

THE INTERNET UNDER A NEW INTERNATIONAL TRIBUNAL FRAMEWORK

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ABSTRACT: This working paper is divided into six sections that provide the relevant knowledge and innovative arguments of the internal organization of the International Tribunal for the Internet, including on the General Assembly, the General Secretariat, the Judge's Chamber, the Chamber of Prosecutors, the International Association of Lawyers, and the Diplomats of the Tribunal. This article has as its main objective to present the organizational structure formulated by the author to create an International Tribunal for the Internet. All therefore to be established due to the challenges that the jurisdictions of the national and regional spaces confront to apply their judicial decisions and laws in the international environment of the Internet.

KEYWORDS: international law; internet tribunal; digital environment; internet law; international courts; international tribunals; global governance.

I. Presentation

Recently, the European Union have adopted the new REGULATION (EU) 2016/679 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL on the protection of natural persons with regard to the processing of personal data and on the free movement of such data¹, in effect since May 25th, 2018 (General Data Protection Regulation-GDPR).

In fact, there is no doubt of the necessity and importance of this new Europe's regulation². Following GDPR provisions, Brazil signed the new General Data Privacy Law (entering in effect in 2020)³.

But, what about the rest of the World, like China, India, USA and others? Is the Internet "online" just inside the European Union or Brazil? Since when the Internet should

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¹REGULATION (EU) 2016/679 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL on the protection of natural persons with regard to the processing of personal data and on the free movement of such data. Available at <https://eur-lex.europa.eu/legal-content/EN/TXT/HTML/?uri=CELEX:32016R0679&from=PT>.

² Vide DIXON, Helen. *Regulate to Liberate. Can Europe Save the Internet?* New York: Foreign Affairs. September 19, 2018. Accessed September 19, 2018. Available at <https://www.foreignaffairs.com/articles/europe/2018-08-13/regulate-liberate>.

³ BRAZIL. *General Data Protection Law*. Law number 13.709 (08.14.2018), Available at: http://www.planalto.gov.br/ccivil_03/_Ato2015-2018/2018/Lei/L13709.htm.

be divided by territories? And, what about the Internet companies and stakeholders? Some important questions arising after this legal initiative.

In this line of work, the European Court of Justice (ECJ) ruled that search engines, like Google, Bing or Baidu, need to remove the link between search results and a website if it contains material that the individual deems should be "forgotten"⁴.

In this sense, second to the decision, the Article 4(1)(a) of Directive 95/46 (now repealed by the GDPR) is to be interpreted as "meaning that processing of personal data is carried out in the context of the activities of an establishment of the controller on the territory of a Member State, within the meaning of that provision, when the operator of a search engine sets up in a Member State a branch or subsidiary which is intended to promote and sell advertising space offered by that engine and which orientates its activity towards the inhabitants of that Member State."⁵

In other words, Google, in case, is considered a controller of personal data, and the national law data protection law (from Spain) is applicable, even if indexing happens in the United States of America or somewhere else.

In turn, the new GDPR is following and enforcing that the "Territorial scope" of the Regulation (2016/679) applies to the processing of personal data in the context of the activities of an establishment of a controller or a processor in the European Union, regardless of whether the processing takes place in the European Union or not. Likewise, the Regulation applies to the processing of personal data of data subjects who are in the Union by a controller or processor not established in the Union, where the processing activities are related to the offering of goods or services, irrespective of whether a payment of the data subject is required, to such data subjects in the Union, or the monitoring of their behavior as far as their behavior takes place within the Union. Besides, the new GDPR applies to the processing of personal data by a controller not established in the Union, but in a place where Member State law applies by virtue of public international law.

This new context has resulted in the emergence of an increasing complexity of new legislations and decisions, both at the domestic level, and the international dimension, that can easily start an international conflict of decisions and laws, like provided by the European Court of Justice in this recent case.

Like I wrote before in my book⁶, the fact of the European Union is trying to "speak" the same language in regulatory terms and decisions is, indeed, an excellent start. At last, it should be emphasized that the European Union, aware of the need for cooperation and

⁴ See *Google Spain SL and Google Inc. v Agencia Española de Protección de Datos (AEPD) and Mario Costeja González*, Available at <http://curia.europa.eu/juris/document/document.jsf?text=&docid=153853&pageIndex=0&doclang=EN&mode=lst&ir=&occ=first&part=1&cid=380763>.

⁵ *Cfr. Google Spain SL and Google Inc. v Agencia Española de Protección de Datos (AEPD) and Mario Costeja González*, Available at <http://curia.europa.eu/juris/document/document.jsf?text=&docid=153853&pageIndex=0&doclang=EN&mode=lst&ir=&occ=first&part=1&cid=380763>.

⁶ See FREIRE E ALMEIDA, Daniel. *An International Tribunal for the Internet*. São Paulo: Almedina, 2016, available at: https://www.almedina.net/ebook_info.php?ebooks_id=97885849301426 or https://www.amazon.co.uk/International-Tribunal-Internet-Daniel-Almeida-ebook/dp/B018HHLO70/ref=sr_1_2/262-5128826-5206617?s=books&ie=UTF8&qid=1537272381&sr=1-2&refinements=p_27%3ADaniel+Freire+e+Almeida.

international dialogue, because of the transnational aspects of the Internet and International Electronic Commerce, stipulated as priority issues on the regulation and legalization of the Internet.

However, the Internet is Global, international.

We will need give a step forward. In fact, we need to do it now. The international aspects of the Internet require new forms of global governance to deal with these global issues.

The global nature of the Internet and its global reach, provided by a worldwide architecture, presents a series of jurisdictional complexities to any country wishing to exercise its sovereign power ordinarily. With the European Union doing that, trying to legislate over the Internet World, with repercussions worldwide, without world legitimacy, we will face conflicts of jurisdiction and laws (in fact that is what happening now!)⁷.

Germany, for example, second the Interior Minister Horst Seehofer, is considering a legal framework for cyberwar, enacting laws that would let it respond actively to foreign cyber-attacks, from Iran, Russia and others.

The Internet world will need a solution like an International Tribunal for the Internet, with international treaties.

The present working paper has as its principal goal show the proposal to establish an International Tribunal for the Internet⁸. More specifically, we will address the organizational composition of the Tribunal, with its basic tasks⁹.

To the users, the companies, States and Internet stakeholders, the benefits of a global judicialization of international disputes on the Internet, with a proper organization, would allow for greater efficiency in the search for justice and legal security.

The Internet constitutes a topic that concerns all peoples, and it is used across the globe, the different computer systems are interconnected, the various languages find their universal terminology. On the other hand, the arguments seeking to overturn the additional possibility of a World Law, Global or an *Universelles Völkerrecht* in no time mention the phenomenon of the Internet.

The paradigms have changed, we need to understand them, formulate new international routes, and address them. Because of this goal, and in order to resolve the issues raised, we are to propose the unprecedented International Tribunal for the Internet, presenting it in its essential organizational aspects.

⁷ See, for example, the case of China: SEGAL, Adam. *When China Rules the Web*. New York: Foreign Affairs. September 19, 2018. Accessed September 19, 2018. Available at <https://www.foreignaffairs.com/articles/china/2018-08-13/when-china-rules-web>.

⁸ This working paper is based on our PHD Thesis defended at Coimbra University in 2012 (Portugal, European Union). See FREIRE E ALMEIDA, Daniel. *An International Tribunal for the Internet*. São Paulo: Almedina, 2016, available at: https://www.almedina.net/ebook_info.php?ebooks_id=97885849301426 or https://www.amazon.co.uk/International-Tribunal-Internet-Daniel-Almeida-ebook/dp/B018HHLO70/ref=sr_1_2/262-5128826-5206617?s=books&ie=UTF8&qid=1537272381&sr=1-2&refinements=p_27%3ADaniel+Freire+e+Almeida.

⁹ For a complete version of our proposal, please see our book: FREIRE E ALMEIDA, Daniel. *An International Tribunal for the Internet*. São Paulo: Almedina, 2016, available at: https://www.almedina.net/ebook_info.php?ebooks_id=97885849301426 or https://www.amazon.co.uk/International-Tribunal-Internet-Daniel-Almeida-ebook/dp/B018HHLO70/ref=sr_1_2/262-5128826-5206617?s=books&ie=UTF8&qid=1537272381&sr=1-2&refinements=p_27%3ADaniel+Freire+e+Almeida.

Essentially, it is emphasized that its scope should be global, encompassing natural persons, companies, States and International Organizations, and to deal with international cases of the Internet.

In other words, the jurisdiction of the International Tribunal for the Internet should then be of a complementary range to the national jurisdictions. In fact, there would be no reason for the displacement of adjudicative task at international level, if the resolution materializes in the national home range of a controversy.

For this, the work is divided into more six parts, raising some relevant topics to the internal Organization of the International Tribunal for the Internet, including on the General Assembly, the General Secretariat, the Judge's Chamber, the Chamber of Prosecutors, the International Association of Lawyers, and diplomats of the Tribunal, to be established due to the challenges that National's and Union's jurisdictions are facing to enforce its judicial decisions and legislations.

II. The structure and the internal organization of the International Tribunal for the Internet

It is appropriate to address, at this point, some relevant topics to the internal Organization of the International Tribunal for the Internet, including on the General Assembly, the General Secretariat, the Judge's Chamber, the Chamber of Prosecutors, the International Association of Lawyers, and the diplomats of the Tribunal.

This approach will allow us to visualize the structure necessary to carry out the specific functions of prosecution of international cases involving the Internet and International Electronic Commerce, and duly justified by the challenges presented in the present Internet World¹⁰.

A. General Assembly

It is initially necessary to the Tribunal to be provided with a legislative competence center set up by a General Assembly.

Likewise, it is critical to the future goals of the international adjudicative body, to have their own place of reserved seat to the representatives of the Member States and Internet stakeholders.

Thus, regular and special meetings may be scheduled depending on the circumstances and needs, which certainly exist for these occasions.

Within the assembly, all Member States should have a voice and vote, and to be represented by diplomats, Internet stakeholders, Global companies and technical-professionals (Law, Internet, E-Commerce, Computers).

¹⁰ This working paper is based on our PHD Thesis defended at Coimbra University in 2012 (Portugal, European Union). See FREIRE E ALMEIDA, Daniel. *An International Tribunal for the Internet*. São Paulo: Almedina, 2016, available at: https://www.almedina.net/ebook_info.php?ebooks_id=97885849301426 or https://www.amazon.co.uk/International-Tribunal-Internet-Daniel-Almeida-ebook/dp/B018HHLO70/ref=sr_1_2/262-5128826-5206617?s=books&ie=UTF8&qid=1537272381&sr=1-2&refinements=p_27%3ADaniel+Freire+e+Almeida .

At this point, be noted that the performance of this negotiator and representative role, by States, should be carried out by highly qualified personnel in international affairs and the Internet.

This is because, it is desired that the future material that also serve as an international source of law for the Tribunal's trials is the result of various debates in this Assembly.

In this context, as a way to avoid merely delaying postures or goals hinder the continuity of actions, decisions about amendments or revisions of the founder Treaty, or supervening texts that should be part of this should be taken by a majority of two-thirds Member States present and voting, along the lines of the Vienna Convention (1969), article 9, paragraph 2¹¹.

In an important final touch, subsequent Treaties that further define questions of international Law on the Internet and Electronic Commerce, should be part of the Tribunal Founder Treaty¹².

The aim with such means is the following: start a codification of the international Law on the Internet and Electronic Commerce, and that the future Member States, when carrying out accession to the Tribunal, may, at the same time, consent with the sources to be used in trials.

In that context, it is worth mentioning here the hypothesis of negative international ratification, that is, it would be adopted a faster mechanism for subsequent Treaties originated in the General Assembly of the Tribunal, be considered as adopted by the Member States, without the need of internal procedures of each country¹³.

Consequently, certainty as to the rules of international Law established by those Treaties, facilitate understanding by all stakeholders, as well as the resolution of cases before the Tribunal. In addition, the development of these rules can be reported by member countries. Therefore, the General Assembly should be put on that body where all States and International Organizations members have voice and vote at the same level.

Everything, accordingly, compatible with the egalitarian principles among countries in the Public International Law. But, the configuration of the General Assembly will guarantee the presence and voice to the Internet stakeholders, to the Global companies and experts.

Additionally, in general terms, the General Assembly of the Tribunal would examine and promote the guidelines regarding the administration of the Tribunal, determine the budget and its guidelines, and seek to improve the Tribunal's efficiency through its decisions.

¹¹ Article 9, paragraph 2. reads as follows: "2. The adoption of the text of a treaty at an international conference is effected by two-thirds majority of States present and voting, unless these states by the same majority, decide to apply a different rule. " *Cfr.* VIENNA CONVENTION ON THE LAW OF TREATIES, Vienna, 1969. On the matter of merely delaying postures or goals hinder the continuity of actions. *Vide* CASSESE, Sabino. *Regulation, Adjudication and Dispute Resolution Beyond the State*. Heidelberg: Max-Planck-Institut für ausländisches öffentliches Recht und Völkerrecht, Fall, 2008, p. 09.

¹² To check out our complete Treaty proposal ("THE FOUNDER TREATY OF AN INTERNATIONAL TRIBUNAL FOR INTERNET"), please see our book: See FREIRE E ALMEIDA, Daniel. *An International Tribunal for the Internet*. São Paulo: Almedina, 2016, available at: https://www.almedina.net/ebook_info.php?ebooks_id=97885849301426 or https://www.amazon.co.uk/International-Tribunal-Internet-Daniel-Almeida-ebook/dp/B018HHLO70/ref=sr_1_2/262-5128826-5206617?s=books&ie=UTF8&qid=1537272381&sr=1-2&refinements=p_27%3ADaniel+Freire+e+Almeida .

¹³ This assumption would not only be set if the country expressly declared its untying to the dictates of the Treaty.

B. General Secretariat – Servers

Continuing, the Tribunal must host a General Secretariat. Referred body, managed by the General Manager, must focus on management, on a permanent basis, of all the Organization's internal structure and functioning, communication and negotiation of future interests.

It should consist of neutral servers in any way representing the desires or the policy of their own countries of origin or nationality. This quality, neutrality, should be very well represented, also, and above all, by the figure of Director General of the International Tribunal for the Internet.

The latter, head of international relations of the Tribunal, must seek to establish relations with the countries, International Organizations, Internet stakeholders and companies, as well as enter into treaties and cooperative systems on behalf of the Tribunal.

Continuing, in our view, the servers must be appointed by the Secretary, through global selection process in order to meet the qualified staff necessary to technical services and of support of the Tribunal, on the advice of Judges, Prosecutors, the International Bar Association, the diplomats and the Director General.

Yet, regarding the recruitment of staff, the Director General should seek to ensure the highest rules of efficiency, competence, impartiality, neutrality and integrity, taking into account the objectives of the body. In no event could be any indication on the part of judges, prosecutors, diplomats or lawyers in world selection processes. The only direct election would be the own Director General, open ballot, by a majority, considering the recommendations of the countries in the Assembly of the Member States.

The Director General should be elected for a period of five years, to perform duties on an exclusive basis, with no right to reelection. Due to the nature of the position, after the mandate would receive a reform to the same rules it had during the period of his term, ceasing in the moment that assumes any other gainful activity.

In addition, even with regard to the category of servers, the Tribunal should hire expert consultants. This is to assist the different organs of the Tribunal in its international and digital activities.

Therefore, the said category, in their specialized areas, would transit between the various organs, according to the need of the Tribunal.

They should, therefore, be of different areas of knowledge, with primacy for professionals in the Internet field, Informatics, software, applications, Information Systems, and Electronic Commerce.

C. Judge's Chamber

As a result, then, of their own goals already posted before the Tribunal, we found that the novel organization must have its adjudicative sector.

In primacy, the Judge's Chamber gather "Judges". These, in essence, should be guided by determinations that do not emphasize any State or private interest in their judgments, decisions and advisory opinions.

The Judges would be properly divided into sub-chambers of Instruction, Specialized Chambers (divisions in international legal areas of the internet, and a general division),

and Boards of Appeal. In addition, any Judge of the Tribunal could, for distributive draw, draw up international advisory opinions.

Thus, initially, the sub-chambers of Instruction would examine, preliminarily, that the proposed action would fit between the Admissibility conditions. It should, for example, come across clearly unfounded actions. On the other hand, others may be irrelevant. Still, some may only want to establish conflicts in order to disturb international personalities, companies or States, without having concerned any legal relationship with the person concerned.

Continuing, the Judge's Chamber would be divided into specialized chambers, that would dedicate their efforts to the trial of disputes involving the International Law on the Internet, with the knowledge of various fields of Law, including the Criminal Law, the Tax Law, the Electronic Commerce, the Civil Law, the Business Law, and others to raise the formation of a specialized Chamber. Those matters that do not concern a specialized division would be allocated to a Judge's Chamber General.

In this regard, is to start by saying that the division into specialized Chambers does not withdraw, but objectives, an interdisciplinary adjudicative analysis.

In fact, the multiplicity of ways in which the phenomenon of Internet manifests and incorporates justified, largely, an interdisciplinary international adjudicative approach¹⁴.

Under these angles, the purpose of the Tribunal is to go further and seek to overcome the natural demarcation of areas of Law. In other words, integrate, and then separate the areas of Law in its international dimension on the Internet.

In addition to the practical interest, the division into specialized Chambers is to ensure qualitatively that trials be supported by qualified judges in areas justifying deep meritorious knowledge. However, where the international and the Internet present to serve as an integration reference.

In summary about the own intricacies and details of the above disciplines must be guided by an international and Internet perspective in the evaluation of their cases¹⁵.

Next, it is necessary for the body will house a Chamber of Resources, guaranteed up a double and ultimate degree to the demands of the Tribunal.

The judges dedicated to this section would be exclusive and should not participate in trials in Specialized Chambers. *The exception would give only the advisory tasks, where the resource judges could also contribute.*

Again, the Appeals Division would be divided into specialized segments, meeting the same criteria reserved for Specialized Chambers.

Note that for each demand, upon appeal, where three participating judges.

Finally, the Tribunal should set aside additional task to each of the judges, including those of the Appeals Chamber, in order to participate in sweepstakes relating to consultations to the International Tribunal for the Internet.

¹⁴ *Vide* UERPMANN-WITZACK, Robert. *Internetvölkerrecht*. Archiv des Völkerrechts, Volume 47, Number 3, September 2009, p. 261/283.

¹⁵ *Vide* UERPMANN-WITZACK, Robert. *Internetvölkerrecht*. Archiv des Völkerrechts, Volume 47, Number 3, September 2009, p. 261/283.

Great international repercussion of questions requiring the interpretation of Applicable Law in the International Tribunal for the Internet could be submitted to the Advisory assessment of the Tribunal. The Tribunal would fulfill its task in this area.

In continuation, in important collation, the Judge's Chamber shall have a large number and qualified judges. In the opposite sense, at this Tribunal the number should also mean quality. By first, the determination of the amount should be guided by enough to avoid up accumulations of cases, the vagarosity, and dissatisfaction of international (and National!) judicial service. Also, it cannot be the privilege of a few judges. The aim, in fact, is hiring (by Global selection process) an unprecedented number of judges to the international scope of the Tribunal¹⁶. In other words, at least 2 per nationality, of the member countries¹⁷. In this case, it would be at a later stage, therefore, represented the main legal systems of the world, and would have, likewise, equitable geographical representation.

These criteria are not equivalent to saying that the judges would be appointed by the countries. Not even participate in the trials as representatives of their countries. Therefore, they cannot be political or ideologically, directly nominated by their countries of origin.

Even with regard to nationality criteria, the national of any member country can apply to be a Judge, ensuring at least 2 places per country, which should be increased by the need of the Tribunal, and in proportion to the number of direct connections to the Internet that the country has. That is, the country that has the most Internet users now has more judge positions in the Tribunal.

The intention here is that digital inclusion efforts of each country result in proportional guarantee vacancies for the Tribunal's office.

In this line, for hiring a judge, they should, on its own initiative, apply to the Tribunal, through global selection process, with criteria that seek to represent what is desired from a Judge of the International Tribunal for the Internet. Note, fundamentally, that such a procedure contrary, on purpose, the criteria adopted for filling positions in other international legal bodies. After all, it should be noted that the merit criteria, based on legal knowledge, should guide the conduct of completing the Tribunal's office.

Note, fundamentally, that it is not the case here to exacerbate the role of the Law in the case of judges Chamber. The desire is that the diplomatic or political criteria remain assigned to the negotiations in the General Assembly of the Tribunal, suitable location for the governments of each country and stakeholders indicate their representatives and negotiators.

Still on the judges, as of now, some criteria can be tacked, and for now, then, as we talk about the quality of judges. They must have solid academic training; recognized legal competence; have specific knowledge of the operation of the qualities and details of

¹⁶ The International Criminal Court meets in its "Judicial Divisions" 18 judges, while the International Court of Justice is composed of 15 judges and a "Register". However, we should be aware that the International Criminal Court held only 26 cases to date, while the International Court of Justice held only a little bit more of 150 cases. *Cfr. International Court of Justice*, Available at: <https://www.icj-cij.org/en/list-of-all-cases>. *Cfr. International Criminal Court*, Available at: <https://www.icc-cpi.int/Pages/cases.aspx>, Accessed in 09.18.2018.

¹⁷ Only member countries could have nationals in the internal composition of the Tribunal as a means of pressure to accession.

International Law, the Internet and Electronic Commerce; they should devote themselves on an exclusive basis; gather specific knowledge of the complementary legal area, to which will dedicate in Tribunal: Criminal Law, Tax Law, the Electronic Commerce, the Civil Law, the Business Law; they should be guided by the independence in all functions; and shall have an excellent knowledge of one of the languages of the Tribunal¹⁸.

Due to the above criteria, the Secretary General must then organize and address a remarkable Commission to prepare, conduct and decide to take the global selection process, ensuring that the tasks meet the parameters linked to the objectives and the material in the Statute, including its Applicable Law, and made new selection every year, in order not to occur cases of vacancy, due to vacation or retirement of judges. The position should be exercised until the date of retirement of the Magistrate, never before eight years of exclusive exercise at the Tribunal, and with a minimum of age.

Judges should receive annual salaries, and tax-exempt, under the Vienna Convention on Diplomatic Relations (1961) and in alignment, on that was established in the Convention on the Privileges and Immunities of the United Nations in 1946, and in Convention on the Privileges and Immunities of the Specialized Agencies (1947)¹⁹.

D. Chamber of Prosecutors

Prosecutors must instruct the international investigations, submit and track complaints based on information about the Tribunal's jurisdiction practices.

That way, we can link the Prosecutor's duties to investigate and report practices that would fall in the jurisdiction of the International Tribunal for the Internet. First, an important point must to be conduct investigations, either on his own initiative or at the instigation of interested parties (persons, companies or States), along the lines arranged on Admissibility and Conditions Criteria²⁰.

Consequently, they should report activities that may be subject to trial by the Tribunal, within those criteria, and that have not been made by interested parties.

For this, they could collect additional information from States, companies, people and other International Organizations as well as seek to receive written, digital or oral testimony at the Tribunal headquarters or regional headquarters located in the participating countries.

¹⁸ To find out our complete Treaty proposal ("THE FOUNDER TREATY OF AN INTERNATIONAL TRIBUNAL FOR INTERNET"), please see our book: See FREIRE E ALMEIDA, Daniel. *An International Tribunal for the Internet*. São Paulo: Almedina, 2016, available at: https://www.almedina.net/ebook_info.php?ebooks_id=97885849301426 or https://www.amazon.co.uk/International-Tribunal-Internet-Daniel-Almeida-ebook/dp/B018HHLO70/ref=sr_1_2/262-5128826-5206617?s=books&ie=UTF8&qid=1537272381&sr=1-2&refinements=p_27%3ADaniel+Freire+e+Almeida .

¹⁹ These conventions have been used as a model whenever a new International Organization prepares and negotiates its founder Treaties and the Headquarters Agreements concluded accordingly. *Vide* UNITED NATIONS. *Convention on the Privileges and Immunities of the United Nations*, 1946. *Vide* UNITED NATIONS. *Convention on the Privileges and Immunities of the Specialized Agencies*, 1947. *Vide* Vienna Convention on Diplomatic Relations, 1969. *Vide* REINISCH, August. *The Immunity of International Organizations and the Jurisdiction of Their Administrative Tribunals*. New York: International Law and Justice Working Paper 2007/11, p. 2 et seq.

²⁰ Please see our complete Treaty proposal ("THE FOUNDER TREATY OF AN INTERNATIONAL TRIBUNAL FOR INTERNET"), in our book: See FREIRE E ALMEIDA, Daniel. *An International Tribunal for the Internet*. São Paulo: Almedina, 2016, available at: https://www.almedina.net/ebook_info.php?ebooks_id=97885849301426 or https://www.amazon.co.uk/International-Tribunal-Internet-Daniel-Almeida-ebook/dp/B018HHLO70/ref=sr_1_2/262-5128826-5206617?s=books&ie=UTF8&qid=1537272381&sr=1-2&refinements=p_27%3ADaniel+Freire+e+Almeida .

On the other hand, when the events are triggered by persons, companies and States, as subjects of certain actions, Prosecutors have just opinionated participation, in order to assist the decisions of the judges.

All their activities should be guided by prudence and neutrality. However, with the shortest possible time. For more than once, we refer to extremely fast and the relocation of the content as Internet characteristics. All the Tribunal's activities should take these qualities into consideration.

Prosecutors should seek, therefore, innovative actions and modern research methods. The request for information offices should be scanned and sent by digital means, in order of the modern Rules of Procedure.

In important collation, Prosecutors should be engaged in the same manner and criteria that we referred to the Judges.

In fact, the only distinction will be a function of the position desired by the candidate, each of whom must apply for one career during a worldwide selection process: either Judge or Prosecutor, International Lawyer, or server, or Diplomat of the Tribunal.

E. International Bar Association

One important body, member of the Tribunal's structure, should be an International “Bar” Association. The claimants should, in cases where they have no financial means to hire a lawyer in their country of origin, have free legal representation. The criteria to be used to verify the situation will be addressed to the family income, which should not exceed €1,000 or \$1000, in principle. The Law service should be as broad as possible.

Therefore, the lawyers must reside in the country of the plaintiff, given the need for criteria to be reviewed by the Tribunal, through the Director General, and also on the recommendation of the Member States.

The difference here, compared to other positions, is that the lawyer must be registered on the national advocacy organ, with a valid license to practice the law.

The costs of their activities, as well as their salaries shall be paid by the Tribunal. However, its work registration will be held in the country of the Tribunal. Here again, it would be protected by the immunities provided by the Vienna Convention on Diplomatic Relations of 1961, including its headquarters and office work, the Convention on the Privileges and Immunities of the United Nations (1946), and the Convention on the Privileges and Immunities of Specialized Institutions (1947)²¹. The reason for this will be to ensure the independence and necessary security for their activities in relation to the country of residence. The lawyer of the Tribunal should also work on an exclusive basis.

In a fundamental topic, it should follow audiences *online* to be made to the Tribunal, from the country of location of the branch of the International Tribunal for the Internet. In addition, it shall issue opinions on matters involving the country's Law on which it is

²¹ These conventions have been used as a model whenever a new International Organization prepares and negotiates its founder Treaties and the Headquarters Agreements concluded accordingly. *Vide* UNITED NATIONS. *Convention on the Privileges and Immunities of the United Nations*, 1946. *Vide* UNITED NATIONS. *Convention on the Privileges and Immunities of the Specialized Agencies*, 1947. *Vide Vienna Convention on Diplomatic Relations*, 1969. *Vide* REINISCH, August. *The Immunity of International Organizations and the Jurisdiction of Their Administrative Tribunals*. New York: International Law and Justice Working Paper 2007/11, p. 2 et seq.

situated, and defend the legal interests of the Tribunal with the assistance of the International Organization diplomats.

At the point above, of opinions, the intention, too, is to contribute to the Judges in its advisory role.

F. Diplomats of the Tribunal

The Tribunal shall form a body of negotiators, with diplomats, to the external interests of the Tribunal.

This group, headed by the Director General, represents the purposes of the Tribunal, organizing integration of conferences, meetings focused on multilateral negotiations to promote the Applicable Law to the Tribunal, actively participate in regular and special meetings, and would find out which international diplomatic positions the Tribunal should adopt. In other words, which are their goals, proposals, strategies, and subsequent negotiations (headquarters, regional offices, diplomatic representation, guarantees, immunities).

This body should act in accordance with the direction of the Director General, through representation, information gathering, negotiation and promotion of interests of the International Tribunal.

Timely, it is important the we mention here that all servers, attorneys, diplomats, international lawyers should be hired in the same manner and criteria that we referred to the Judges. The only difference is due to the position wanted by the candidate, each of whom, as noted, apply for one job during a worldwide selection process: either Judge or Prosecutor, International Lawyer, or server, or Diplomat of the Tribunal²².

III. Final remarks

For all as proposed above, both with regard to Internet potentialities, and about new problems and conflicts introduced by it, it is justified that the direction for an International Tribunal for the Internet should be suitable for the new world of Internet.

In other words, if we repeat everything that had been done regarding some national court procedures, *and possibly international*, to design a new Tribunal, may fall in the same slow errors, excess delaying resources, few cases, inefficiency of decisions, among other challenges already historically investigated by scholars around the world.

Indeed, the resolution of international Internet disputes, requires a new paradigm of international justice. Therefore, the best results, for the Internet World, are very important²³.

That what we want by addressing an International Tribunal for the Internet²⁴.

²² The positions in question receive such salaries, cost of cover, benefits and possible reform established by a Meeting of States Parties. These salaries and allowances cannot be reduced.

²³ *Vide* WHITING, Alex. In *International Criminal Prosecutions, Justice Delayed Can Be Justice Delivered*. Harvard International Law Journal, Volume 50, Number 2, Summer 2009, p. 323/364.

²⁴ A complete list of arguments, reasons and details can to be found in our PHD Thesis defended at Coimbra University (Portugal, European Union). See FREIRE E ALMEIDA, Daniel. An International Tribunal for the Internet. São Paulo: Almedina, 2016, available at: https://www.almedina.net/ebook_info.php?ebooks_id=97885849301426 or https://www.amazon.co.uk/International-Tribunal-Internet-Daniel-Almeida-ebook/dp/B018HHLO70/ref=sr_1_2/262-5128826-5206617?s=books&ie=UTF8&qid=1537272381&sr=1-2&refinements=p_27%3ADaniel+Freire+e+Almeida.

Essentially, what is desired, in addition to the identification and analysis of relevant problems which presents itself, is to idealize an effective solution. In fact, the view of the problems arising in the prosecution of international Internet issues and Electronic Commerce, opened, thereby, exciting ways to call for a solution.

In concluding summary, the idealization of an International Tribunal for the Internet is a solution that, for us, is the best technique for legal and international conflict resolution of international Law on the Internet.

Moreover, fundamentally, we must emphasize that the freedom that both attracts people to the Internet at the same time, and paradoxically, to be properly maintained need some sort, either by new regulatory means, whether by new judicial means.

Nevertheless, the establishment of an International Tribunal for the Internet, which we propose in this working-paper, can be improved in the course of future times, by those wishing to also devote to the acquisition of true international Internet issues, and reflect on the best alternatives.

But everything should be done without neglecting the practice cases, the international reality of the Internet and Electronic Commerce, and without, fundamentally, despising academic and professional studies that are presented worldwide.

Furthermore, although several statements or idealizations can find divergent previous forces, and informed on other precedents, we can say after borderless readings, and long critical meditations, that the present moment of international relations provided by the Internet offers scenery and justifications to more modern and humbly bold positions.

In reality, as evidenced by the digital world, the Internet has been a virtual space of convergence and concentration, unprecedented, of the most varied forms of information, communication, commerce of products, services and entertainment.

We will not respond to this new world with old regulatory and national judicial tools.

In fact, the Internet meets certain characteristics and natural conditions that challenge old judicial experiences and regulatory requirements of resolution of legal disputes, locally and internationally.

Indeed, digital networks operated by the companies are global, and the social structure in which they are based digital networks is by definition global. As we can see, the new patterns of choice for communication and social interaction online replaced limited ways, territorially, of human relationships. Important here be noted that the consequences of these changes and implications are huge for the future of our societies, increasingly digital.

These digital communication tools pose a different set of legal problems, ranging from child pornography, passing through cybercrimes, conflicts of Electronic Commerce companies with States, cyberespionage, intrusions of systems, cybersecurity, the use of cryptocurrencies and blockchain for financial crime, money laundering and tax evasion, cyberattacks, among many and many others. Cases are proliferating in Tribunals worldwide, involving a growing number of people, with an international dimension.

In fact, in all areas where the Internet "manifests" we find significant legal repercussions reaching the Tribunals more constantly. Disputes arising from new Internet activities put traditional judicial powers in uncomfortable situations, much because of the

speed of arguments, instantaneity, internationality, extraterritoriality, and hosting of the Internet data abroad (which can be used as an evidence in courts around the world).

The legal techniques of the past have not been able to respond to all new challenges.

Likewise, are the legislative challenges, given the difficulty in achieving to subject the behavior of a citizen linked to multiple sovereignties, when any trials. Multiple activities conducted through the Internet are inherently transnational, presenting complexities on the implementation of national or regionally specific regulations.

Technological advances have, through the numerous activities offered by the Internet, significant interactions with endless interferences on distant individuals physically, but more and more virtually connected.

It is in this line of reasoning then, that by taking legislative initiatives of a country that can slide in the Internet area, we can check a state interest in enforcing such rules for the acts and persons located in its national space, like the GDPR or Brazil's new General Data Privacy Law.

But we find, on the other hand, that many (millions) other acts and people would be outside of the effective context of these laws, even relating with people and domestic companies through the Internet.

In other words, we can conclude that the limits on the scope of the regulations, in the affairs of the Internet, are faced by any country. Similarly, no matter the content of the Law that arises. More specifically, we can address that some basic qualities of the Internet have offered resistance to the application of national legislation in the activities developed by the World Wide Web, as the globalization of the Internet, International electronic communications and data, and the multinational Electronic Commerce, exercised by the global digital companies.

Therefore, the needs grow to require new forms of global governance to deal with these digital and also global issues.

Indeed, people and companies look for "global Greater certainty and justice" in international affairs involving the Internet.

That is why we present the International Tribunal for the Internet, originally since 2008²⁵.

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²⁵ A complete list of arguments, reasons, the history, and details can to be found in our PHD Thesis defended at Coimbra University in 2012 (Portugal, European Union). See FREIRE E ALMEIDA, Daniel. An International Tribunal for the Internet. São Paulo: Almedina, 2016, available at: https://www.almedina.net/ebook_info.php?ebooks_id=97885849301426 or https://www.amazon.co.uk/International-Tribunal-Internet-Daniel-Almeida-ebook/dp/B018HHLO70/ref=sr_1_2/262-5128826-5206617?s=books&ie=UTF8&qid=1537272381&sr=1-2&refinements=p_27%3ADaniel+Freire+e+Almeida .

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