour of such an appellate body.²⁰⁶ Although the Legal Advisers as a whole were not inclined to pursue the matter further, the Administrative Committee on Coordination, after examining the report of the Legal Advisers in 1999, requested them to elaborate their views on expanding the existing procedures for review by the Administrative Tribunals themselves through the introduction of an ‘extraordinary appeal’ process.²⁰⁷ The President of the UNAdT, in contrast, clearly opposed such a development, stating in a letter to the Chairman of the Fifth Committee that the UNAdT ‘strongly believes that there is no need for an additional layer in the appellate machinery.’²⁰⁸

The question of an appellate mechanism for IAT judgments was again raised in a 2002 report of the JIU, which observed ‘that the elimination of the recourse against [UNAdT] decisions before the International Court of Justice (ICJ) has had the perhaps unintended effect of suppressing the only existing remedy against any possible flaws in the decisions of the Tribunal.’²⁰⁹ Accordingly, the JIU included as one of its recommendations the establishment of an *ad hoc* panel that would be responsible for reviewing the judgments of the UNAdT and ILOAT.²¹⁰ Neither the UNAdT nor the International Labour Office were favourable to the proposal, which ultimately was not pursued.²¹¹

²⁰⁶ JIU, ‘Reform of the Administration of Justice in the United Nations System: Options for Higher Recourse Instances’, *supra* note 142, paras. 50-55.

²⁰⁷ Summary of conclusions of the Administrative Committee on Coordination at its second regular session of 1999, 19 November 1999, UN Doc. ACC/1999/20, at 5-6.

²⁰⁸ Letter dated 8 November 2002 from the President of the United Nations Administrative Tribunal addressed to the Chairman of the Fifth Committee, 20 November 2002, UN Doc. A/C.5/57/25, Annex I, para. 9.

²⁰⁹ JIU, Reform of the Administration of Justice in the United Nations System: Options for Higher Recourse Instances, *supra* note 142, p. vii.

²¹⁰ *Ibid.*, recommendation 5.

²¹¹ See discussion and references in ‘Initial review of the jurisdictional set-up of the United Nations common system: Report of the Secretary-General’, 15 January 2021, UN Doc. A/75/690, para. 58.

There are currently seven organizations providing for the possibility of appeal in their respective IATs:

- 1) The UN (decisions of the UNDT and UNRWADT subject to appeal on points of law to the UNAT);
- 2) The EU (decisions of the GCEU subject to appeal on points of law to the CJEU);
- 3) The OAS (decisions of the OASAT subject to appeal to a review panel of the OASAT on questions of whether the OASAT exceeded its authority in relation to its jurisdiction, competence or procedures);
- 4) The OIF (decisions of the TPIOIF subject to appeal on any point to the TAOIF);
- 5) The Commonwealth Secretariat (decisions of the CSAT original three-judge panel subject to appeal on points of law to a panel of five CSAT Judges different from the original three-judge panel);²¹²
- 6) The African Union (decisions of the African Union AT subject to appeal to the African Court of Justice and Human Rights).²¹³
- 7) The CARICOM (decisions of the CARICOMAT subject to appeal to the CCJ).²¹⁴

Mention should also be made of the former two-tier system at the European University Institute, operational from 2006 to 2022, in which decisions of a single-judge organ of first instance were subject to appeal on points of law to a three-judge organ of appeal.²¹⁵ This

²¹² See *Common Focus and Autonomy of International Administrative Tribunals: International Colloquy, 50th anniversary of the establishment of the Council of Europe Administrative Tribunal, Proceedings* (19-20 March 2015), at 111-114.

²¹³ See A. Babington-Ashaye, 'Some Observations on the Jurisdiction of the African Court of Justice and Human Rights over International Administrative Law', in *The African Court of Justice and Human and Peoples' Rights in Context* (2019), at 1035-1053. See also *infra* note 302 and accompanying text.

²¹⁴ CARICOMAT Statute, Article XIV.

²¹⁵ See 'European University Institute, Decision No. 8/06 of the High Council of 8 December 2006 establishing an Organ of First Instance within the Appeals Board of the European University Institute', available at <https://www.eui.eu/Documents/ServicesAdmin/PersonnelService/ComplaintsAppeals/HCD2006-08OrganFirstInstanceEN.pdf> (accessed 20 April 2024).

procedure was abolished in December 2022 and replaced by direct appeal of decisions of the President of the Institute to the CJEU.²¹⁶

Thus, while there are a fair number of systems in which an appeal is possible, there are also multiple systems which lack such a possibility, including notably the ILOAT,²¹⁷ all of the IATs operating within the Co-ordinated organizations²¹⁸ (e.g. ATCE, ESAAT, OECDAT, NATOAT, EUMETSAT, ECMWF) and all of the IATs operating within international financial institutions²¹⁹ (e.g. WBAT, IMFAT, ADBAT, IDBAT, ATBIS, AfDBAT, EBRDAT).

Even in systems without a formal appeals tribunal, some possibilities for review exist. For example, while the ILOAT has no appeals tribunal and art. VI.1 of its statute explicitly states that its judgments ‘shall be final and without appeal’, it may and has on a number of occasions admitted review of its own judgments.²²⁰ When the ICJ review procedure was being repealed in 2016, the ILO Governing Body formalized the practice of internal review through the addition of a sentence to Article IV.1 to the effect that ‘[t]he Tribunal shall nevertheless consider applications for interpretation, execution or review of a judgment.’²²¹ It emphasized, however, that such power of review was exercised only in exceptional circumstances and on

²¹⁶ See European University Institute, Decision No. 5/2022 of the High Council of 2 December 2022 regarding the designation of the Court of Justice of the European Union as the body settling disputes between the Institute and its administrative and teaching staff, available at <https://www.eui.eu/Documents/web2021/high-council-decision-5-2022-eu-court-of-justice-jurisdiction-transfer.pdf> (accessed 20 April 2024).

²¹⁷ See L. Germond, ‘Faudrait-il introduire un mécanisme d’appel des jugements du Tribunal administratif de l’Organisation Internationale du Travail (TAOIT) ?’ in V. Ranaldi, ed., *Le droit d’appel dans le cadre de la justice administrative internationale* (2020), at 79-89 (arguing against the creation of an appeals mechanism for the ILOAT).

²¹⁸ See L. Levi, ‘Faudrait-il introduire un mécanisme d’appel des jugements des Organisations coordonnées ?’, in V. Ranaldi, ed., *Le droit d’appel dans le cadre de la justice administrative internationale* (2020) 91, at 102-113 (describing a case of conflicting decisions between the ATCE and the former NATO Appeals Board which could have been resolved if an appeals mechanism for the Co-ordinated Organisations existed).

²¹⁹ See J. Omari, ‘Should an appeal mechanism be introduced against ruling by the courts of International Financial Institutions? Multilateral Development Banks: The Good, the Bad and the Ugly’, in V. Ranaldi, ed., *Le droit d’appel dans le cadre de la justice administrative internationale* (2020), at 43-78 (engaging in a comparative study of the IADBAT, the WBAT and the EBRDAT, and setting out an alternative model internal justice system including appellate review).

²²⁰ Ullrich, *supra* note 87, at 518.

²²¹ See ILO Governing Body, ‘Matters relating to the Administrative Tribunal of the ILO: Proposed amendments to the Statute of the Tribunal’, 18 February 2016, ILO Doc. GB.326/PFA/12/1, paras. 6-9.

strictly limited grounds.²²² Similar provisions exist in the statutes of the WBAT, IMFAT, ADBAT and AfDBAT.²²³ Thus, while lacking a formal appellate body, these tribunals have found a sort of compromise solution, creating the possibility of review in exceptional circumstances, albeit by the same tribunal making the decision under review.

²²² The following grounds were specified: failure to take account of material facts, a material error involving no exercise of judgment, an omission to rule on a claim, or the discovery of new facts which the complainant was unable to rely on in the original proceedings while such pleas must be likely to have a bearing on the outcome of the case. See *Ibid.* para. 8.

²²³ *Ibid.*, para. 9, note 4 (citing IMFAT Statute, arts. XVI and XVII, WBAT Statute, art. XIII; AfDBAT, art. XII; ADBAT Statute, art XI).

IV. OVERVIEW OF INTERNATIONAL ADMINISTRATIVE TRIBUNALS

The present section begins with a brief description of the functioning and operation of IATs. It then goes on to provide a description of each of the currently-functioning administrative tribunals.²²⁴

A. The functioning of Administrative Tribunals

IATs are created by the governing body of the organization that they serve²²⁵ and operate according to a statute drawn up by that governing body at the time of the tribunal's creation. In most cases, the tribunal's statute will also provide for the drawing up of rules of procedure to further detail its operations.²²⁶

Judges of IATs must be highly qualified international jurists. Although formal requirements concerning qualifications for judges were not strict in initial tribunals,²²⁷ they have become stricter throughout the years, providing for example that judges possess the qualifications required for appointment to high judicial office and be jurisconsults of recognized competence in the international civil service.²²⁸ They are generally chosen by the governing body of the organization from a list drawn up by the head of the administration²²⁹

²²⁴ Other useful overviews of existing administrative tribunals can be found in: O. Elias and M. Thomas, 'Administrative Tribunals of International Organizations', in C. Giorgetti, ed., *The Rules, Practice and Jurisprudence of International Courts and Tribunals*, (2012), 162; H. Schermers and N. Blokker, *International Institutional Law: Unity within Diversity* (6th edn 2018), at §§544 and 642-647. A helpful compilation has also been made on the website of the Council of Europe. See 'Other Courts', available at <https://www.coe.int/en/web/tribunal/other-courts> (accessed 20 April 2024).

²²⁵ For example, the UNGA in the case of the UNDT and UNAT, the International Labour Conference in the case of the ILOAT, the Board of Governors of the World Bank in the case of the WBAT, the IMF Board of Governors in the case of the IMFAT, the Committee of Ministers of the CoE in the case of the ATCE and the North Atlantic Council in the case of the NATOAT.

²²⁶ See, e.g., ADBAT Statute, art. VI; AfDBAT Statute, art. IX.2; EBRDAT Statute, art. 2.05; IDBAT Statute, art. VII; OASAT Statute, art. XIII; OECDAT Statute, art. 2; UNDT Statute, art. 7; UNAT Statute, art. 6; WBAT Statute, art. VII.

²²⁷ S. Villalpando, 'International Administrative Tribunals', in J.K. Cogan, I. Hurd, I. Johnstone, eds., *The Oxford Handbook of International Organizations* (2016) 1085, at 1095.

²²⁸ See, e.g., WBAT Statute, art. IV.1; IMFAT Statute, art. VII.1.c); EBRDAT Statute, art. 2.02(b); IDBAT Statute, art. III.1. The UN internal justice system goes even further, requiring 10 years of experience in the field of administrative law for UNDT Judges and 15 years of such experience for UNAT Judges. See UNDT Statute, art. 4.3.b); UNAT Statute, art. 3.3.b).

²²⁹ See, e.g., ADBAT Statute, art. IV.2; AfDBAT Statute, art. VI.2; EBRDAT Statute, art. 2.02(d); WBAT Statute, art. IV.2.

or a nominating committee.²³⁰ In most cases, they in turn elect their President from among their membership.²³¹

The size of IATs varies. While they may have up to seven judges,²³² many sit in three-judge panels,²³³ except at the UNDT where most cases are decided by a single judge. The term of office of judges also varies, for example from one non-renewable term of six years at the IDBAT²³⁴ to unlimited three-year renewals at the AfDBAT.²³⁵

While some IATs sit in continuous session, many of them hold sessions at specified times throughout the year.²³⁶ These are generally at the seat of the organization²³⁷ although their statutes may provide for the possibility of sitting elsewhere.²³⁸ The procedure before IATs consists of a written stage of pleadings and may also include an oral stage,²³⁹ although in most tribunals this is rare.²⁴⁰

²³⁰ See, e.g., IDBAT Statute, art. III.2; UNDT Statute, art. 4.2; UNAT Statute, art. 3.2.

²³¹ See, e.g., ADBAT Statute, art. V.1; EBRDAT Statute, art. 2.02(f); IDBAT Statute, art. IV.1; UNAT Statute, art. 3.7; WBAT Statute, art. VI.1.

²³² See, e.g., ILOAT Statute, art. III.3; IDBAT Statute, art. III.1; UNAT Statute, art. 3.1; WBAT Statute, art. IV.1.

²³³ See, e.g., ILOAT Statute, art. III.3; ADBAT Statute, art. V.4; AfDBAT Statute, art. XI.2; EBRDAT Statute, art. 5.01(a); IMFAT Statute, art. VII.4; IDBAT Statute, art. III.4; OASAT Statute, art. III.6; UNAT Statute, art. 10.1.

²³⁴ IDBAT Statute, art. III.3.

²³⁵ AfDBAT Statute, art. VI.5.

²³⁶ See, e.g., OASAT Statute, art. IV; UNAT Statute, art. 4.2; WBAT Statute, art. VIII.1.

²³⁷ See, e.g., IMFAT Statute, art. XI; UNAT Statute, art. 4.1.

²³⁸ See, e.g., IDBAT Statute, art. IV.2; UNDT Statute, art. 5; UNAT Statute, art. 4.1; WBAT Statute, art. VIII.2.

²³⁹ See, e.g., OECDAT Statute, art. 10.

²⁴⁰ See, e.g., EBRDAT Statute, art. 7.02(a) (providing for oral hearings in 'exceptional cases'). See also ADBAT Statute, art. VIII; AfDBAT Statute, art. XI.4; IMFAT Statute, art. XII; UNDT statute, art. 9.2; WBAT Statute, art. IX (all providing that the Tribunal shall decide in each case whether oral hearings are warranted).

The decisions of IATs are binding and generally without appeal,²⁴¹ except for those systems which provide for an appellate tribunal.²⁴² There is however generally the possibility to submit an application for revision of judgments on limited grounds.²⁴³

The main remedy provided by IATs is rescission of the administrative decision in question, although many tribunals allow for compensation to be paid in lieu of rescission.²⁴⁴ Some IAT statutes also expressly provide for the tribunal to award costs.²⁴⁵

There is no formal mechanism for enforcement of IAT decisions, but no major issues of enforcement have arisen,²⁴⁶ after the initial growing pains settled in the *Effect of Awards* case discussed in Section I above.²⁴⁷

IATs are assisted by a Registry, generally composed of a full-time Executive Secretary or Registrar, as well as several legal officers.²⁴⁸

²⁴¹ See, e.g., AfDBAT Statute, art. XII.1; EBRDAT Statute, art. 8.08; IMFAT Statute, art. XIII.2; IDBAT Statute, art. VIII.2; OASAT Statute, art. X.2; OECDAT Statute, art. 12.b); UNDT Statute, art. 11.3; UNAT Statute, art. 10.6; WBAT Statute, art. XI.1.

²⁴² See *supra* Section III.B.

²⁴³ See, e.g., ADBAT Statute, art. XI; AfDBAT Statute, art. XII.4; IMFAT Statute, art. XVI; OASAT Statute, art. XI.1; UNDT Statute, art. 12.1; UNAT Statute, art. 11.1; WBAT Statute, art. XIII.1.

²⁴⁴ See, e.g., ADBAT Statute, art. X.1; AfDBAT Statute, art. XIII.1-2; IMFAT Statute, art. XIV; IDBAT Statute, art. IX; OASAT Statute, art. IX; OECDAT Statute, art. 12.c); UNDT Statute, art. 10.5); UNAT Statute, art. 9.1; WBAT Statute, art. XII.1.

²⁴⁵ See, e.g., ADBAT Statute, art. X.4; EBRDAT Statute, art. 8.06; IMFAT Statute, art. XV; IDBAT Statute, art. IX.6-7; OASAT Statute, art. IX.5; OECDAT Statute, art. 13; UNDT Statute, art. 10.6; UNAT Statute, art. 9.2.

²⁴⁶ C.F. Amerasinghe, 'International Administrative Tribunals', 2014 *Oxford Handbook of International Adjudication* 316, at 332.

²⁴⁷ See *supra* note 62 and accompanying text.

²⁴⁸ See, e.g., AfDBAT Statute, art. VIII; IDBAT Statute, art. V.1; OASAT Statute, art. V; OECDAT Statute, art. 9; UNDT Statute, art. 6.2; UNAT Statute, art. 5.2; WBAT Statute, art. VI.2.

B. The major Tribunals

The present subsection examines the major tribunals, which I will define as those with a jurisprudence of 500 judgments or more. This includes the ILOAT, the UNDT, the UNAT, the ATCE, the WBAT, the UNRWADT and the GCEU. The Tribunals in this subsection are arranged by total number of cases, from the ILOAT with over 4000 judgments to the GCEU with 500 judgments. However, it should be borne in mind that their level of yearly activity paints a different picture, with the UNDT considering around 170 judgments per year, almost three times that of the ILOAT (62.5 judgments per year). Certain of the other Tribunals in this subsection, while having a large overall jurisprudence due to their age, consider significantly fewer cases per year, in particular the WBAT (16.3 decisions per year) and the ATCE (12.7 appeals per year).

The ILOAT

Established 1946 — 4814 judgments — 62.5 judgments per year

The ILOAT is the oldest continuously functioning administrative tribunal, established as the LoNAT on 26 September 1927²⁴⁹, serving the LoN itself and the ILO.²⁵⁰ When the LoN was dissolved in 1946, the tribunal was transferred to the ILO, which became a specialized agency of the UN.²⁵¹ In 1949, Article II of the ILOAT Statute was amended to permit other international organizations to accept the tribunal's jurisdiction.²⁵² At the time of this writing, 58 organizations have done so,²⁵³ giving the ILOAT a breadth of membership (in terms of type, size and variety of organizations served) not seen by any other IAT.²⁵⁴ However, it must also be acknowledged that, since 2016 alone, eight organizations have decided to leave its

²⁴⁹ Schermers and Blokker, *supra* note 224, at §643, citing LoN, 54 *Journal official, Supplément special* 201 and 478.

²⁵⁰ 'The Tribunal', available at <http://www.ilo.org/tribunal/about-us/lang--en/index.htm> (accessed 20 April 2024).

²⁵¹ *Ibid.* At the time of the dissolution of the LoN, the administrative tribunal had dealt with 37 cases. *Ibid.*

²⁵² *Ibid.*

²⁵³ See 'Organizations recognizing the jurisdiction', available at <http://www.ilo.org/tribunal/membership/lang--en/index.htm> (accessed 20 April 2024).

²⁵⁴ While the UNDT currently serves 65 offices (see *infra* footnote 264 and accompanying text), it is argued that these offices, all being part of the UN common system, share more in common than the organizations served by the ILOAT. The latter tribunal, therefore, has had to develop a particular skill in resolving disputes in a great variety of different, highly unique organizations.

jurisdiction.²⁵⁵ The Tribunal is composed of seven judges, appointed by the International Labour Conference on a recommendation of the Governing Body of the International Labour Office, for a renewable period of three years.²⁵⁶ Cases are heard by a three-judge bench or, in exceptional circumstances to be designated by the President, by five judges or all seven.²⁵⁷

The UNDT

Established 2009 — 2533 judgments — 168.9 judgments per year

The UNDT was established (along with the UNAT, discussed immediately below) on 1 July 2009 as part of a reform to replace the UNAdT, which had functioned since 1949.²⁵⁸ It hears cases brought by staff members and former staff members of the UN and its separately administered funds and programmes, as well as certain other entities.²⁵⁹ The UNDT is composed of three full-time judges and six half-time judges, elected by the UNGA on the recommendation of the Internal Justice Council, a five-member body consisting of a staff representative, a management representative and three distinguished external jurists.²⁶⁰ Judges of the UNDT are appointed for one non-renewable term of seven years.²⁶¹ The three full-time judges exercise their functions in New York, Geneva and Nairobi, respectively. However, the UNDT may decide to hold sessions at other duty stations, as required by its caseload.²⁶² Cases before the UNDT are normally considered by a single judge, although the President of the UNAT may, upon request of the President of the UNDT, authorize a case to be heard by a panel of three UNDT judges ‘when necessary, by reason of the particular complexity or importance of the case.’²⁶³ The UNDT is competent to hear and pass judgment on appeals against

²⁵⁵ See ‘Organizations recognizing the jurisdiction’ at <http://www.ilo.org/tribunal/membership/lang--en/index.htm> (accessed 20 April 2024). For a discussion of this exodus phenomenon, see de Cooker, *supra* note 7, at 239-241.

²⁵⁶ ILOAT Statute, art. III.

²⁵⁷ ILOAT Statute, art. IV.

²⁵⁸ UNGA resolution 63/253, 24 December 2008, *Administration of justice at the United Nations*, paras. 26-27. For further information on the reform, see *supra* note 111 and accompanying text.

²⁵⁹ See ‘Who can use the system’ at <https://www.un.org/en/internaljustice/overview/who-can-use-the-system.shtml> (accessed 20 April 2024).

²⁶⁰ UNDT Statute, arts. 4.1-2; UNGA resolution A/RES/62/228, 22 December 2007, *Administration of justice at the United Nations*, para. 36. Pursuant to that UNGA resolution, one external jurist is nominated by the staff and one by management, and the Internal Justice Council is chaired by a distinguished jurist chosen by consensus by the four other members.

²⁶¹ UNDT Statute, art. 4.4.

²⁶² *Ibid.*, art. 5.

²⁶³ UNDT Statute, art. 10.9.

administrative decisions taken at the UN Secretariat, the UN Regional Commissions, the UN Funds and Programmes, the *ad hoc* criminal tribunals and several other entities.²⁶⁴

The UNAT

Established 2009 — 1415 judgments — 101.1 judgments per year

The UNAT was established on 1 July 2009 as the appellate level of jurisdiction in the reformed UN internal justice system.²⁶⁵ It is composed of seven judges appointed by the UNGA on the recommendation of the above-mentioned Internal Justice Council for one non-renewable seven-year term²⁶⁶. Cases before the UNAT are normally reviewed by a panel of three judges, but when the President or any two judges sitting on a particular case consider that the case raises a significant question of law, the case may be referred for consideration by all seven judges.²⁶⁷ The UNAT is competent to hear and pass judgment on appeals from judgments of the UNDT and the UNRWADT (discussed below), decisions taken by the Standing Committee acting on behalf of the UNJSPB and decisions taken by the heads of those agencies and entities that have accepted its jurisdiction under Article 2.5 of its Statute, which currently include the ICAO, IFAD, IMO, ISA and ITLOS.²⁶⁸

²⁶⁴ It is noted that, under Article 2.5 of its Statute, the UNDT is ‘competent to hear and pass judgement on an application filed against a specialized agency brought into relationship with the United Nations in accordance with the provisions of Articles 57 and 63 of the Charter of the United Nations or other international organization or entity established by a treaty and participating in the common system of conditions of service, where a special agreement has been concluded between the agency, organization or entity concerned and the Secretary-General of the United Nations to accept the terms of the jurisdiction of the Dispute Tribunal.’

²⁶⁵ UNGA resolution A/RES/63/253 of 24 December 2008, *Administration of justice at the United Nations*, paras. 26-27.

²⁶⁶ UNAT Statute, art. 3.

²⁶⁷ *Ibid.*, art. 10.1-2.

²⁶⁸ See ‘Who can use the system’, available at <https://www.un.org/en/internaljustice/overview/who-can-use-the-system.shtml> (accessed 20 April 2024).

The ATCE

Established 1965 — 747 appeals — 12.7 appeals per year

The second-oldest continuously functioning administrative tribunal is the ATCE, which was established in 1965.²⁶⁹ From 1965 until 5 April 1994, it was known as the CoE Appeals Board.²⁷⁰ Its decisions were given compulsory force in 1981.²⁷¹ It has heard 762 cases to date.²⁷² Under art. 15.1 of its Statute, its jurisdiction ‘may be extended to cover disputes between bodies attached to the Council of Europe and other international governmental organisations and their respective officials, should the appropriate authorities of such bodies or international governmental organisations so request.’²⁷³ So far, such jurisdiction has been extended to the CoE Development Bank, the Central Commission for the Navigation of the Rhine, the Hague Conference on Private International Law and the Intergovernmental Organisation for International Carriage by Rail.²⁷⁴ The Tribunal is composed of six members (a Chair, a Deputy-Chair, two judges and two deputy judges) sitting in three-member panels in a given case.²⁷⁵ One interesting feature of this tribunal is the inclusion within its jurisdiction of appeals by non-staff members who were candidates in a competitive recruitment examination at the CoE, provided the complaint relates to an irregularity in the examination procedure.²⁷⁶

²⁶⁹ *Common Focus and Autonomy of International Administrative Tribunals: International Colloquy, 50th anniversary of the establishment of the Council of Europe Administrative Tribunal, Proceedings* (19-20 March 2015), at 6.

²⁷⁰ S. Sansotta, ‘The Administrative Tribunal of the Council of Europe’, in *Current Issues in the Law and Practice of International Administrative Tribunals: Promoting the Effectiveness of the Decision-Making Process, 35th Anniversary of the OAS Administrative Tribunal*, OAS document OEA/Ser.R/III.1 (2006), at 19. From 1949 to 1965, a board of a more administrative nature existed to arbitrate disputes between the CoE and its staff members, but no dispute was ever submitted to it. *Ibid.*, at 20.

²⁷¹ *Ibid.*

²⁷² See ‘List of Appeals brought before the Tribunal’, available at <https://rm.coe.int/complete-list-of-appeals-brought-before-the-administrative-tribunal/16808b4e13> (accessed 26 September 2024).

²⁷³ ATCE Statute, art. 15.1.

²⁷⁴ See ‘Bodies and organisations subject to the jurisdiction of the Tribunal’, available at <https://www.coe.int/en/web/tribunal/bodies-and-organisations-subject-to-the-jurisdiction-of-the-tribunal> (accessed 20 April 2024).

²⁷⁵ Sansotta, *supra* note 270, at 20-21.

²⁷⁶ CoE Staff Regulations, art. 59.8.d).

The UNRWADT
Established 2011 — 738 judgments — 56.8 judgments per year

The UNRWADT became operational on 1 June 2011, as the first instance tribunal in the reformed UN internal justice mechanism for the 30,000 staff members of UNRWA,²⁷⁷ with appeals to the UNAT.²⁷⁸ The Tribunal is modelled on the UNDT²⁷⁹ and the statutes of the two tribunals share much in common. A principal reason for the creation of the UNRWADT was costs: with 30,000 staff members compared to the 80,000 staff members of the UN Secretariat, participating in the UNDT on a *pro rata* workforce basis, as proposed by the UN Secretariat, was not financially viable for UNRWA.²⁸⁰ The tribunal is composed of one judge, who may be full-time or part-time, and *ad litem* judges as appropriate²⁸¹. The judge serves one non-renewable term of seven years²⁸².

The WBAT
Established 1980 — 699 decisions — 16.3 decisions per year

The WBAT was established in 1980 as the independent judicial forum of last resort for the resolution of cases submitted by staff members of the World Bank Group alleging non-observance of their contracts or terms of employment. It has rendered 699 decisions to date.²⁸³ The WBAT is composed of seven judges, all of whom are nationals of different Member States of the Bank, appointed for five-year terms, renewable once, by the Executive Directors of the Bank from a list of candidates drawn up by the President of the Bank.²⁸⁴ As mentioned above, the WBAT Statute was the first to set high qualifications for judges mirroring the qualifications for Judges in the Statute of the ICJ.²⁸⁵ This practice has been followed by numerous other

²⁷⁷ ‘First Activity Report of the UNRWA Dispute Tribunal: June 2011 to December 2014’, available at https://www.unrwa.org/sites/default/files/first_activity_report_-_2011_2014.pdf (accessed 1 May 2024), at 1, 11.

²⁷⁸ UNRWADT Statute, art. 11.3.

²⁷⁹ ‘First Activity Report of the UNRWA Dispute Tribunal: June 2011 to December 2014’, *supra* note 277, at 1.

²⁸⁰ de Cooker, *supra* note 7, at 238.

²⁸¹ UNRWADT Statute, art. 4.1.

²⁸² *Ibid.*, art. 4.4.

²⁸³ See ‘World Bank Administrative Tribunal’, available at <https://tribunal.worldbank.org/> (accessed 20 April 2024).

²⁸⁴ WBAT Statute, art. IV.

²⁸⁵ See *supra* notes 94-95 and accompanying text.

tribunals since.²⁸⁶ While a quorum of five members is necessary to constitute the Tribunal, its Statute also provides that it may hear cases in panels of three members²⁸⁷. Under art. XV of its Statute, the World Bank may make agreements with other international organizations for the submission of applications of their staff to the WBAT. To date, however, it does not appear that any organization outside the World Bank Group has concluded such an agreement.²⁸⁸

The GCEU

Established 2016 — 521 judgments — 65.1 decisions per year

On 1 September 2016, the GCEU took over the administrative law cases in the EU,²⁸⁹ a function carried out by the Court of First Instance from 1989 up until 2004, when the EUCST

²⁸⁶ See, e.g., ATBIS Statute, art. III.2; ADBAT Statute, art. IV; IMFAT Statute, art. VII.1; CSAT Statute, art. IV.1-3; AfDBAT Statute, art. VI.1; UNDT Statute, art. 4.3; UNAT Statute, art. 3.3; UNRWADT Statute, art. 4.3; NATOAT Statute (as contained in NATO Civilian Personnel Regulations, May 2013), art. 6.1.1; IDBAT Statute, art. III.1; EBRDAT Statute, art. 2.02(b); ESMAT Statute, art. 3.2.

²⁸⁷ WBAT Statute, art. IV.

²⁸⁸ The only respondents listed among the 699 concluded decisions on the Tribunal's website (accessed 27 April 2024) are the World Bank itself (IBRD), the International Finance Corporation (IFC), the Inter-American Development Association (IDA) and, occasionally, the 'World Bank Group' as a whole, or all three of the above entities mentioned separately. These correspond to the entities specifically listed in art. I of the Tribunal's Statute. Therefore, while no information on the question is explicitly provided by the Tribunal on its website, it appears that no additional organizations have entered into an agreement to use the Tribunal.

²⁸⁹ Regulation 2016/1192 of the European Parliament and the Council of 6 July 2016 on the transfer to the GCEU of jurisdiction at first instance in disputes between the European Union and its servants. Accordingly, art. 270 of the Treaty on the Functioning of the European Union provides: 'The Court of Justice of the European Union shall have jurisdiction in any dispute between the Union and its servants within the limits and under the conditions laid down in the Staff Regulations of Officials and the Conditions of Employment of other servants of the Union.' Consolidated Version of the Treaty on the Functioning of the European Union, Official Journal of the European Union, vol. 59 (7 June 2017), art. 270. Article 50a of the Statute of the CJEU provides: '1. The General Court shall exercise at first instance jurisdiction in disputes between the Union and its servants as referred to in Article 270 of the Treaty on the Functioning of the European Union, including disputes between all institutions, bodies, offices or agencies, on the one hand, and their servants, on the other, in respect of which jurisdiction is conferred on the Court of Justice of the European Union; 2. At all stages of the procedure, including the time when the application is filed, the General Court may examine the possibilities of an amicable settlement of the dispute and may try to facilitate such settlement.' Consolidated Version of the Statute of the CJEU (1 September 2016), Article 50a.

was established for this task.²⁹⁰ Before the reform, a three-tier jurisdictional structure existed, whereby decisions of the EUCST could be appealed on points of law to the GCEU (i.e. the Court of First Instance prior to 2009)²⁹¹ and the decision by this latter Court was subject to review by the European Court of Justice ‘where there is a serious risk of the unity or consistency of Union law being affected.’²⁹² After the reform, a two-tier structure remains, with decisions of the GCEU now subject to appeal on points of law to the CJEU.²⁹³ The GCEU has rendered 521 administrative law Judgments in its first eight years of operation.²⁹⁴

C. Mid-size Tribunals

The present subsection discusses mid-size Tribunals, which I will define as those with a jurisprudence of between 100 and 200 decisions. Within this group, some of the Tribunals are noticeably more active than others. The Tribunals below are arranged by level of activity, beginning with the NATOAT (at 17.8 judgments per year) and concluding with the IDBAT (at 2.6 judgments per year).

²⁹⁰ Prior to 1989, staff cases were handled by the European Court of Justice itself. Elias, *supra* note 171, at 253. For more information on the former EUCST, see ‘Civil Service Tribunal: Presentation’, available at http://curia.europa.eu/jcms/jcms/T5_5230/en/ (accessed 20 April 2024). See also W. Hakenberg, ‘The European Union Civil Service Tribunal: A Three-tier Structure’, in Elias, *supra* note 171, at 251-264; P. Mahoney, ‘The European Union Civil Service Tribunal : a Specialised Tribunal or a Special Tribunal?’, in A. De Walsche, ed., *Mélanges en hommage à Georges Vandensanden : promenades au sein du droit européen* (2008), 955-970; H. Cameron, ‘Establishment of the European Union Civil Service Tribunal’, (2006) 5 *Law and Practice of International Courts and Tribunals* 273-283; H. Tagaras, ‘Comparative Law and the European Union Civil Service Tribunal’, in M. Andenas and D. Fairgrieve, eds., *Courts and Comparative Law* (2015), 186-199; F. Pastor and J. Ángel, ‘The European Union Civil Service Tribunal’, in A. De Walsche, ed., *Mélanges en hommage à Georges Vandensanden : promenades au sein du droit européen* (2008), 873-901; G. Butler, ‘An Interim Post-Mortem: Specialised Courts in the EU Judicial Architecture after the Civil Service Tribunal’, (2020) 17 *International Organizations Law Review* 586-632; K. Bradley, ‘European Union Civil Service Law’, in H. Hofmann, G. Rowe and A. Türk, eds., *Specialized Administrative Law of the European Union: A Sectoral Review* (2018), at 559-578.

²⁹¹ Council Decision of 2 November 2004 establishing the European Union Civil Service Tribunal (2004/752/EC, Euratom), Annex I, art. 11.1.

²⁹² Treaty on the Functioning of the European Union, art. 256.2. The review procedure was initiated by a non-binding proposal by the ECJ’s First Advocate General. Very few such proposals have been made (six between 2004 and 2012) and even less accepted (one between 2004 and 2012). Elias, *supra* note 171, at 257.

²⁹³ Treaty on the Functioning of the European Union, art. 256.1; Consolidated Version of the Statute of the CJEU (1 September 2016), art. 56. See also Staff Regulations of Officials of the European Union, art. 90.1.

²⁹⁴ This figure is calculated using the case-law database available at <http://curia.europa.eu/juris/recherche.jsf?cid=158649> (accessed 20 April 2024), choosing ‘Staff Regulations of officials and Conditions of Employment of other servants’ in the subject box, using date range 1 September 2016 to 5 December 2023, and limiting the search criteria to ‘General Court’ and search results to ‘Judgments’.

The NATOAT
Established 2013 — 196 judgments — 17.8 judgments per year

The NATOAT was established in July 2013 and is competent to decide any individual dispute brought by a NATO staff member or retired staff member alleging that an administrative decision is not in compliance with the Civilian Personnel Regulations or the terms of their appointment with the Organization.²⁹⁵ In its first eleven years of operation, it rendered 196 Judgments.²⁹⁶ The Tribunal is composed of five members, appointed by the NATO Council for a five-year term, renewable once.²⁹⁷ Cases are heard in panels consisting of three members.²⁹⁸ An interesting feature of this Tribunal is that it holds oral hearings in cases as a matter of course, unless the parties agree otherwise.²⁹⁹

The AUAT
Established 2010 — 110 judgments — 12.2 judgments per year

The African Union, established in 2002 in replacement of the Organisation of African Unity,³⁰⁰ created an administrative tribunal ‘competent to hear appeals submitted by staff members against administrative decisions made by the Chairperson or any competent authority of any organ’,³⁰¹ with the possibility of appeal to the African Court of Justice and Human

²⁹⁵ See information available on the website of the Tribunal at https://www.nato.int/cps/en/natohq/topics_114072.htm (accessed 20 April 2024).

²⁹⁶ See ‘Statistics of Judgments and Orders of the NATO Administrative Tribunal – 2013-2022’, available at https://www.nato.int/nato_static_fl2014/assets/pdf/2022/9/pdf/220923-AT-statistics-2013-2021-en.pdf (accessed 20 April 2024).

²⁹⁷ NATOAT Statute (as contained in NATO Civilian Personnel Regulations, May 2013), arts. 6.1.1-6.1.2.

²⁹⁸ *Ibid.*, art. 6.1.4.

²⁹⁹ *Ibid.*, art. 6.7.1. For further information on the NATOAT, see S. Hill and N. Minogue, ‘The Effectiveness of the North Atlantic Treaty Organization in an Era of Adaptation: The Role of the North Atlantic Treaty Organization Administrative Tribunal’, in P. Quayle, ed., *The Role of International Administrative Law at International Organizations* (AIIB Yearbook of International Law, vol. 3) (2021), 213.

³⁰⁰ See ‘Administrative Tribunal’, available at <https://au.int/Tribunal> (accessed 20 April 2024). See also ‘About the African Union’, available at <https://au.int/en/overview> (accessed 20 April 2024).

³⁰¹ African Union Staff Regulations and Rules, AU Doc. Assembly/AU/4(XV), 2010, Regulation 14.2(a) and Rule 62.3.

Rights.³⁰² The Assembly of the AU adopted new Staff Regulations and Rules in 2023,³⁰³ although they are not yet publicly available. The AUAT has issued 110 judgments to date.³⁰⁴

The AfDBAT

Established 1997 — 168 judgments — 6.7 judgments per year

The AfDBAT was established on 16 July 1997.³⁰⁵ It has rendered 174 Judgments to date.³⁰⁶ The Tribunal is made up of six judges serving three-year terms, which may be renewed.³⁰⁷ It is constituted to hear cases in three-judge panels.³⁰⁸ Its Statute contains an interesting provision empowering it to render an advisory opinion, on the request of the Board of Governors, ‘on any question of law concerning the general administration of the Bank.’³⁰⁹ It does not appear however that this procedure has ever been used in practice.³¹⁰ Under art. XV of its Statute, its jurisdiction may be extended to other international organizations. To date, however, it does not appear that any organizations have made use of this option.³¹¹

³⁰² *Ibid.*, Regulation 14.3 and Rule 62.3.

³⁰³ AU Assembly, ‘Decisions on Draft Legal Instruments’, Thirty-Sixth Ordinary Session (18-19 February 2023), AU Doc. Assembly/AU/Dec.856(XXXVI), para. 2.viii.

³⁰⁴ See ‘African Union Administrative Tribunal’, available at <https://africanlii.org/judgments/AfUAT/> (accessed 27 August 2024).

³⁰⁵ ‘Terms of Reference of the African Development Bank Administrative Tribunal’, available at <https://www.afdb.org/fileadmin/uploads/afdb/Documents/Administrative-Tribunal/Administrative%20Tribunal%20-%20Terms%20of%20Reference.pdf> (accessed 20 April 2024).

³⁰⁶ See ‘Judgments’, available at <https://www.afdb.org/en/about-us/organisational-structure/administrative-tribunal/judgements> (accessed 26 September 2024).

³⁰⁷ AfDBAT Statute, art. VI.

³⁰⁸ *Ibid.*, art. XI.2.

³⁰⁹ *Ibid.*, art. IV.

³¹⁰ See AfDBAT Judgment No. 43 (2005), *Arrah v. African Development Bank*, paras. 8 and 26 (refusing to apply art. IV when pleaded by the Applicant).

³¹¹ The website of the Tribunal states that ‘[r]egional organizations are eligible to become a member of the Tribunal for the settlement of disputes related to their staff’, but makes no reference to any organization having done so. See ‘Administrative Tribunal’, available at <https://www.afdb.org/en/about-us/organisational-structure/administrative-tribunal> (accessed 20 April 2024).

The ADBAT

Established 1991 — 130 decisions — 4.1 decisions per year

The ADBAT was established in 1991 and has rendered 130 decisions to date.³¹² It is composed of five members, appointed by the Board of Directors from a list of candidates drawn up by the President, who serve for three-year terms that can be renewed twice.³¹³ Cases are heard by panels of three judges, unless the tribunal decides, on its own initiative or following a written request from one of the parties, to hear the case in a panel consisting of all members.³¹⁴

The OECDAT

Established 1992 — 106 judgments — 3.3 judgments per year

The OECDAT was set up in its present form in 1992, replacing the former OECD Appeals Board, as an independent body with jurisdiction to rule on disputes between members of staff (or other qualified persons) and the UNSG. It has considered 106 cases to date.³¹⁵ The Tribunal is composed of three judges and three deputy judges, appointed by the OECD Council for three-year renewable terms.³¹⁶ It is validly constituted to hear a case when at least three judges are present.³¹⁷

The OASAT

Established 1971 — 171 judgments — 3.3 judgments per year

The OASAT was established in 1971 to hear disputes between the OAS General Secretariat and members of its staff alleging nonobservance of the terms and conditions of their employment.³¹⁸ It has rendered 171 decisions to date.³¹⁹ The competence of the Tribunal may be extended to any inter-American specialized organization, as well as to any interested intergovernmental organization of the Americas, in accordance with the terms established by a

³¹² ‘Administrative Tribunal’, available at <https://www.adb.org/about/administrative-tribunal> (accessed 20 April 2024).

³¹³ ADBAT Statute, art. IV.

³¹⁴ *Ibid.*, art. V.

³¹⁵ See information available on the website of the Tribunal at <https://www.oecd.org/administrativetribunal/> (accessed 26 September 2024).

³¹⁶ OECD Staff Regulations and Rules (January 2016), Regulation 22.d.

³¹⁷ OECD Staff Regulations and Rules, Annex III – Resolution of the Council on the Statute and operation of the Administrative Tribunal (adopted on 12 December 1991), art. 8.d).

³¹⁸ See information on the website of the Tribunal at <https://www.oas.org/ext/en/main/oas/our-structure/agencies-and-entities/tribad/> (accessed 20 April 2024).

³¹⁹ See <https://www.oas.org/ext/en/main/oas/our-structure/agencies-and-entities/tribad/Decisions/Documents> (accessed 20 April 2024).

special agreement to be concluded for that purpose by the Secretary General with each such organization.³²⁰ In 1976, the Tribunal's competence was so extended to the Inter-American Institute for Cooperation on Agriculture.³²¹ The Tribunal is composed of six members elected by the OAS General Assembly to serve for terms of six years, such terms to be staggered so that one new member is elected each year.³²² The Tribunal hears cases in three-member panels.³²³

The ESAAT

Established 1975 — 142 decisions — 3.0 decisions per year

The ESAAT was established as an Appeals Board in 1975, already functioning, despite its name, as an independent administrative tribunal.³²⁴ It was formally designated as an Administrative Tribunal in 2020 and provides for the settlement of disputes arising between the Agency and staff members or experts in respect of their conditions of service.³²⁵ It has rendered 142 decisions to date.³²⁶ The ESAAT consists of six members of different nationalities, appointed by the ESA Council for six-year renewable terms on the basis of ESA Member States' proposals.³²⁷ For the examination of a given case, the ESAAT is considered validly constituted when at least three members are present, including the Chairman or Deputy Chairman.³²⁸ According to one novel provision governing the ESAAT, it has also been given jurisdiction 'in the case where a staff member wishes to sue another staff member and such action has been prevented by the Director General's refusal to waive the immunity of the latter.'³²⁹

³²⁰ OASAT Statute, art. II.4.

³²¹ 'Administrative Tribunal', available at <https://www.oas.org/ext/en/main/oas/our-structure/agencies-and-entities/tribad/> (accessed 20 April 2024).

³²² OASAT Statute, art. III.1.

³²³ *Ibid.*, art. III.6.

³²⁴ C.F. Amerasinghe, *Documents on International Administrative Tribunals* (1989), 148.

³²⁵ See Website of the Tribunal at https://www.esa.int/About_Us/Corporate_news/Administrative_Tribunal (accessed 20 April 2024).

³²⁶ *Ibid.*

³²⁷ ESA Staff Regulations, Regulation 34.

³²⁸ ESA Appeals Board Rules of Procedure, Rule 41.2.

³²⁹ ESA Staff Regulations, Regulation 33.5.

The IDBAT

Established 1981 — 106 judgments — 2.6 judgments per year

The IDBAT was established in 1981 to resolve disputes between the Bank and its staff members.³³⁰ It has issued 106 decisions to date.³³¹ It is composed of seven members appointed by the Board of Executive Directors of the Bank from a list of candidates presented by a Nominating Committee established under the Tribunal's Statute.³³² Members are appointed for one non-renewable term of six years.³³³ Cases are heard by three-judge panels unless the President of the Tribunal deems that a case involves exceptional circumstances that merit consideration by the full Tribunal.³³⁴ The Tribunal serves both organizations within the Inter-American Development Bank Group, that is to say the IDB and the IFC.³³⁵

D. Smaller Tribunals

The present subsection examines smaller tribunals, i.e. those with a jurisprudence of less than 100 cases. These include the IMFAT, the ESCB, the EBRDAT, the CSAT, the TPIOIF, the TAOIF, the EUMETSAT Appeals Board and the ATBIS. They are arranged by total number of cases, from the IMFAT with 77 judgments to the ATBIS with 10 judgments.

The IMFAT

Established 1994 — 77 judgments — 2.6 judgments per year

The IMFAT was established in 1994 for the resolution of employment disputes arising between the IMF and its staff members. It has delivered 77 judgments to date.³³⁶ As a result of changes made to the Statute of the Tribunal in 2009,³³⁷ the Tribunal is now composed of five members appointed by the Managing Director, who serve four-year terms which can be

³³⁰ In 1991, the Inter-American Investment Corporation and its staff members also became subject to its jurisdiction. See information provided on the Tribunal's website at <https://www.iadb.org/en/who-we-are/transparency/administrative-tribunal> (accessed 20 April 2024).

³³¹ 'Inter-American Development Bank Administrative Tribunal – Decisions', available at <https://www.IDB.org/en/who-we-are/transparency/administrative-tribunal/administrative-tribunal-decisions> (accessed 20 April 2024).

³³² IDBAT Statute, arts. III.1-2 and Annex I.

³³³ *Ibid.*, art. III.2.

³³⁴ *Ibid.*, art. III.4.

³³⁵ *Ibid.*, art. I.

³³⁶ See information available on the website of the tribunal at <https://www.imf.org/external/imfat/index.htm> (accessed 20 April 2024).

³³⁷ *Ibid.*

renewed twice for a maximum term limit of twelve years.³³⁸ Cases are heard by a panel composed of the President and two other members designated by the President.³³⁹ Under art. XXI of its Statute, the competence of the IMFAT may be extended to any other international organization on terms established by special agreement. To date, however, it does not appear that any organizations have exercised this option.³⁴⁰

The ESCB

Established in 2004 — 62 decisions — 3.1 decisions per year

The European Schools established a Complaints Board in 2004.³⁴¹ Although it functions as an administrative tribunal with respect to complaints brought by teachers, it has a broader jurisdiction, also handling complaints by parents or students against decisions taken by one of the bodies of the European Schools (Secretary-General, Deputy Secretary-General, Central Enrolment Authority, School Principal, Class Council, Disciplinary Council, Baccalaureate Examination Board, etc.).³⁴² Claims brought by teachers for which it functions as an IAT entail only about 13 percent of its caseload.³⁴³ It has no jurisdiction to hear complaints of administrative staff, which must bring their claims through the national tribunal in which the school is located.³⁴⁴

³³⁸ IMFAT Statute, art. VII.

³³⁹ *Ibid.*, art. VII.4.

³⁴⁰ The Website of the Tribunal makes no reference to its jurisdiction being extended to other organizations, and all judgments list the International Monetary Fund as respondent. See ‘IMF Administrative Tribunal: Judgments’, available at <https://www.imf.org/external/imfat/jdgmnts.htm> (accessed 20 April 2024).

³⁴¹ Although the Complaints Board was provided for long before, in Article 27 of the 1994 Convention Defining the Statute of the European Schools, its Statute dates from 2004. Rules of Procedure were passed in 2005. See ‘Textes fondamentaux’, available at <http://www.schola-europaea.eu/cree/textes.php> (accessed 20 April 2024).

³⁴² See ‘Chambre de recours des écoles européennes : accueil’, available at <http://www.schola-europaea.eu/cree/> (accessed 20 April 2024).

³⁴³ This figure is based on a review of the cases through 2023 available on the website of the tribunal (accessed 21 April 2024). Of the 461 cases available, only the following 62 were brought by teachers: 01/01, 01/04, 01/06, 02/07, 03/06, 05/04, 05/06, 05/17, 05/19, 06/21, 07/01, 07/17, 08/35, 08/51, 08/51bis, 09/43, 09/47, 10/01, 10/75, 10/85, 11/21, 11/63, 12/04, 12/08, 12/40, 12/62, 12/72, 13/01, 13/03, 13/08, 13/12, 13/27, 13/40, 13/45, 13/58, 13/60, 14/05, 14/28, 14/47, 14/48, 14/51R, 15/18, 15/50, 16/39, 16/57, 16/58, 17/03, 17/19, 17/30, 18/04, 18/26, 18/53, 19/62, 20/03, 20/59, 20/68, 21/01, 21/49, 22/01, 22/03, 22/64, 23/02.

³⁴⁴ See ‘Qui peut présenter une requête devant la Chambre de recours ?’, available at <http://www.schola-europaea.eu/cree/chambre.php#requerant> (accessed 20 April 2024).

The EBRDAT

Established in 2007 — 55 judgments — 3.2 judgments per year

The EBRDAT was constituted as an administrative tribunal in its current form in 2007³⁴⁵ and hears appeals against administrative decisions once staff members have exhausted all appropriate channels for review in place at the Bank.³⁴⁶ From its inception to date, it has rendered 55 judgments.³⁴⁷ The Tribunal is composed of five members, appointed for three-year renewable terms by the Board of Directors on the recommendation of the President after consultation with the Vice-President, Human Resources, the General Counsel and the Staff Council.³⁴⁸ Cases are heard in panels consisting of three members.³⁴⁹

The CSAT

Established in 1995 — 53 judgments — 2.0 judgments per year

The CSAT was established in 1995 and has rendered 53 Judgments to date.³⁵⁰ The Tribunal consists of eight members serving four-year terms, renewable once, who hear cases in three-judge panels.³⁵¹ In addition to its jurisdiction over disputes between the Commonwealth Secretariat and its staff, the Tribunal is also empowered to consider applications by any other person who enters into a contract with the Commonwealth Secretariat³⁵² and every contract entered into by or on behalf of the Commonwealth Secretariat contains a provision for any dispute arising out of such contract to be submitted to the Tribunal.³⁵³ Pursuant to art. II.2 of its Statute, the CSAT's jurisdiction may be extended to another 'international or intergovernmental Commonwealth body or organisation' meeting

³⁴⁵ The Website of the Tribunal states that 'decisions prior to 2007 were adopted under the previous Grievance and Appeals Procedures'. See 'Administrative Tribunal', available at <http://www.ebrd.com/who-we-are/corporate-governance/administrative-tribunal.html> (accessed 20 April 2024).

³⁴⁶ *Ibid.*

³⁴⁷ *Ibid.*

³⁴⁸ EBRDAT Statute, arts. 2.02(a) and (d).

³⁴⁹ *Ibid.*, art. 5.01(a). For further information on the EBRDAT, see Seiler, *supra* note 115, at 172-187.

³⁵⁰ 'Commonwealth Secretariat Arbitral Tribunal Judgments', available at <http://thecommonwealth.org/tribunal> (accessed 20 April 2024).

³⁵¹ CSAT Statute, arts. IV.1, 4 and 5.

³⁵² CSAT Statute, art. II.1.c).

³⁵³ 'CSAT', available at <http://thecommonwealth.org/sites/default/files/page/documents/CSAT.pdf> (accessed 20 April 2024).

certain requirements.³⁵⁴ To date, however, it does not appear that any organizations have exercised this option.³⁵⁵

The TPIOIF

Established in 2010 — 44 judgments — 3.1 judgments per year

The TAOIF

Established in 2014 — 16 judgments — 1.6 judgments per year

The OIF set up a two-tier system composed of the TPIOIF, established in 2010, and the TAOIF, established in 2014.³⁵⁶ To date, the TPIOIF has rendered 44 judgments and the TAOIF 16 judgments.³⁵⁷ The TPIOIF is composed of a President, appointed by the Permanent Counsel, one member appointed by the Secretary-General, and one member appointed by the Staff Committee, as well as alternates appointed in the same manner, all of which serve four-year renewable terms.³⁵⁸ The TAOIF is composed of a President and two members, appointed for four-year renewable terms by the Ministerial Conference, as well as alternates appointed in the same manner.³⁵⁹ The Tribunals hear cases with all three members, an alternate filling any seat in the case of recusal.³⁶⁰

³⁵⁴ CSAT Statute, art. II.2.

³⁵⁵ The Website of the Tribunal makes no reference to its jurisdiction being extended to other organizations, and all but two of its Judgments list the Commonwealth Secretariat as sole respondent. See 'Judgments', available at <https://thecommonwealth.org/tribunal> (accessed 20 April 2024). In the two exceptions, the first two cases treated by the Tribunal (CSAT/1 and CSAT/2), the Regional director of the Commonwealth Youth Programme was the sole or joint respondent. It is clear that the jurisdiction of the Tribunal has not been explicitly extended to the Commonwealth Youth Programme, as the Tribunal in its Judgment CSAT/2, dismissed the application after having concluded that the individual bringing the application was a locally recruited staff member of the Commonwealth Youth Programme and not a staff member of the Commonwealth Secretariat as required for the Tribunal's jurisdiction under art. II.1.a) of its Statute. It distinguished its Judgment CSAT/1, where it did find that it had jurisdiction, on the grounds that in that case the individual had been recruited through the Commonwealth Secretariat in London to serve in the Commonwealth Youth Programme and was paid directly by the Commonwealth Secretariat. CSAT Judgment No. CSAT/2 (14 July 2000), para. 27. For further information on the CSAT, see Lacourt, *supra* note 116, at 191-212.

³⁵⁶ The *Règlement of the Tribunal de première instance* entered into force on 28 September 2010. The *Règlement of the Tribunal d'appel* entered into force on 20 January 2014.

³⁵⁷ See '*Tribunal de première instance*', available at <https://www.francophonie.org/tribunal-de-premiere-instance-87> and '*Tribunal d'appel*', available at <https://www.francophonie.org/tribunal-dappel-88> (accessed 20 April 2024).

³⁵⁸ OIF Staff Rules, Rule 208.

³⁵⁹ OIF Staff Rules, Rule 225.

³⁶⁰ OIF Staff Rules, Rules 212.19 and 229.20.

The EUMETSAT Appeals Board

First decision rendered in 2008 — 20 decisions — 1.2 decisions per year

The EUMETSAT Appeals Board, despite its name, functions as an administrative tribunal issuing binding decisions. It is not clear exactly when the Tribunal was established, but the first decision provided on the website was rendered in 2008.³⁶¹ At the time of this writing, the EUMETSAT Appeals Board has rendered a total of 20 decisions.³⁶² The Board consists of three members and three deputies, appointed for three-year renewable terms by the Council from a list proposed by the Director-General.³⁶³

The ATBIS

Established in 1987 — 10 judgments — Less than 1 judgment per year

The ATBIS was established in 1987 to settle any dispute in matters of employment relations that may arise between the Bank and its officials or former officials, or persons claiming through them.³⁶⁴ From its inception to the current date, it has rendered only ten judgments.³⁶⁵ It is composed of five members appointed by the Board of Directors for five-year renewable terms, up to a maximum age limit of 75 years.³⁶⁶ Cases may be heard by panels of three members or in plenary session.³⁶⁷

E. Other Tribunals

This final subsection briefly touches upon other IATs known to be in existence. They are included here because they have a very limited jurisprudence, they do not publish their decisions on their website, or they have no internet presence at all. In some cases, they have been mentioned in the literature but it is not clear to what extent they are operational.

³⁶¹ See ‘EUMETSAT Appeals Board decisions’, available at <https://www.eumetsat.int/legal-framework/eumetsat-appeals-board> (accessed 20 April 2024).

³⁶² *Ibid.*

³⁶³ EUMETS Staff Rules, arts. 38.4-5.

³⁶⁴ See website of the Tribunal at https://www.bis.org/about/at_bis.htm (accessed 20 April 2024).

³⁶⁵ See ‘Decisions of the Administrative Tribunal of the BIS’, available at http://www.bis.org/about/atbis_decisions.htm (accessed 20 April 2024).

³⁶⁶ ATBIS Statute, arts. III.1 and III.2.

³⁶⁷ *Ibid.*, art. III.4.

MERCOSUR established an administrative tribunal in 2003 (known as the MERCOSUR TAL).³⁶⁸ The Tribunal is composed of four members, one member being appointed by each State Party, for two year renewable terms.³⁶⁹ Each State party also appoints an alternate member, who sits when the member is absent.³⁷⁰ The Tribunal appears not to be very active, showing only four decisions on its website, of which two were in 2005, a third in 2015 and the last in 2017.³⁷¹

The ESMAT was established in 2013.³⁷² The Tribunal is composed of five members appointed by unanimous decision of a committee composed of the Managing Director, the General Counsel, the Secretary General, a staff representative and a chairman appointed by the chairman of the Board of Governors.³⁷³ Members are appointed for a five-year renewable term.³⁷⁴ The Tribunal hears cases either in plenary session or in panels of three members.³⁷⁵ The tribunal has published five decisions on its website (three judgments and two orders) all dating from 2023.³⁷⁶ It is unique in that, having been created to serve a staff of some 100 persons, it operates essentially in as an *ad hoc* tribunal: members are paid on a per-case basis and many of the traditional registry functions are outsourced to the European Free Trade Association States Court.³⁷⁷ In this way, it is able to serve a small number of staff while still being economically viable. This solution was reached after attempts to join the EU system were refused.³⁷⁸ Nevertheless, the Statute of the Tribunal makes clear that the ESM has not given up

³⁶⁸ MERCOSUR, Grupo Mercado Común resolution 54/03, ‘Tribunal Administrativo-Laboral del Mercosur’, Doc. MERCOSUR/GMC/RES N°54/03, 10 December 2003, available at <https://www.tprmercursosur.org/es/tal.htm> (accessed 20 April 2024).

³⁶⁹ MERCOSUR TAL Statute, art. 2.

³⁷⁰ *Ibid.*

³⁷¹ ‘Tribunal Administrativo-Laboral del MERCOSUR (TAL)’, available at <http://www.tprmercursosur.org/es/tal.htm> (accessed 20 April 2024).

³⁷² ‘Administrative Tribunal ESMAT’, available at [https://www.esm.europa.eu/about-us/how-we-work#administrative_tribunal_\(esmat\)](https://www.esm.europa.eu/about-us/how-we-work#administrative_tribunal_(esmat)) (accessed 20 April 2024).

³⁷³ ESMAT Statute, art. 3.1.

³⁷⁴ *Ibid.*, art. 3.3.

³⁷⁵ *Ibid.*, art. 3.4.

³⁷⁶ ‘Administrative Tribunal ESMAT’, available at [https://www.esm.europa.eu/how-we-work#administrative_tribunal_\(esmat\)](https://www.esm.europa.eu/how-we-work#administrative_tribunal_(esmat)) (accessed 20 April 2024).

³⁷⁷ See D. Eatough, ‘Building an Administrative Tribunal of an International Financial Institution from Scratch: Lessons from the European Stability Mechanism’, in P. Quayle, ed., *The Role of International Administrative Law at International Organizations* (AIIB Yearbook of International Law, vol. 3) (2021), at 232.

³⁷⁸ *Ibid.*, at 229-230.

hope of joining the EU system in the future, providing in its final Article that ‘[i]f, following a request by the ESM, the Court of Justice of the EU grants the ESM access to the jurisdiction of the Court of Justice of the European Union for staff matters via the Civil Service Tribunal of the latter, the Tribunal shall be wound up and the office of members of the Tribunal shall come to an end once they have concluded all the pending appeals before the Tribunal.’³⁷⁹

References to other administrative tribunals have been found in the literature but limited information is available about them. For example:

- The CARICOM Administrative Tribunal was established in 2020,³⁸⁰ although it has made only one decision publicly available to date.³⁸¹
- Reference has been made to an Appeals Board for the Institute for the Management of Technology,³⁸² and the Statute has been reproduced in a collection published by Amerasinghe.³⁸³ According to Article 8 of that Statute, the appeals board was intended, despite its name, to operate as a true administrative tribunal issuing binding decisions. However, it is unclear whether the appeals board ever functioned and even whether the organization still exists.
- There appears to be an administrative tribunal at the Black Sea Trade and Development Bank, but the Bank’s public information policy prevents the release of any of its proceedings or records.³⁸⁴

³⁷⁹ ESMAT Statute, art. 17.

³⁸⁰ See ‘CARICOM Launches Administrative Tribunal’, available at <https://caricom.org/caricom-launches-administrative-tribunal/> (accessed 20 April 2024).

³⁸¹ CARICOMAT Decision No. 1 (2023), *Rowe v. CARICOM Secretariat*.

³⁸² C.F. Amerasinghe, *The Law of the International Civil Service* (1994), vol. 1, at 63.

³⁸³ C.F. Amerasinghe, *Statutes and Rules of Procedure of International Administrative Tribunals* (1984), vol. 2, at 145-148.

³⁸⁴ See ‘Public Information Policy of the Black Sea Trade & Development Bank’, available at http://www.bstdb.org/Public_Information_Policy.pdf (accessed 20 April 2024).

- The Arab League appears to have an administrative tribunal established in 1964.³⁸⁵ There was a reference to it in the 2013 Arab League Summit document³⁸⁶ but other information about it is not readily available. As noted by the Geneva Labour Court, ‘neither the existence of the Administrative Tribunal of the League of Arab States in Cairo, nor its rules of procedure, are documented in western literature on public international law.’³⁸⁷

- UNIDROIT has an administrative tribunal, as provided for in Article 7*bis* of the UNIDROIT Statute. The Tribunal is comprised of three full members and one substitute selected from outside the Institute, preferably from different nationalities. Members are elected for five-year terms by the General Assembly. It has published its Statute and Rules of procedure, but no decisions are available on its website.³⁸⁸

- The Nordic Investment Bank provides for the appointment of an *ad hoc* arbitral tribunal in the case of employment disputes, with each party choosing one arbitrator and those arbitrators in turn choosing a Chairman. While these *ad hoc* proceedings result in binding awards, they are not published and there is no standing administrative tribunal at the Bank.³⁸⁹

- It has been reported that, in 2017, the Appeals Board of the European Centre for Medium-Range Weather Forecasts adopted revised rules which transformed it into a bona fide IAT, and that it has issued at least two decisions since that time.³⁹⁰ The tribunal has no online presence.

³⁸⁵ Schermers and Blokker, *supra* note 224, at §647.

³⁸⁶ See 2013 Arab League Summit document, available at <http://arableaguesummit2013.qatarconferences.org/arab-league.html> (accessed 20 April 2024).

³⁸⁷ *ZM v. Delegation of the Arab League*, Geneva Labour Court, Order of 17 November 1993, reproduced in 116 *International Law Reports*, 643, at 649, para. 34.

³⁸⁸ See ‘Administrative Tribunal’, available at <https://www.unidroit.org/administrative-tribunal/> (accessed 20 April 2024).

³⁸⁹ See Arbitration Regulations of the Nordic Investment Bank, entered into force 15 March 2005, available at <https://www.nib.int/files/db59e12a9ea67c759db328cfc8d22ecff97e160/67-arbitration-rules.pdf> (accessed 20 April 2024).

³⁹⁰ See Wettberg, *supra* note 90, para. 16.

- The GAVI Alliance Formerly the Global Alliance for Vaccines and Immunisation) appears to have established an appeals tribunal in 2019.³⁹¹ The statute and rules can be found online,³⁹² although the tribunal itself has no online presence.
- The OPEC Fund established an administrative tribunal in 2022.³⁹³ While its statute and rules of procedure are available on its website, its decisions are not.³⁹⁴ Separately, OPEC has an Appeals Committee which has characteristics of an administrative tribunal (external members, binding decisions).³⁹⁵ While its Rules and Regulations are available on its website,³⁹⁶ it is not clear when it was established and no decisions are publicly available.
- The NATO Mission Appeals Tribunal was established in 2022 and is competent to adjudicate appeals lodged by civilians hired in missions against an administrative review decision of the Mission Commander.³⁹⁷ It consists of ten judges from different NATO member States who hear cases in three-judge panels.³⁹⁸
- It has been reported that the Square Kilometer Array Observatory would establish an administrative tribunal,³⁹⁹ although no evidence of such a tribunal could be found.
- Mention could also be made of the administrative tribunal of the Technical Centre for Agricultural and Rural Cooperation, established in 2019, notable in that the

³⁹¹ de Cooker, *supra* note 7, at 238.

³⁹² ‘GAVI Alliance *ad hoc* Appeals Tribunal Statute and Rules of Procedure’, available at <https://rm.coe.int/gavi-the-vaccine-alliance-appealtribunal-statute-and-rules-of-procedu/1680945113> (accessed 20 April 2024).

³⁹³ See ‘About the Tribunal’, available at <https://opecfund.org/administrative-tribunal/about-the-tribunal> (accessed 20 April 2024).

³⁹⁴ *Ibid.*

³⁹⁵ See ‘About the Committee’, available at https://www.opec.org/opec_web/en/7195.htm (accessed 20 April 2024).

³⁹⁶ See ‘Rules and Regulations’, available at https://www.opec.org/opec_web/en/7196.htm (accessed 20 April 2024).

³⁹⁷ See ‘Mission Appeals Tribunal’, available at <https://jfcnaples.nato.int/about-us/mission-appeals-tribunal> (accessed 20 April 2024).

³⁹⁸ *Ibid.*

³⁹⁹ de Cooker, *supra* note 7, at 238.

organization had only about 100 staff members.⁴⁰⁰ An organization of that size would normally not set up its own tribunal, and indeed the Technical Centre had previously accepted the jurisdiction of the ILOAT, but left on 30 October 2018,⁴⁰¹ presumably out of dissatisfaction with one of its judgments.⁴⁰² In 2020, soon after the creation of the tribunal, the Technical Centre ceased operating, and with it so did the newly-created tribunal, having heard only one case.⁴⁰³

⁴⁰⁰ K. Meighan and G. Rodríguez-Rico, 'To Join or Not to Join: A Comparative Analysis of Joining or Creating an International Administrative Tribunal', in P. Quayle, ed., *The Role of International Administrative Law at International Organizations* (AIIB Yearbook of International Law, vol. 3) (2021), at 124. For the Statute of the Tribunal, see Statute of the Administrative Tribunal of the Technical Centre for Agricultural and Rural Cooperation, available at <https://rm.coe.int/statute-of-the-administrative-tribunal-of-the-technical-centre-for-agr/16808defa2> (accessed 20 April 2024).

⁴⁰¹ See 'ILO Administrative Tribunal: Organisations recognizing the jurisdiction', available at <https://www.ilo.org/tribunal/membership/lang--en/index.htm> (accessed 20 April 2024).

⁴⁰² de Cooker, *supra* note 7, at 240.

⁴⁰³ *Ibid.*, at 239.

V. ILLUSTRATIVE TABLES

In the tables below, information about current and former administrative tribunals has been aggregated. Table 1 provides an overview of key characteristics of the currently functioning administrative tribunals, organized in chronological order by date of establishment and providing information on the organizations served by the tribunal. Table 2 organizes current and former administrative tribunals by total number of decisions. Table 3 shows current and former tribunals from most active to least active, measured in terms of decisions per year.

At 4814 judgments, the ILOAT is not only the oldest continuously functioning administrative tribunal, but also the administrative tribunal with the largest jurisprudence. However, when one considers the relative activity of the various administrative tribunals by computing the number of decisions that each renders per year, a very interesting picture emerges. As can be seen from Table 3, a select few administrative tribunals are extremely active, while a great number of them decide twenty cases per year or less, with a significant number deciding less than five cases per year.

Several other observations can also be made. First, one cannot but notice the busy docket of the UN internal justice system, with the UNDT without question the most active administrative tribunal in history, rendering on average 169 judgments per year⁴⁰⁴, and the UNAT the second most active currently-functioning administrative tribunal, rendering 101 judgments per year. Indeed, if the ILOAT and the UNDT/UNAT continue at the same pace, the overall number of judgments of the UN internal justice system will surpass that of the ILOAT in 2028.⁴⁰⁵

Secondly, mention should be made of two notable dissolved administrative tribunals: the EUCST and UNAdT. Having rendered 1549 judgment in 12 years, the EUCST is the second most active administrative tribunal in history in terms of judgments rendered per year (at 129 judgments per year). The jurisprudence of the UNAdT counts 1499 judgments. While this

⁴⁰⁴ It is worth noting that these cases are decided not by one tribunal but rather three separate UNDT tribunals sitting in New York, Geneva and Nairobi, respectively (albeit operating with only one full-time judge in each location). UNDT Statute, arts. 5 and 6.2.

⁴⁰⁵ Based on a total jurisprudence of 3892 for the UN internal justice system at the end of 2023 and a growth rate of 271 judgments per year, compared to a jurisprudence for the ILOAT of 4736 judgments at the end of 2023 a growth rate of 62 judgments per year.

averages to only 25 judgments per year over the course of its 59-year history, the influence of the UNAdT on international administrative law remains significant, in particular because the UNDT and UNAT continue to regularly cite it. Moreover, if one considers the jurisprudence of the UNAdT as a part of the jurisprudence of the UNDT/UNAT, its combined size (5447 judgments) has already surpassed that of the ILOAT (4814 judgments).

Thirdly, there is a large number of relatively inactive administrative tribunals, with the twenty least active currently functioning tribunals in Table 3 rendering less decisions per year in total than the UNDT alone (144 decisions for those 20 tribunals, compared to 169 for the UNDT). Indeed, the fourteen least active tribunals render a total of only 30 decisions per year on average.

Fourthly, the high level of activity of the UNRWADT is notable. Indeed, the tribunal for this relatively insular UN Agency renders almost as many decisions as the long-standing ILOAT. This can possibly be explained by the large pool of potential litigants, UNRWA having more than 30,000 personnel worldwide.⁴⁰⁶

Finally, if one takes into account the fact that the UNRWADT is itself a part of the UN internal justice system, having been established as a ‘neutral first instance process’ within the meaning of art. 2.10 of the UNAT Statute, the extent of activity of the UN internal justice system truly stands out: if one adds the decisions of the UNDT and UNRWADT, the new system is deciding 226 judgments per year at the first instance, in addition to 101 judgments per year at the appellate level, or a total of 327 judgments per year within the same jurisprudence. No other system of international administrative law in history has come close to this level of activity. At 327 judgments per year, the larger UN internal justice system (UNDT, UNRWADT and UNAT) is rendering around 100 decisions more per year than all other IATs combined. Furthermore, its overall jurisprudence (4686 judgments) essentially matches that of the ILOAT (4814 judgments).

This data on the overall and yearly activity of administrative tribunals is useful in providing context for the present work. Of course, appropriate attention should be given to the

⁴⁰⁶ ‘First Activity Report of the UNRWA Dispute Tribunal: June 2011 to December 2014’, *supra* note 277, at 11.

work of the ILOAT, which is both the oldest continuously functioning administrative tribunal and the one with the biggest jurisprudence. This being said, in terms of yearly activity, the clear dominance of the UN internal justice system stands out. Although it is much younger, it has already established a large jurisprudence which should be given the attention it deserves. Beyond these two major systems, a vast number of smaller tribunals exist which also need to be taken into account. As will be seen, a single decision of an IAT, such as the *de Merode* decision of the WBAT, can have a major effect on international administrative law.⁴⁰⁷

⁴⁰⁷ See in this regard the discussion of this case in Chapter 4, Section III.A.1.

Table 1: Currently functioning Administrative Tribunals (by date of establishment)

Established	Tribunal	Organizations covered
1946	ILOAT	International Labour Organization and 63 other organizations
1965	ATCE	Council of Europe and 4 other organizations
1971	OASAT	Organization of American States and 1 other organization.
1975	ESAAT ⁴⁰⁸	Principal organization only
1980	WBAT	Principal organization only (World Bank Group), although provision exists to extend competence
1981	IDBAT	Inter-American Development Bank and (since 1991) Inter-American Investment Corporation
1987	ATBIS	Principal organization only
1992	OECDAT	Principal organization only
1991	ADBAT	Principal organization only
1994	IMFAT	Principal organization only, although provision exists to extend competence
1995	CSAT	Principal organization only, although provision exists to extend competence
1997	AfDBAT	Principal organization only, although provision exists to extend competence
2003	MERCOSUR TAL	Principal organization only
2004	ESCB	European Schools (teachers only - staff use national system)
2007	EBRDAT	Principal organization only
2008	EUMETSAT Appeals Board	Principal organization only
2009	UNDT	65 different offices of the UN Secretariat, the UN Regional Commissions, the UN Funds and Programmes, <i>ad hoc</i> criminal tribunals and other entities
2009	UNAT	All entities accepting jurisdiction of UNDT plus UNRWA and organizations and entities accepting jurisdiction of Appeals Tribunal by special agreement: ICAO, ICJ, IMO, ISA and ITLOS.
2010	TPIOIF	Principal organization only
2010	AUAT	Principal organization only
2011	UNRWA DT	Principal organization only
2013	NATOAT	Principal organization only
2013	ESMAT	Principal organization only
2014	TAOIF	Principal organization only
2016	GCEU	Principal organization and, since December 2022, European University Institute
2017	ECMWF Appeals Board	Principal organization only
2019	CARICOM Administrative Tribunal	
2022	OPEC Administrative Tribunal	Principal organization only, although provision exists to extend competence
2022	NATO Mission Administrative Tribunal	Principal organization only

⁴⁰⁸ Set up in 1975 as an Appeals Board; converted to an IAT in 2020.

Table 2: Current and former Administrative Tribunals (by total number of decisions)

Administrative Tribunal	Number of decisions ⁴⁰⁹
ILOAT	4814 judgments
UNDT	2533 judgments
EUCST (dissolved)	1549 judgments.
UNAdT (dissolved)	1499 judgements
UNAT	1415 judgments
ATCE	747 appeals
UNRWADT	738 judgments
WBAT	699 decisions
GCEU	521 judgments
NATOAT	196 judgments
OASAT	171 judgments
AfDBAT	168 judgments
ESAAT	142 decisions
ADBAT	130 decisions
AUAT	110 judgments
OECDAT	106 judgments
IDBAT	106 judgments
IMFAT	77 judgments
ESCB	62 decisions
EBRDAT	55 decisions
CSAT	53 judgments
TPIOIF	44 judgments
EUMETSAT Appeals Board	20 decisions
TAOIF	16 judgments
ATBIS	10 judgments
ESMAT	5 decisions
MERCOSUR TAL	4 decisions

⁴⁰⁹ Calculations for Tables 2 and 3 provided following the conclusion of Chapter 2.

Table 3: Current and former Administrative Tribunals (by decisions per year)

Administrative Tribunal	Decisions per year ⁴¹⁰
UNDT	168.9 judgments
EUCST (dissolved)	129.1 judgments
UNAT	101.1 judgments
GCEU	65.1 judgments
ILOAT	62.5 judgments
UNRWADT	56.8 judgments
UNAdT (dissolved)	25.0 judgments
NATOAT	17.8 judgments
WBAT	16.3 decisions
ATCE	12.7 appeals
AUAT	12.2 judgments
AfDBAT	6.7 judgments
ADBAT	4.1 decisions
OECDAT	3.3 judgments
OASAT	3.3 judgments
ESCB	3.1 decisions
TPIOIF	3.1 judgments
EBRDAT	3.2 decisions
ESAAT	3.0 decisions
IDBAT	2.6 judgments
IMFAT	2.6 judgments
CSAT	2.0 judgments
TAOIF	1.6 judgments
EUMETSAT Appeals Board	1.2 decisions
ESMAT	0.5 decisions per year
ATBIS	0.3 judgments per year
MERCOSUR TAL	0.2 judgments per year

⁴¹⁰ Calculations for Tables 2 and 3 provided following the conclusion of Chapter 2.

VI. CONCLUSIONS OF CHAPTER 2

Beginning with a single tribunal — the LoNAT which became the ILOAT — the field of IATs has undergone tremendous growth over the past decades. There are now some thirty tribunals in operation, differing significantly in the number of staff members served and their level of activity. Small tribunals such as the ESMAT serve a staff of only some 100 persons, while the ILOAT is open to over 58,000 staff members. A number of tribunals — such as the ATBIS, the ESMAT, the MERCOSUR TAL, the EUMETSAT Appeals Board and the TAOIF — decide less than two cases per year, while the UNDT renders 169 judgments per year on average. This being said, the tribunals share much in common in terms of working methods and the substantive scope of their work.⁴¹¹ While they differ significantly in age and level of activity, it can be concluded that, in terms of substantive activity, they share many more similarities than there are differences.

This chapter has aimed to provide an overview of the institutional evolution of IATs, from the creation of the LoNAT in 1927 through to the present day in which tribunals have become a common feature in most international organizations. In doing so, it has attempted to highlight several key developments, including proposals to merge or harmonize the work of tribunals, the former review procedure by the ICJ and the growth of appeals tribunals. Through this review, the dynamic nature of this field becomes clear, with additional IATs continuously coming onto the scene, existing tribunals being reformed, discussions continuing about possibilities for merger or adding appellate levels of review, and so on. On specific details, therefore, the present chapter will be outdated as soon as the ink dries.⁴¹² Yet, if it has managed to capture the general trends, and in particular painted a picture of a dynamic and growing field, then it has done its job.

⁴¹¹ See *supra* Section IV.A.

⁴¹² The Chapter and the dissertation as a whole are current through 1 April 2024.

Source data for Table 2

- ILOAT: Triblex case-law database of the ILO Administrative Tribunal, 136th session (2023), available at <https://www.ilo.org/dyn/triblex/triblexmain.bySession> (accessed 20 April 2024).
- UNDT: Based on the following judgment counts shown on the UNDT website (accessed 20 April 2024): 97 (2009), 218 (2010), 219 (2011), 208 (2012), 181 (2013), 148 (2014), 126 (2015), 221 (2016), 100 (2017), 137 (2018), 188 (2019), 221 (2020), 168 (2021), 136 (2022), 145 (2023), 20 (2024).
- EUCST: http://curia.europa.eu/jcms/jcms/T5_5230/en/ (accessed 20 April 2024).
- UNAdT: http://untreaty.un.org/UNAT/Judgements_English_By_Number.htm (accessed 20 April 2024).
- UNAT: The figure of 1415 Judgments is based on the fact that Judgment numbers are written consecutively. As of 20 April 2024, the last Judgment issued is 2024-UNAT-1415.
- ATCE: <https://rm.coe.int/complete-list-of-appeals-brought-before-the-administrative-tribunal/16808b4e13> (accessed 21 April 2024).
- UNRWADT: Based on the following judgment counts shown on its website (accessed 21 April 2024): 17 (2011), 68 (2012), 38 (2013), 54 (2014), 58 (2015), 39 (2016), 48 (2017), 70 (2018), 75 (2019), 73 (2020), 72 (2021), 60 (2022), 53 (2023), 13 (2024).
- WBAT: <https://tribunal.worldbank.org/judgments-orders-all> (accessed 21 April 2024).
- GCEU: Calculated using the case-law database available at <http://curia.europa.eu/juris/recherche.jsf?cid=158649> (accessed 25 April 2024), choosing ‘Staff Regulations of officials and Conditions of Employment of other servants’ in the subject box, using date range 1 September 2016 to 25 April 2024, and limiting the search criteria to ‘General Court’ and search results to ‘Judgments’.
- NATOAT: Based on the following judgment counts from the NATOAT website (accessed 21 April 2024): 8 (2013), 29 (2014), 24 (2015), 30 (2016), 10 (2017), 27 (2018), 14 (2018), 10 (2020), 22 (2021), 11 (2022), 11 (2023).
- OASAT: Based on the fact that Judgment numbers are written consecutively. *LaGuerre v. OAS Secretary General*, rendered on 15 December 2023, is Judgment No. 171.
- AfDBAT : <https://www.afdb.org/en/about-us/organisational-structure/administrative-tribunal/judgements/> (accessed 21 April 2024).
- ESAAT : http://www.esa.int/About_Us/Law_at_ESA/Appeals_Board (accessed 21 April 2024).
- ADBAT: <https://www.adb.org/about/administrative-tribunal> (accessed 21 April 2024).
- AUAT: <https://africanlii.org/judgments/AfUAT/> (accessed 27 August 2024).
- OECDAT: <https://www.oecd.org/administrativetribunal/alljudgments.htm> (accessed 21 April 2024).
- IDBAT: <https://www.IDB.org/en/who-we-are/transparency/administrative-tribunal/administrative-tribunal-decisions> (accessed 21 April 2024).
- IMFAT: <http://www.imf.org/external/imfat/jdgmnts.htm> (accessed 21 April 2024).
- ESCB: See list of decisions compiled *supra* note 343.
- EBRDAT: <http://www.ebrd.com/who-we-are/corporate-governance/administrative-tribunal.html> (accessed 21 April 2024).
- CSAT: <http://thecommonwealth.org/tribunal> (accessed 21 April 2024).
- TPOIF: <https://www.francophonie.org/ressources?type=72> (accessed 21 April 2024).
- EUMETSAT Appeals Board : <https://www.eumetsat.int/legal-framework/eumetsat-appeals-board> (accessed 12 April 2024).
- TAOIF: See <https://www.francophonie.org/ressources?type=73&theme=All> (accessed 23 April 2024).
- ATBIS: http://www.bis.org/about/atbis_decisions.htm (accessed 23 April 2024).
- ESMAT : https://www.esm.europa.eu/how-we-work#administrative_tribunal_esmat (accessed 25 April 2024).
- MERCOSUR TAL: <http://www.tprmercosur.org/es/tal.htm> (accessed 23 April 2024).

Source data for Table 3

- UNDT: 2533 judgments in 15 years of operation (2009-2024).
- EUCST: 1549 judgments in 12 years of operation (2004-2016).
- UNAT: 1415 judgments in 14 years of operation (2010-2024).
- GCEU: 521 judgments in 8 years of operation (2016-2024).
- ILOAT: 4814 judgments in 77 years of operation (1947 to 2024).
- UNRWADT: 738 judgments in 13 years of operation (2011-2024).
- UNAdT: 1499 judgments in 60 years of operation (1949-2009).
- NATOAT: 196 judgments in 11 years of operation (2013-2024).
- WBAT: 699 judgments in 43 years of operation (1981 to 2024).
- ATCE: 747 appeals in 59 years of operation (1965 to 2024).
- AUAT: 110 judgments over 9 years of active operation (2015-2024).
- AfDBAT: 168 judgments in 25 years of operation (1999 to 2024).
- ADBAT: 130 decisions in 32 years of operation (1992 to 2024).
- OECDAT: 106 judgments in 32 years of operation (1992 to 2024).
- OASAT: 171 judgments in 52 years of active operation (1972 to 2024).
- ESCB: 62 decisions in 20 years of operation (2004 to 2024).
- TPOIF: 44 judgments in 14 years of operation (2010 to 2024).
- EBRDAT: 55 decisions in 16 years of operation (2007 to 2024).
- ESAAT: 142 decisions in 48 years of operation (1976 to 2024).
- IDBAT: 106 judgments in 41 years of operation (1983 to 2024).
- IMFAT: 77 judgments in 30 years of operation (1994 to 2024).
- CSAT: 53 judgments in 26 years of operation (1998 to 2024).
- TAOIF: 16 judgments in 10 years of operation (2014-2024).
- EUMETSAT Appeals Board: 20 decisions in 16 years of operation (1998-2024).
- ESMAT: 5 decisions in 11 years of operation (2013-2024).
- ATBIS: 10 judgments in 37 years of operation (1987-2024).
- MERCOSUR TAL: 4 judgments in 21 years of operation (2003-2024).