CHAPTER 9


The background and elaborate process for adopting in 1955 the new Article 11 of the Tribunal’s Statute providing for review of the Tribunal’s judgements by the International Court of Justice have been described in Chapter 8 above. Although the review procedure had been envisaged for only a few exceptional cases, and essentially for the benefit of Member States, staff members tried massively to take advantage of this possibility for challenging the judgements of UNAT in their case. The increasing number of applications by staff members ultimately led to the abolition of this procedure by the General Assembly in 1995.

Initiation and Activation of the Review Procedure

Under the procedure provided for under Article 11, paragraph 1, of the Tribunal’s Statute, if a Member State, the Secretary-General or the person in respect of whom a judgement has been rendered by the Tribunal objects to the judgement on any of the four specified grounds, such Member State, the Secretary-General or the person concerned may, within thirty days from the date of the judgement, make a written application to the Committee established for the purpose of screening all the applications – namely the Committee on Applications for Review of Administrative Tribunal Judgements, called hereafter the Committee on Applications – asking this Committee to request an advisory opinion of the International Court of Justice on the matter. The Committee on Applications played therefore a key role in the whole process since it could decide without possibility of appeal whether the review of the contested judgement would ever take place, i.e. whether or not an application is ultimately heard by the Court. It is therefore important to analyze the composition, working methods and performance of this Committee of the General Assembly which was assuming such quasi-judicial functions.

Composition of the Committee on Applications

Under paragraph 4 of Article 11 of the statute of the United Nations Administrative Tribunal, the Committee on Applications, which always met at United
Nations Headquarters as required by the Statute, was composed of the Member States the representatives of which had served on the General Committee of the most recent regular session of the General Assembly. The General Committee is the “bureau” of the General Assembly, entrusted with the functions of assisting the President and the General Assembly in drawing up the agenda for each plenary meeting, and in the general conduct of the work of the General Assembly, without the power to decide on any political question. The General Committee, and consequently the Committee on Applications, was composed of the President and the Vice-Presidents of the General Assembly and the Chairmen of its Main Committees, with the additional stipulation that no two members of the General Committee shall be members of the same delegation. According to its terms of reference, it was “so constituted as to ensure its representative character.”

Thus, somewhat like the Security Council, the membership of the Committee on Applications was *de facto* made of two categories of members: five permanent members which were the same permanent members of the Security Council and ensured the only continuity in its membership, and a varying group of 10 to 24 non-permanent members representing the rest of the Member States of the United Nations, most of which would be elected for only one year. The total number of members, which was 15 in early 1956, gradually rose to 21 in 1959, stabilized at 25 during the 1960s and 1970s, peaked at 29 between 1979 and 1993, and ended at 28 in 1994–96. In any case, this membership was too large and too instable for a body entrusted with quasi-judicial functions. Moreover – as stated by the representative of Ecuador at the April 1992 meeting of the Committee – “since 24 of the 29 members of the Committee [were] replaced each year,” it could be claimed that this “instability in the Committee’s membership” made it impossible “to set precedents or to establish jurisprudence.”

At each session, the Committee would elect for one year a Chairman and a Rapporteur. Until 1981, a Vice-chairman was also elected but this purely ceremonial post was abandoned in the definitive rules of procedure, from 1983 onwards. The elected Chairman, who was according to “an established