



General Assembly

Distr.: General
13 June 2019
English
Original: Arabic

Seventy-fourth session

Items 137 and 138 of the preliminary list*

Proposed programme budget for 2020

Identical letters dated 10 June 2019 from the Permanent Representative of the Syrian Arab Republic to the United Nations addressed to the Secretary-General

I refer to document [A/74/6 \(Sect. 8\)](#), entitled “Proposed programme budget for 2020, Part III, International justice and law, Section 8, Legal affairs, Programme 6, Legal affairs” and, in particular, to section III concerning the so-called International, Impartial and Independent Mechanism to Assist in the Investigation and Prosecution of Persons Responsible for the Most Serious Crimes under International Law Committed in the Syrian Arab Republic since March 2011. First and foremost, the Government of the Syrian Arab Republic wishes to express an absolute reservation regarding everything that it stated in the report regarding the so-called Mechanism. It comprehensively rejects and objects to any attempt on the part of the Secretariat to fund the so-called Mechanism out of the regular budget of the United Nations. Such an alarming approach to the budget would have political repercussions for the situation in the Syrian Arab Republic and would affect the credibility and status of the United Nations.

Allow me to reaffirm and clarify a set of political realities and legal principles that underpin the Charter of the United Nations and the rules of international law and which, taken together, show that the so-called Mechanism always has been, and always will be, an illegal entity whose establishment violated the provisions of the Charter and was based on a resolution adopted without consensus by the General Assembly.

1. General Assembly resolution [71/248](#), which was adopted without consensus and led to the establishment of the so-called Mechanism, contravenes Article 12 of the Charter, which states as follows: “While the Security Council is exercising in respect of a dispute or situation the functions assigned to it in the present Charter, the General Assembly shall not make any recommendation with regard to that dispute or situation unless the Security Council so requests”. The Security Council is still fully engaged in the exercise of its mandate and responsibilities with regard to the Syrian situation. The fact that the General Assembly intervened without being requested to do so by the Security Council therefore constitutes a flagrant and reprehensible violation of the Charter.
2. Articles 10, 11, 12 and 22 of the Charter expressly and unequivocally define the mandates of the General Assembly. There is no mention whatsoever of any mandate

* [A/74/50](#).



to establish an investigating or judicial entity or anything like the so-called Mechanism; that prerogative belongs solely to the Security Council.

3. As you and States Members of the United Nations are well aware, the so-called Mechanism was established through an exclusionary and non-transparent process, without consultation or coordination with the Government of the Syrian Arab Republic, which is the concerned State and has not asked for any help from the United Nations in this regard.

4. By way of comparison, I should like to remind the Secretary-General that Security Council resolution [2379 \(2017\)](#) requests him to “establish an Investigative Team, headed by a Special Adviser, to support domestic efforts to hold ISIL (Da’esh) accountable by collecting, preserving, and storing evidence in Iraq of acts that may amount to war crimes, crimes against humanity and genocide committed by the terrorist group ISIL (Da’esh) in Iraq”. The Secretary-General will recall that the Iraqi Government requested the assistance of the United Nations in order to establish that Investigative Team. The Secretary-General engaged in long months of painstaking consultations and correspondence with the Iraqi Government, as a result of which the two sides were able to agree on the work standards and rules of conduct governing the activities of the Investigating Team.

5. In this case, however, the Government of the Syrian Arab Republic has not asked for any technical assistance from the United Nations with a view to establishing anything like the so-called Mechanism. The Syrian Government was not consulted by any United Nations entity, and its approval was not secured for the establishment of the so-called Mechanism. Worst of all, the General Assembly exceeded its powers and infringed on the mandate of the Security Council by creating a body that it did not have the power to establish.

6. I hope the Secretary-General will allow me to ask a question that is logical but has serious legal implications: would he expect the Government of the Syrian Arab Republic to accept the collection of purported evidence outside its national borders by an aberrant entity such as the so-called Mechanism – an entity regarding which the concerned State was never consulted, and whose establishment it never approved – without there being the least guarantee or standards regarding the credibility of the process by which evidence is obtained and preserved, or what is known in criminal law as the chain of custody?

7. The organizers of the so-called Mechanism, along with the Governments that support it, have been trying to have it funded from the regular budget of the United Nations in order to offload that burden and involve the United Nations and its Member States in footing the bill for their illegal endeavour. The great majority of Member States will be wary of the fact that the mandate of the so-called Mechanism is not defined in terms of place and time or subject to any restrictions or standards consistent with the Charter or the established rules of conduct of our Organization.

8. The political situation in the Syrian Arab Republic is at a sensitive juncture. The political process is moving forward under the auspices of the United Nations through the work of your Special Envoy, Geir Pedersen. However, the process remains fragile and difficult; a number of Governments have rejected it on the grounds that it is a Syrian-led process and is not susceptible to detrimental foreign interference. That fact makes it incumbent on the United Nations, and on the Secretary-General personally, to address the real challenge, which is preserving the impartiality and credibility of the process and dissociating the Secretariat from any political and financial pressures or attempts to polarize opinions on the part of those Member States that promote the so-called Mechanism under the pretext of achieving a so-called transitional justice in Syria.

9. We wish to remind you and Member States that those very same Governments that fund and promote the so-called Mechanism have intervened detrimentally in the political process in Syria by persistently supporting and funding armed terrorist groups in the country, particularly the so-called Nusra Front, which has been listed as a terrorist organization. They are also preventing Syrian refugees and displaced persons from returning to their homes, hampering the financing of reconstruction and reconciliation in Syria, and intensifying the draconian economic embargo on the Syrian people.

10. I urge you to distance the Organization from any conduct or approach that is based on support for the so-called Mechanism. The latter poses a genuine threat to the political process and raises genuine questions regarding the Organization's impartiality and professionalism as the facilitator of the political process. I call on all Member States that still respect the principles of the Charter to do what is right by refusing to recognize the so-called Mechanism and refraining from cooperating with it, because it constitutes an aberration from the established framework of the Organization's work. I also call on Member States to tackle the attempt on the part of certain Governments to shift the burden of financing that illegal entity onto the United Nations regular budget.

The time has come to take a clear stance, one that is based on the sanctity and status of the Charter. Everyone is now aware that those parties that are behind the establishment of the illegal entity have lured the United Nations into the trap of contriving an illegal and dangerous precedent that plays fast and loose with the principles of international law and relies on divisive and deeply controversial concepts, such as that of "universal criminal jurisdiction". As a result, the so-called Mechanism could be used as a template by those parties that wield political and financial influence in today's world whenever they decide to intervene in the internal affairs of other States.

Lastly, I urge you to review the letters from the Permanent Mission of the Syrian Arab Republic to the Secretary-General and the President of the Security Council regarding this topic, particularly the letter contained in document [A/73/562](#), which transmits a legal study entitled "Wrongful Acts Can't Be Promoted or Legalized". I am fully prepared to liaise with other permanent representatives in order to discuss this matter. I am completely confident that my country's position is just and legitimate. In setting forth that position, we have amply shown that the so-called Mechanism is an illegal entity that has no place in the Organization's work.

I should be grateful if you would have the present letter issued as a document of the General Assembly under items 136 and 137 of the preliminary list.

(Signed) **Bashar Ja'afari**
Ambassador
Permanent Representative