Chapter Ten

Supervision and Sanctions

§1390 It is generally recognized that one of the main tasks of international organizations is to supervise compliance with their rules. According to Seidl-Hohenveldern, this is even the raison d’être of any international organization.¹ A number of studies have been carried out in this field, as well as in neighbouring areas such as compliance with rules of international law.² The end of the Cold War has created a new climate with broadened perspectives for international cooperation and international law, enhancing the prospects of more effective supervision of the rules of international law.

§1391 In this chapter, the notions of internal and external supervision will first be defined (Part I), and then the supervision of compliance with the law of international organizations will be analyzed (Part II). If supervision suggests that certain rules have been violated, and the member concerned denies such a violation, it might be necessary to recognize officially the existence of such a violation (Part III). Subsequently, if the organization does not waive the relevant obligation (Part IV), the question arises as to what sanctions are at the disposal of international organizations (Part V). Part VI offers some concluding observations.

I. Definitions

A. Internal supervision

§1392 Internal supervision is supervision of the organization by the organization itself. It may be defined as the overseeing of compliance by an international

organization with its own acts. Such acts are to be supervised either by the organization itself, or by its member states. It is one of the tasks of the principal organs of an international organization to ensure that all organs perform their obligations properly. Normally all subsidiary organs report to the board or to the general congress, which offers these principal organs the opportunity to discuss the ways in which obligations are performed. As the principal organs have real power over subsidiary organs (they may dissolve them, or cut their budgetary means), the proper performance of obligations by subsidiary organs of international organizations is usually sufficiently guaranteed.

§1393 In rare cases, individuals have powers to ensure the proper execution of acts of international organizations taken with respect to them. Most international civil servants may bring an employment-related action before an administrative tribunal (see above, §542-545). In international organizations with organs that are obliged to take action in respect of individuals, the individuals concerned may challenge a failure to act before an international court (see above, §723). In 1993, the World Bank created an Inspection Panel, charged to review complaints from any group of private persons who allege that they are suffering or expect to suffer material adverse effects from the failure of the Bank to follow its operational policies and procedures in its ongoing operations (see above, §671).

§1394 A proper performance of the tasks of an international organ may also be stimulated by the periodic evaluation of their activities. A good evaluation will also result in the amendment of acts that prove ineffective, and in the better performance of acts that have been inadequately executed. In order to improve the accountability of their activities, international organizations have increasingly created evaluation mechanisms. For example, the International Fund for Agricultural Development (IFAD) has its own independent Office of Evaluation, which evaluates IFAD’s operations and policies and reports directly to the Executive Board (independently of IFAD management and the President of IFAD).

§1394A A number of international organizations have created specific organs for internal supervision that, inter alia, investigate alleged misconduct by staff. For example, in 1994, the UN General Assembly established the Office of Internal Oversight Services (OIOS). This is an independent UN office, headed by an Under-Secretary-General who is appointed by the UN Secretary-General for one non-renewable five-year term. OIOS performs a wide variety of internal oversight

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4 See www.ifad.org/evaluation/index.htm (February 2011). In 2010, IFAD’s evaluation policy was evaluated by an independent peer review. A number of positive conclusions were drawn, although it was also noted that “there are risks for the independence of the evaluation function”; “any possible incompatibilities between the evaluation policy and the Agreement Establishing IFAD should be resolved” (Doc. EB 2010/99/R.6, at 2). IFAD is currently implementing the recommendations made by this external peer review.
5 GA Res. 48/218B. OIOS succeeded the Office for Inspections and Investigations (see above, §1124).