

The purpose of this work is to deal with the question of attribution of an internationally wrongful act to a specific international organization. The attribution of a given wrongful act or omission is the second element constituting the responsibility of an international organization. As a normative operation, it should answer the question, which wrongful acts and under what circumstances are to be considered as „acts of the organization“. However, the work does not cover all the aspects of attribution, especially different alternative regimes of joint responsibility of more subjects of international law at the same time.

As it has been explained throughout the whole work the general principles of attribution pertaining to international organizations are derived from the principles prevailing in inter-state responsibility. In 2001 the International Law Commission finished its master piece and adopted at its fifty – third session the text of the draft articles on responsibility of states for internationally wrongful acts. One year later the Commission decided to include the topic „Responsibility of international organization“ on its current programme of work and Giorgio Gaja was appointed as a Special Rapporteur and Working Group was established. As he indicated in his first report on responsibility of international organizations, nowadays it is widely accepted that the principles of a state responsibility are applicable, *mutatis mutandis*, by analogy, to the responsibility of an international organization and it would be unreasonable for the Commission to take a different approach on issues relating to international organizations that are parallel to those concerning states, unless there are specific reasons for doing so. In the second report on responsibility of international organizations, which is decisive for this study, he dealt with attribution of a conduct to international organizations for which he proposed four draft articles: Article 4 “General rule on attribution of conduct to an international

organization”, Article 5 “Conduct of organs placed at the disposal of an international organization by a State or another international organization“, Article 6 “Excess of authority or contravention of instructions”, and Article 7 “Conduct acknowledged and adopted by an international organization as its own“. The articles corresponded to Chapter II of Part One of draft articles on responsibility of states for internationally wrongful acts. While this Chapter comprised eight articles on the question of attribution, a similar issue with regard to international organizations required only four draft articles. The above-mentioned four articles are the main nodal points of this study, which is divided into six chapters.

Chapter One generally defines the principle of attribution and its relation to the responsibility of the international organization. It also surveys the work of the Commission on this topic and takes into account limits for using analogy of international responsibility of States. While some of the issues on attribution of conduct to a State have equivalent or similar application to attribution of conduct to an international organization, some of the others are specific to States or may apply to an international organization only in exceptional cases. Last but one part of this chapter defines the term “international organization” for the purpose of the draft articles on responsibility of an international organization for internationally wrongful acts. *Conditio sine qua non* for establishment of an international responsibility of international organizations is its international legal personality. Only the international wrongful act which falls within the scope of the international legal personality can be attributed to the international organization.

Chapter Two is at the very beginning devoted to the first and basic principle of attribution, that the conduct of an organ or agent of an international organization in the performance of functions of that organ or agent shall be considered as an act of that organization under international law whatever position the organ or agent holds in respect of

the organization. As it is shown, in the contrast to the states, which are characterized by unrestricted powers to act for any lawful objective, the authority of international organizations is limited. Under international law, international organizations have only the powers expressly conferred upon them mostly by the constituent instruments and those ones which are essential to the achievement of their objectives (*implied powers*). Further I deal with cases to who the conduct of the organization's organ or agent, which is not in conformity with the internal division of powers among various organs or agents of that organization, but still falls within the scope and functions of the organization is attributed (*ultra vires acts*).

The specific principles of attributions in situations of delegation of powers and authorization granted by an international organization to a state are mentioned in Chapter Three. This is probably the most unclear area of principles of attribution with many deplorable gaps. There is a distinction between the delegation of powers to a State and authorization to a particular state to carry out a specified objective. Some practical examples of authorization granted by Security Council to a state to use the force against another state and the principles of attribution applied are also mentioned.

Chapter Four of my work concerns the peace forces of the United Nations Organization. The United Nations peace force is a subsidiary organ of the United Nations established in accordance with the Charter of the United Nations and it consists of the commander and all personnel placed under his command by member states. As a subsidiary organ, its international wrongful acts must be attributed to the United Nations. This main issue together with the classification of the main types of forces is mentioned at the beginning of the Chapter. Although the members of the force remain in their national service during the period of their assignment to the force, they are international personnel under United Nations authority and control and subject to the instructions of

the commander through the *chain of command*. The application of the effective control principle to the United Nations leads to the conclusion that in most cases a particular international wrongful act which is committed by the members of the national contingents while engaged in peace force operations will be attributed to the United Nations. These members are, through the chain of command, under the operational control of the organization. The link between the effective control and the attribution of committed international wrongful act for the purpose of the establishment of the international responsibility of an international organization is examined on various judicial decisions. All these aspects are explored in the light of the Article 5 of the draft articles on responsibility of an international organization for internationally wrongful acts, which says that the conduct of an organ of a State or an organ or agent of an international organization that is placed at the disposal of another international organization shall be considered under international law an act of the latter organization if the organization exercises effective control over that conduct.

The next chapter concerns the case in which an international organization “acknowledges and adopts” as its own a certain conduct, which would not be attributable to that organization under the preceding articles. Attribution is then based on the attitude taken by the organization with regard to a certain conduct.

Final sixth chapter summarizes achieved findings and gives some *de lege ferenda* ideas. We can say that there are still many unanswered questions in this area. This is a very new topic and therefore this work is supposed to contribute to clarify at least some theoretical questions which, because of the still rising scope of the activities of international organizations, do not lose its practical impacts.