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Administration of justice at the United Nations

Report of the Fifth Committee

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I. Introduction

1. At its 3rd plenary meeting, on 16 September 2022, the General Assembly, on the recommendation of the General Committee, decided to include in the agenda of its seventy-seventh 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 14th, 18th and resumed 25th meetings, on 10 and 28 November and 30 December 2022. 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 the administration of justice at the United Nations ([A/77/156](#));

(b) Report of the Internal Justice Council on the administration of justice at the United Nations ([A/77/130](#));

(c) Report of the Secretary-General on the activities of the Office of the United Nations Ombudsman and Mediation Services ([A/77/151](#));

(d) Related report of the Advisory Committee on Administrative and Budgetary Questions ([A/77/559](#));

(e) Letter dated 21 November 2022 from the President of the General Assembly to the Chair of the Fifth Committee ([A/C.5/77/17](#)).

¹ [A/C.5/77/SR.14](#), [A/C.5/77/SR.18](#) and [A/C.5/77/SR.25/Add.1](#).



II. Consideration of draft resolution [A/C.5/77/L.11](#)

4. At its resumed 25th meeting, on 30 December, the Committee had before it a draft resolution entitled “Administration of justice at the United Nations” ([A/C.5/77/L.11](#)), submitted by the Chair of the Committee on the basis of informal consultations coordinated by the representative of Georgia.

5. At the same meeting, the Committee adopted draft resolution [A/C.5/77/L.11](#) 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, [74/258](#) of 27 December 2019, [75/248](#) of 31 December 2020 and [76/242](#) of 24 December 2021,

Having considered the reports of the Secretary-General on the 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 the 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 21 November 2022 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 the 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 the 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, subject to the provisions in 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/77/156](#).

² [A/77/151](#).

³ [A/77/130](#).

⁴ [A/77/559](#).

⁵ [A/C.5/77/17](#).

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

7. *Emphasizes* equal treatment of the six official languages of the United Nations, notes that multilingualism within the system of administration of justice contributes to efficient and effective dispute resolution and increased outreach and awareness-raising, welcomes the efforts of the Secretary-General in this regard to implement multilingualism policies in compliance with relevant rules and regulations, and further requests the Secretary-General to report on measures, and relevant remaining challenges, to continue efforts to promote multilingualism in his future reports;

8. *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;

9. *Takes note* of paragraph 7 of the report of the Advisory Committee;

10. *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 report thereon to the General Assembly at its seventy-eighth session;

11. *Recalls* paragraph 7 of its resolution [63/253](#), welcomes the continued efforts of the Secretary-General to improve the prevention and resolution of disputes involving non-staff personnel 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-eighth session;

12. *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 investigations,⁷ underscores the importance of raising awareness of the policy, 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;

13. *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;

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;

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

⁶ [ST/SGB/2018/1/Rev.2](#).

⁷ [ST/SGB/2017/2/Rev.1](#).

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 the central role of mediation, and emphasizes that all possible use should be made of the informal system;

17. *Recognizes* mediation as a core part of the work of the Office of the United Nations Ombudsman and Mediation Services and as a cost-effective method of informal conflict resolution, underlines the importance of increasing the use of mediation services, and encourages improved communication between all parts of the system of administration of justice to increase opportunities to address underutilized mediation;

18. *Recalls* paragraph 46 of the report of the Advisory Committee, requests the Secretary-General to increase awareness among staff of the possibility of having conversations with the Office of the United Nations Ombudsman and Mediation Services to explore informal resolution, including mediation, as a first step, where feasible, prior to filing a formal complaint, encourages such conversations, and also requests the Secretary-General to provide further information in this regard;

19. *Notes* the practice of reporting about systemic observations in the report of the Secretary-General on the activities of the Office of the United Nations Ombudsman and Mediation Services, and requests the Secretary-General to continue such practice and to resume the practice of providing information since the seventy-fourth session on measures taken to address the systemic issues identified, and to report thereon in his future reports;

20. *Recalls* paragraph 25 of its resolution [75/248](#), and requests the Secretary-General to continue to take action to address all cases of harassment against female staff, including through providing tools and mandatory training on the value of civility in the workplace, and to report thereon in his next report;

21. *Also recalls* paragraph 61 of the report of the Advisory Committee, and notes the referral of visitors to staff counselling services by the Office of the United Nations Ombudsman and Mediation Services, as appropriate;

22. *Notes* the Secretary-General's strategic action plan for addressing racism and promoting dignity for all in the United Nations Secretariat and the mandate established in its resolution [76/271](#) of 29 June 2022, encourages the Office of the United Nations Ombudsman and Mediation Services to provide observations on the trends and patterns of racism and racial discrimination and remedial actions taken within the Organization, and requests the Secretary-General to report thereon in the context of his next report on the activities of the Office;

23. *Requests* the Office of the United Nations Ombudsman and Mediation Services to provide, on an annual basis, a statistical overview with data on mediation cases, including on case volume and trends, and the resolution rate of cases mediated by the Office and information on cases with full resolution, and to report thereon to the General Assembly;

24. *Decides* to continue the pilot project for non-staff personnel within existing resources, notes the merit in continued access of non-staff personnel to the services of the Office of the United Nations Ombudsman and Mediation Services, and requests the Office to provide further information, including data on the number of non-staff personnel serviced and information on the benefits of such service, in the context of the next report, with a view to regularizing the pilot project within existing resources;

III

Formal system

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

26. *Welcomes* the effort of the United Nations Dispute Tribunal to reduce the number of pending and ageing cases, stresses the importance of continued implementation of all measures to avoid the backlog of cases, with priority for cases which are pending for over 400 days, and requests the Secretary-General to continuously monitor cases through the case disposal plan and real-time case-tracking dashboard;

27. *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 report thereon in the context of his next report;

28. *Welcomes* the launch of the Caselaw portal, which includes search criteria, filters and a digest of all judgments of the United Nations Dispute and Appeals Tribunals and contributes to a more transparent and accessible system of administration of justice, and to the upholding of the principle of accountability, and requests the Secretary-General to provide further information on the functioning of the portal in his next report;

29. *Recognizes* that the voluntary supplemental funding mechanism for the Office of Staff Legal Assistance is an invaluable resource for the funding of its staff members and its presence in the field, notes with concern the continuing opt-out rates from the voluntary staff funding mechanism, and requests the Secretary-General to further his efforts to strengthen incentives for staff not to opt out, particularly in locations and United Nations entities where the participation rate is low, and to report on measures taken in this regard in the context of his next report;

30. *Recalls* paragraph 27 of its resolution [74/258](#), and decides to approve article 19 (2) of the proposed amendments to the rules of procedure of the Dispute Tribunal as set out in annex I to the report of the Secretary-General on the administration of justice at the United Nations;

31. *Encourages* the Dispute Tribunal to conduct further consultations on the interlinkage between the remaining amendments to the rules of procedure and existing rules, build consensus on the remaining amendments, and bring them to the attention of the General Assembly at its seventy-eighth session in the context of the report of the Secretary-General on the administration of justice at the United Nations;

32. *Takes note* of the proposal of the Secretary-General to amend the statute of the Dispute Tribunal as set out in paragraph 128 of his report on the administration of justice at the United Nations, and of the different views expressed by key stakeholders, and encourages the Secretary-General to continue to consult the various stakeholders on this important legal issue, revert to the appropriate committee to consider the matter and report thereon to the General Assembly, with a view to concluding its consideration at the seventy-eighth session;

33. *Stresses* that all elements of the system of administration of justice as well as disciplinary measures must work in accordance with the Charter of the United Nations and the legal and regulatory framework approved by the General Assembly;

34. *Reaffirms* the authority of the Secretary-General to impose disciplinary measures on staff who have engaged in misconduct consistent with the regulatory framework established by the General Assembly;

35. *Affirms* that the Dispute Tribunal and the Appeals Tribunal shall exercise their powers according to their respective statutes, including that the Dispute Tribunal is competent to hear and pass judgment on an application filed by an individual to appeal an administrative decision imposing a disciplinary measure and the Appeals Tribunal is competent to hear and pass judgment on an appeal filed against a judgment rendered by the Dispute Tribunal;

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.
