



General Assembly

Distr.: General
30 December 2020

Original: English

Seventy-fifth session

Agenda item 152

Administration of justice at the United Nations

Report of the Fifth Committee

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I. Introduction

1. At its 2nd plenary meeting, on 18 September 2020, the General Assembly, on the recommendation of the General Committee, decided to include in the agenda of its seventy-fifth session the item entitled “Administration of justice at the United Nations” and to allocate it to the Fifth Committee.

2. During the main part of the seventy-fifth session, the Fifth Committee met formally and remotely owing to the coronavirus disease (COVID-19) pandemic, during which it considered the item. The Committee formally considered the item in person at its 8th meeting, on 30 December 2020. Statements and observations made in the course of the Committee’s formal consideration of the item are reflected in the relevant summary records.¹

3. For its consideration of the item, the Committee had before it the following documents:

(a) Report of the Secretary-General on the administration of justice at the United Nations ([A/75/162](#) and [A/75/162/Add.1](#));

(b) Report of the Secretary-General on the activities of the Office of the United Nations Ombudsman and Mediation Services ([A/75/160](#));

(c) Report of the Internal Justice Council on the administration of justice at the United Nations ([A/75/154](#));

(d) Related report of the Advisory Committee on Administrative and Budgetary Questions ([A/75/560](#));

(e) Letter dated 20 November 2020 from the President of the General Assembly addressed to the Chair of the Fifth Committee ([A/C.5/75/16](#)).

¹ [A/C.5/75/SR.8](#).



II. Consideration of draft resolution [A/C.5/75/L.9](#)

4. At its 8th meeting, on 30 December, the Committee had before it a draft resolution entitled “Administration of justice at the United Nations” ([A/C.5/75/L.9](#)), submitted by the Chair of the Committee on the basis of informal consultations coordinated by the representative of Greece.

5. At the same meeting, the Committee adopted draft resolution [A/C.5/75/L.9](#) without a vote (see para. 6).

III. Recommendation of the Fifth Committee

6. The Fifth Committee recommends to the General Assembly the adoption of the following draft resolution:

Administration of justice at the United Nations

The General Assembly,

Recalling section XI of its resolution [55/258](#) of 14 June 2001 and its resolutions [57/307](#) of 15 April 2003, [59/266](#) of 23 December 2004, [59/283](#) of 13 April 2005, [61/261](#) of 4 April 2007, [62/228](#) of 22 December 2007, [63/253](#) of 24 December 2008, [64/233](#) of 22 December 2009, [65/251](#) of 24 December 2010, [66/237](#) of 24 December 2011, [67/241](#) of 24 December 2012, [68/254](#) of 27 December 2013, [69/203](#) of 18 December 2014, [70/112](#) of 14 December 2015, [71/266](#) of 23 December 2016, [72/256](#) of 24 December 2017, [73/276](#) of 22 December 2018 and [74/258](#) of 27 December 2019,

Having considered the reports of the Secretary-General on administration of justice at the United Nations¹ and on the activities of the Office of the United Nations Ombudsman and Mediation Services,² the report of the Internal Justice Council on administration of justice at the United Nations³ and the related report of the Advisory Committee on Administrative and Budgetary Questions,⁴ as well as the letter dated 20 November 2020 from the President of the General Assembly addressed to the Chair of the Fifth Committee,⁵

1. *Takes note* of the reports of the Secretary-General on administration of justice at the United Nations and on the activities of the Office of the United Nations Ombudsman and Mediation Services, the report of the Internal Justice Council on administration of justice at the United Nations and the related report of the Advisory Committee on Administrative and Budgetary Questions;

2. *Endorses* the conclusions and recommendations contained in the report of the Advisory Committee;

I System of administration of justice

3. *Emphasizes* the importance of the principle of judicial independence in the system of administration of justice;

4. *Stresses* the importance of ensuring access for all staff members to the system of administration of justice, regardless of their duty station;

5. *Acknowledges* the evolving nature of the system of administration of justice and the need to carefully monitor its implementation to ensure that it remains within the parameters set out by the General Assembly;

6. *Reaffirms* its decision, contained in paragraph 4 of its resolution [61/261](#), to establish a new, independent, transparent, professionalized, adequately resourced and decentralized system of administration of justice consistent with the relevant rules of international law and the principles of the rule of law and due process to ensure respect

¹ [A/75/162](#) and [A/75/162/Add.1](#).

² [A/75/160](#).

³ [A/75/154](#).

⁴ [A/75/560](#).

⁵ [A/C.5/75/16](#).

for the rights and obligations of staff members and the accountability of managers and staff members alike;

7. *Notes with appreciation* the publication of the Digest of Case Law of the United Nations Dispute Tribunal and the United Nations Appeals Tribunal for the period 2009–2019, which provides improved access to the jurisprudence of the Tribunals, and requests the Secretary-General to present information relating to the establishment of a searchable database of Dispute Tribunal and Appeals Tribunal decisions in his next report;

8. *Welcomes* the ongoing outreach efforts, and urges the Secretary-General to continue to implement the outreach strategy, with a view to continuing to raise awareness of the role and functioning of the various parts of the system and the possibilities that it offers to address work-related complaints, paying particular attention to field missions and offices;

9. *Requests* the Secretary-General to continue to ensure a strong culture of accountability throughout the Secretariat, in particular with proactive and transparent application of the United Nations three-pillared approach to the management of misconduct, namely, prevention, enforcement and remedial action, and to ensure access to effective remedies for all categories of personnel;

10. *Also requests* the Secretary-General to continue to hold managers accountable when their decisions have been established to be grossly negligent according to the applicable Staff Regulations and Rules of the United Nations⁶ and have led to litigation and subsequent financial loss, and to undertake an analysis of the issue of publishing the results of action taken in response to the referrals for accountability by the Tribunals, such as in the compendium of disciplinary measures, and to report thereon to the General Assembly at its seventy-sixth session;

11. *Underscores* the inherent and explicit authority of the Dispute and Appeals Tribunals to issue protective orders, consistent with their statutes, rules of procedure and code of conduct, in order to protect complainants and witnesses against retaliation, stresses the importance of fully implementing such orders, and requests the Secretary-General to report on the application thereof;

12. *Encourages* the Secretary-General, in his capacity as the Chair of the United Nations System Chief Executives Board for Coordination, to promote protection against retaliation across the system;

13. *Reiterates* that retaliation against complainants or staff appearing as witnesses constitutes misconduct, notes with appreciation the policy on protection against retaliation for reporting misconduct and for cooperating with duly authorized audits or investigations⁷ as well as the efforts to continuously improve the framework for protection from retaliation, and in this regard requests the Secretary-General to provide information on the implementation of the policy for all categories of personnel covered in his next report;

II

Informal system

14. *Recognizes* that the informal system of administration of justice is an efficient and effective option both for staff who seek redress of grievances and for the participation of managers;

⁶ ST/SGB/2018/1.

⁷ ST/SGB/2017/2/Rev.1.

15. *Reaffirms* that the informal resolution of conflict is a crucial element of the system of administration of justice, emphasizes that all possible use should be made of the informal system in order to avoid unnecessary litigation, without prejudice to the basic right of staff members to access the formal system, and encourages recourse to the informal resolution of disputes;

16. *Also reaffirms* the importance of the informal dispute resolution process in the Organization, which represents an effective method of dispute resolution as compared with the formal process, and urges the Secretary-General to reinforce his efforts to address the underservice of staff in the field and to provide an update on the action taken in the context of his next report;

17. *Welcomes* the continued analysis of the root causes of work-related conflict included in the report of the Secretary-General on the activities of the Office of the United Nations Ombudsman and Mediation Services, stresses the importance of improving management performance and staff communication, urges the Secretary-General to continue to address the direct feedback and systemic issues identified in the report in order to mitigate and prevent work-related conflicts, including through the improvement of the policies and procedures of the Organization, and requests the Secretary-General to provide information on progress resulting from the action taken in the context of his next report;

18. *Also welcomes* the continued efforts of the Secretary-General to improve the prevention and resolution of disputes involving non-staff personnel, based on his five initiatives, and his efforts to further explore more cost-effective means to resolve disputes, and requests the Secretary-General to report on progress, including the financial and administrative impact, to the General Assembly at its seventy-sixth session;

19. *Encourages* the Secretary-General to continue the pilot project whereby non-staff personnel are offered access to services provided by the Office of the United Nations Ombudsman and Mediation Services within its existing resources, and requests the Secretary-General to report thereon in his next report;

20. *Encourages* the Office of the United Nations Ombudsman and Mediation Services to continue its outreach activities, including through virtual formats as appropriate, especially in the field and including all categories of non-staff personnel, in order to promote informal dispute resolution;

21. *Notes* that the availability of United Nations documents in relevant official languages is limited in some areas of Secretariat activity, and therefore invites the Secretary-General to take the appropriate measures to implement, within existing resources, current multilingualism policies, in compliance with relevant rules and regulations, and requests the Secretary-General to provide, in the context of his next report, information on measures taken to ensure the availability of outreach documents in all official languages;

22. *Also notes* the efforts of the Secretary-General to promote knowledge and awareness of and action on racism within the Organization, and requests the Secretary-General to include information on racism and cases involving racial discrimination in the context of his next report on the activities of the Office of the United Nations Ombudsman and Mediation Services;

23. *Encourages* the Secretary-General to continue to provide information on trends and cases of discrimination within the Organization in the context of his next report on the activities of the Office of the United Nations Ombudsman and Mediation Services;

24. *Notes* the absence of a mental health component within the legal framework to process cases of harassment, discrimination and abuse of authority, and requests the

Secretary-General to provide options to address such absence, to reinforce his efforts to achieve a harmonious working environment free from discrimination, harassment and abuse of authority in all forms and to report thereon to the General Assembly at its seventy-sixth session;

25. *Notes with concern* the recent pattern of upward harassment of female managers, and requests the Secretary-General to continue to take action to address the issue, including through providing tools and mandatory training on the value of civility in the workplace, and to report thereon in his next report;

III

Formal system

26. *Welcomes* the progress made in reducing the number of pending and ageing cases before the Dispute Tribunal, including through the efficient use of half-time judges, stresses the importance of the continued implementation of all measures introduced by the General Assembly in its resolutions [73/276](#) and [74/258](#), and requests the Secretary-General to continue to report on the measures taken to further address the backlog of cases, with priority given to cases that are pending for more than 400 days;

27. *Recalls* paragraph 24 of its resolution [73/276](#), appreciates the efforts of the Dispute Tribunal and the Office of Administration of Justice to develop and implement the case disposal plan, and requests the Secretary-General to ensure that the real-time case-tracking dashboard is made publicly available;

28. *Requests* the Secretary-General to continue to track the data on the number of cases received by the Management Evaluation Unit and the Dispute Tribunal in order to identify any emerging trends, including on the increased number of non-receivable cases, and to include his observations on those statistics in future reports;

29. *Encourages* the Dispute Tribunal to continue to make full use of telecommuting in the deployment of half-time judges so as to promote efficiencies, and decides that the practice of publishing the schedule and cause list for each half-time judge on the website of the internal justice system shall be extended to the full-time judges;

30. *Commends* the Secretary-General for the creation of the toolkits for self-represented applicants, encourages the Secretary-General to continue to provide assistance to self-represented applicants and enhance their understanding and ability to utilize the system and mitigate efficiency concerns, and in this regard requests the Secretary-General to continue to monitor the issue of self-representation and to report thereon to the General Assembly at its seventy-sixth session;

31. *Recognizes* the ongoing positive contribution of the Office of Staff Legal Assistance to the system of administration of justice;

32. *Notes* the overall trend of increase in the workload of the Office of Staff Legal Assistance, expresses its satisfaction that the majority of requests for legal assistance received by the Office were settled or otherwise disposed of without recourse to any formal mechanism, and acknowledges that the Office should be adequately resourced;

33. *Also notes* the continuing high opt-out rates from the voluntary staff funding mechanism, and in this regard encourages the Secretary-General to continue to strengthen incentives for staff not to opt out, particularly in locations and United Nations entities where the participation rate is low;

IV Other issues

34. *Stresses* that the Internal Justice Council can help to ensure independence, professionalism and accountability in the system of administration of justice, and requests the Secretary-General to entrust the Council with including the views of both the Dispute Tribunal and the Appeals Tribunal in its reports;

35. *Welcomes* further views of the Internal Justice Council in its next report to the General Assembly on possible ways to improve judicial and operational efficiency;

36. *Approves* the proposed conditions of service and appointment requirements for the Internal Justice Council, as set out in annex V to the report of the Secretary-General on administration of justice at the United Nations,⁸ which shall guide the appointment of the members of the Council and its functioning;

37. *Recalls* paragraph 35 of its resolution [74/258](#), and requests the Secretary-General to provide further analysis of and clarification on the proposed amendments to articles 2 and 7 of the statute of the Appeals Tribunal on pension matters⁹ in the context of his next report;

38. *Decides* to consider at its seventy-sixth session the proposed amendments to the rules of procedure of the Appeals Tribunal and the Dispute Tribunal, as set out in annexes I and II to the report of the Secretary-General on administration of justice at the United Nations;

39. *Invites* the Sixth Committee to consider the legal aspects of the report to be submitted by the Secretary-General, without prejudice to the role of the Fifth Committee as the Main Committee entrusted with responsibilities for administrative and budgetary matters.

⁸ [A/75/162](#).

⁹ *Ibid.*, annex IV.