



General Assembly

Distr.: General
27 December 2019

Original: English

Seventy-fourth session

Agenda item 146

Administration of justice at the United Nations

Report of the Fifth Committee

Rapporteur: Mr. Yaron Wax (Israel)

I. Introduction

1. At its 2nd plenary meeting, on 20 September 2019, the General Assembly, on the recommendation of the General Committee, decided to include in the agenda of its seventy-fourth session the item entitled “Administration of justice at the United Nations” and to allocate it to the Fifth Committee.
2. The Fifth Committee considered the item at its 9th, 11th and 21st meetings, on 11 and 19 November and 27 December 2019. Statements and observations made in the course of the Committee’s 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 administration of justice at the United Nations ([A/74/172](#));
 - (b) Report of the Secretary-General on the activities of the Office of the United Nations Ombudsman and Mediation Services ([A/74/171](#));
 - (c) Report of the Internal Justice Council on administration of justice at the United Nations ([A/74/169](#));
 - (d) Related report of the Advisory Committee on Administrative and Budgetary Questions ([A/74/7/Add.10](#));
 - (e) Letter dated 12 November 2019 from the President of the General Assembly addressed to the Chair of the Fifth Committee ([A/C.5/74/10](#)).

¹ [A/C.5/74/SR.9](#), [A/C.5/74/SR.11](#) and [A/C.5/74/SR.21](#).



II. Consideration of draft resolution [A/C.5/74/L.9](#)

4. At its 21st meeting, on 27 December, the Committee had before it a draft resolution entitled “Administration of justice at the United Nations” ([A/C.5/74/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.5/74/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 and [73/276](#) of 22 December 2018,

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 12 November 2019 from the President of the General Assembly 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 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

2. *Endorses* the conclusions and recommendations contained in the report of the Advisory Committee, subject to the provisions of the present resolution;

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

¹ [A/74/172](#).

² [A/74/171](#).

³ [A/74/169](#).

⁴ [A/74/7/Add.10](#).

⁵ [A/C.5/74/10](#).

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

7. *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;

8. *Requests* the Secretary-General to continue to ensure a strong culture of accountability throughout the Secretariat and that all categories of personnel who may have been subjected to prohibited conduct in a work-related situation have access to effective remedies;⁶

9. *Notes* the ongoing efforts to continuously strengthen the policy on protection against retaliation for reporting misconduct and for cooperating with duly authorized audits or investigations,⁷ and in this regard requests the Secretary-General to report, in the context of his next report on the system of administration of justice, on progress made in protecting staff members who lodge cases before the United Nations Dispute Tribunal and the United Nations Appeals Tribunal against retaliation;

10. *Reiterates* that retaliation against complainants or staff appearing as witnesses constitutes misconduct, and notes with appreciation the policy on protection against retaliation for reporting misconduct and for cooperating with duly authorized audits or investigations as well as the efforts to continuously improve the framework for protection from retaliation;

11. *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;

12. *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;

II Informal system

13. *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;

14. *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;

15. *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 requests the Secretary-General to include recommendations to address the current underservice of staff in the field in his next report;

⁶ ST/SGB/2019/8.

⁷ ST/SGB/2017/2/Rev.1.

16. *Notes* the efforts of the Mediation Service of the United Nations Ombudsman and Mediation Services to ensure that timely and high-quality mediation processes are available to address the diverse needs of the Organization, including through the Secretary-General's civility campaign, and requests the Secretary-General to continue to provide detailed information on the mediation activities of the Office, including measures to increase the utilization of these services;

17. *Welcomes* the continued analysis of the root causes of 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 actions taken in the context of his next report;

18. *Notes* the need for the Organization to develop and employ a holistic managerial approach, including management training for addressing conflict, including efforts to identify and address inappropriate behaviour that affects staff even when it does not amount to misconduct, and requests the Secretary-General to provide an update on the actions taken in the context of his next report;

19. *Encourages* the Office of the United Nations Ombudsman and Mediation Services to continue its outreach activities, especially in the field, in order to promote informal dispute resolution;

20. *Notes* the five initiatives of the Secretary-General to improve the prevention and resolution of disputes involving non-staff personnel, and requests the Secretary-General to provide in his next report detailed information on the ongoing initiatives, mentioned in his report;¹

21. *Requests* the Secretary-General to submit new proposals, bearing in mind the need for budgetary discipline, in the context of his next report, on reviewing formal policies and issuances concerning dispute resolution with consultants and individual contractors, including but not limited to drawing on more cost-effective features of the expedited arbitration procedures for consultants and individual contractors;

22. *Also requests* the Secretary-General to prepare, with a view to informing the discussion at the seventy-fifth session of the General Assembly, an overview on the functioning of the pilot project to offer access to informal dispute-resolution services to non-staff personnel up to the time of reporting, including on the nature of conflicts, average length of time spent on cases, rate of resolution and disaggregated data on each category of non-staff personnel, and the results of the pilot project on resolving disputes with respect for the principles of the Office of the United Nations Ombudsman and Mediation Services;

III Formal system

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

24. *Requests* the Secretary-General to continue to ensure the accountability of managers whose decisions have been established to be grossly negligent, according to the applicable Staff Regulations and Rules of the United Nations,⁸ and which have

⁸ ST/SGB/2018/1.

led to litigation and subsequent financial loss, and to report thereon to the General Assembly at its seventy-fifth session;

25. *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-fifth session;

26. *Notes with concern* the dual presidency of the Dispute Tribunal and its impact on case disposal, stresses that the Dispute Tribunal is an independent judiciary, which is expected to manage its affairs in accordance with its statute, rules of procedure and code of conduct, and requests the Secretary-General to examine recommendations 11, 12 and 13 contained in the report of the Internal Justice Council, with a view to improving the accountability of the Tribunal, for consideration during the seventy-fifth session of the General Assembly;

27. *Welcomes* recommendation 9 on judicial efficiency and accountability contained in the report of the Internal Justice Council, and urges the Dispute Tribunal and the Appeals Tribunal to review and amend their respective rules of procedure subject to the approval of the General Assembly, with a view to streamlining and harmonizing their approach to case management, including by ensuring that the first judicial action in a case is taken no later than 90 days from the date on which an application is filed;

28. *Notes* the large number of pending cases and of ageing cases at the Dispute Tribunal, acknowledges the efforts made by the Dispute Tribunal and the Principal Registrar of the Dispute Tribunal and the Appeals Tribunal to develop and implement a case disposal plan, as requested in its resolution [73/276](#), and the reduction in the number of cases pending in 2019, and requests the Secretary-General to continue to report on the implementation of the case disposal plan at its seventy-fifth session;

29. *Requests* the Secretary-General to invite the Internal Justice Council to provide its views on the implementation of the system of administration of justice, including the timely delivery of judgments, and to report thereon to the General Assembly at its seventy-fifth session;

30. *Also 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 and to include his observations on those statistics in future reports;

31. *Requests* that the judicial directions of the Dispute Tribunal and the Appeals Tribunal that are of general application be posted online and thus made available to all stakeholders, and requests the Secretary-General to report thereon to the General Assembly at its seventy-fifth session;

32. *Recalls* paragraph 32 of its resolution [73/276](#) and that half-time judges are to be deployed only as required by caseload, encourages the Dispute Tribunal to make full use of telecommuting in the deployment of half-time judges so as to promote efficiencies, and requests the Secretary-General to review and report on the use of the six half-time judges to the General Assembly at its seventy-fifth session;

33. *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;

34. *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;

35. *Requests* the Secretary-General to provide further analysis and clarification on the proposed amendments to articles 2 and 7 of the statute of the Appeals Tribunal on pension matters,⁹ and invites the Sixth Committee to consider the legal aspects of the report of the Secretary-General on the administration of justice, without prejudice to the role of the Fifth Committee as the Main Committee of the General Assembly responsible for administrative and budgetary matters;

IV Other issues

36. *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;

37. *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;

38. *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;

39. *Recalls* paragraphs 36 and 37 of its resolution [62/228](#), and requests the Secretary-General to provide an overview of and recommendations on the conditions of service and appointment requirements of the members of the Internal Justice Council, in particular professional qualifications, for consideration by the General Assembly at its seventy-fifth session.

⁹ See [A/73/217/Add.1](#).