Handle with Care! The Succession between International Organizations

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1 Introduction

The succession between international organizations (IOs) is not an easy task to deal with, mainly because of two reasons.

First of all, the use of the term 'succession' to describe the transfer of functions between IOs risks confusion with the legal phenomenon of succession between States. Some authors have compared the succession between States and that between IOs and have affirmed that the latter is not a proper kind of succession.1 This opinion is not convincing because it starts from the concept of succession between States and then applies this concept to the succession between IOs. Obviously the succession between IOs is different from that between States. It is a peculiar situation because the IOs, unlike the States, do not exercise sovereign powers over a territory and a population. They are, in the larger sense, institutions created by groups of States to perform some functions. Furthermore, the latitude and the kind of functions exercised by IOs, as well as their membership, are normally not comparable, unlike the issue of sovereignty in the case of succession between States.2 In succession between States what changes is the subject that exercises sovereignty, while in succession between IOs there is a change in the institution that performs a specific task.3

1 Angelo P. Sereni, Le organizzazioni internazionali (Milano: Giuffrè, 1959), 73; Jan Klabbers, An Introduction to International Institutional Law (2nd edn. Cambridge: CUP, 2009), 301: ‘in a strict sense one can hardly even speak of succession where predecessor and successor exist alongside’.
In summation, we can have legal succession between States, and also between IOs, and the term ‘succession’ should be interpreted in two different, although similar, ways. Therefore, it doesn’t seem correct to evaluate succession between IOs using the same criteria that we apply to succession between States; nor would it be appropriate to apply to the former the legal rules developed with reference to the latter. But – and herein lies the second factor that makes it difficult to examine the topic of the succession between IOs – the problem to define precisely the proper legal meaning of the expression ‘succession between IOs’ remains unresolved. The same problem arises in relation to the concept of ‘international organization’, because sometimes the succession (i.e. the transfer of functions) involves two or more IOs, while in other cases at least one of the subjects involved is not properly an international organization, but rather a conference of States or a soft organization. Do we have to choose a more extensive notion of IOs or a restrictive one when we consider the subject of the succession between them? The practice offers many different cases of an international organization exercising functions previously performed by another. Are they all cases of succession between IOs (this is to take an extensive notion of succession and of international organization), or is it necessary to narrow the notion of succession to only some of these cases – i.e. considering the membership of the IOs involved, their respective functions, their legal personalities, etc.?

Another disputed question concerns the difference between succession and continuity of IOs, because it is necessary to separate the cases of succession between IOs from those of mere transformation of an international organization, where no succession occurs.

In the next pages these problems will be analysed in an attempt to offer some answers to such complex issues.

2 The Legal Framework of Succession between International Organizations

It is well known that the topic of succession of States in respect of treaties was settled by the Vienna Convention of 23 Aug. 1978, partially reflecting the customary international law rules that exist in relation to this topic. In contrast, the succession between IOs is not regulated by any analogous ‘general’ treaty.

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