



General Assembly

Distr.: Limited
10 February 2020

Original: English

Special Committee on the Charter of the United Nations and on the Strengthening of the Role of the Organization

18–26 February 2020

Identification of new subjects

Privileges and immunities enjoyed by representatives of the Members of the United Nations and officials of the Organization that are necessary for the independent exercise of their functions in connection with the Organization

Working paper submitted by the Syrian Arab Republic

1. In accordance with the mandate provided for in General Assembly resolution [3499 \(XXX\)](#) of 15 December 1975, the Special Committee on the Charter of the United Nations and on the Strengthening of the Role of the Organization should consider any additional specific proposals that Governments may make with a view to enhancing the ability of the United Nations to achieve its purposes.
2. In fulfilment of that mandate, the Special Committee must tackle the task of assisting in making recommendations with a view to clarifying specific details regarding the application of Article 105 of the Charter, which stipulates that the United Nations shall enjoy in the territory of each of its Members the privileges and immunities required to achieve its purposes, as well as that the representatives of the Members of the United Nations and the officials of the Organization shall similarly enjoy the privileges and immunities necessary for the independent exercise of their functions in connection with the Organization.
3. Moreover, the imposition of restrictive measures by the Government of the host country against United Nations personnel of some nationalities constitutes an abuse of the international character of those officials and a clear violation of paragraph 2 of Article 100 of the Charter. Needless to say, this illegal action is not taken by any of the Governments that host United Nations headquarters, except for the Government that hosts the Headquarters in New York.
4. This task is becoming increasingly important in the light of the serious setbacks and unprecedented breaches of the United Nations Headquarters Agreement by the Government of the host country for United Nations Headquarters in New York, as it has become evident that the Government of the host country has been pursuing a



punitive and retaliatory policy in recent years against the representatives of certain Member States and against United Nations personnel who hold the nationalities of these States. These are setbacks that have been particularly experienced by high-level officials and representatives of the Islamic Republic of Iran, the Democratic People's Republic of Korea, Cuba, the Bolivarian Republic of Venezuela, the Russian Federation and the Syrian Arab Republic. These breaches have included, but are not limited to, unjust and illogical procedures related to imposing restrictions and impossible standards and/or even refraining from granting entry visas to the United States to representatives of some of these countries and members of their families, as well as imposing a movement and travel restriction, and restricting the opening of bank accounts. Indeed, the level of violations recently extended to the refusal of the Government of the host country to grant diplomatic facilities and protection to senior officials who represent some of these countries at United Nations high-level meetings.

5. The host country's Government has recently begun to impose measures that are unlawful and unjustified, in order to increase the level of restriction and to put more pressure on the representatives of some Member States. The United Nations community in New York knows that the real motives behind these restrictive and punitive measures are linked to political differences at the bilateral level between the Government of the host country and each of the Governments of the countries whose representatives to the United Nations are subject to these measures. However, these measures, especially those related to restricting movement and refraining from granting entry visas or restricting the granting of such visas through the imposition of unreasonable conditions and standards, have caused humanitarian consequences at the individual and familial levels for representatives of some Member States. Unfortunately, the Secretariat has not yet been able to find a real way out to ensure compliance with the United Nations Headquarters Agreement, which requires the goodwill and good intention of the parties that signed it.

6. Consequently, the Special Committee has an important role and responsibility to contribute actively to providing an analysis, from a legal perspective, of matters related to the implementation of the provisions of the United Nations Headquarters Agreement to ensure the defence of the interests of Member States and United Nations staff of all nationalities without discrimination or politicization. In this regard, it is essential to refer to sections 27 and 28 of the United Nations Headquarters Agreement, which stress the need to adhere to the implementation of the Agreement in order to ensure that the United Nations implements its goals and actions effectively without restrictions or obstacles.

7. The United Nations Headquarters Agreement also provides in sections 11 and 12 that federal, state or local authorities in the United States shall not impose any impediment to the transit of delegates or officials to and from the Headquarters district. The provisions of section 11 shall be applied, regardless of the relationships between the Governments of the persons referred to in this section and the United States Government. Moreover, the Agreement states in section 13 that the Government of the host country should grant required entry visas for Member State officials and representatives as promptly as possible, and that any restriction on the movement of officials to and from the Headquarters district shall be done through the Secretary-General's consultation with the concerned country.

8. In conclusion, the Secretary-General shall be directly involved in any formal and informal discussions and negotiations that fall within the framework of solving outstanding problems between the Government of the host country and the affected representatives of the Member States or affected staff of the United Nations who hold certain nationalities, considering that the Secretary-General is the supreme personality that represents the interests of workers at United Nations headquarters, along with his primary role in resolving any disagreement over the interpretation or

application of legal instruments, particularly the United Nations Headquarters Agreement.

9. The Special Committee on the Charter of the United Nations and on the Strengthening of the Role of the Organization should play a more active role, in legal terms, in examining effective ways to implement the recommendations made in the reports of the Committee on Relations with the Host Country, established pursuant to General Assembly resolution 2819 (XXVI). These reports periodically assess the performance of the host country's Government in implementing its responsibilities and obligations vis-à-vis the United Nations and its accredited missions and their personnel, in accordance with the United Nations Headquarters Agreement, the Convention on the Privileges and Immunities of the United Nations, adopted by the General Assembly on 13 February 1946, and general international law.

10. The Special Committee on the Charter of the United Nations and on the Strengthening of the Role of the Organization can conduct a study of the above-mentioned cases, either directly or by establishing subsidiary bodies of an ad hoc nature.

11. In the light of the above, the Special Committee may propose the following:

(a) That the Working Group of the Whole undertake the following steps under the topic "Privileges and immunities enjoyed by representatives of the Members of the United Nations and officials of the Organization", to be considered under the Special Committee's agenda in relation to the question of the peaceful settlement of disputes between States:

(i) Conduct a legal study on the application of Article 105 of the Charter, which addresses the issues of enjoyment of privileges and immunities required for the fulfilment of the purposes of the United Nations;

(ii) Conduct an urgent study to determine the ways to resort to section 21 of the United Nations Headquarters Agreement, which specifies the competence and mandate of the Secretary-General for resolving disputes arising from the application and interpretation of the sections and articles of the Agreement, whether through an arbitration option or an option to request an advisory opinion from the International Court of Justice;

(iii) Conduct a study to determine the possibility of resorting to the text of section 30 of the Convention on the Privileges and Immunities of the United Nations. This section is in article VIII, "Settlement of disputes", and explicitly states the advisory role of the International Court of Justice in dispute resolution regarding the interpretation or application of the Convention;

(iv) Request Member States to present their views on problems and complexities that their permanent delegations and representatives might face in countries hosting United Nations headquarters. These views and assessments should be included in official reports, which should also include clear information and assessments about the best practices of the Governments of the host countries for the headquarters of the United Nations. The Secretariat may submit, at the beginning of the Special Committee session, a report containing the views of Member States, which would be a contribution to the studies being conducted by the Working Group of the Whole;

(b) On the basis of such studies and discussion, and taking into account the proposed guidelines reproduced below, the Working Group of the Whole would make recommendations to the Special Committee, with a view to having such recommendations approved and transmitted in the Special Committee's report to the General Assembly for consideration;

(c) Subsequently, the Special Committee on the Charter of the United Nations and on the Strengthening of the Role of the Organization would consider ways to implement the recommendations on such matters, as approved by the General Assembly.

12. To clarify, the purpose of this process should be to ensure compliance with the application of relevant legal texts and tools, to put an end to all discriminatory restrictions and procedures that may be imposed by the Government of any host country, and to ensure that host country Governments adhere to uniform standards consistent with the spirit of justice and equality among representatives of all permanent missions without discrimination or exception, bearing in mind the fact that the practices of any Government hosting a United Nations headquarters must be kept free of politicization and the imposition of punitive or reciprocal procedures, and more importantly, that these practices are not subject to the nature and level of political relationships between the Government of the host country and the Government of any Member State.

Guidelines on privileges and immunities enjoyed by representatives of the Members of the United Nations and officials of the Organization that are necessary for the independent exercise of their functions in connection with the Organization

The General Assembly,

Recalling the provisions of the Charter of the United Nations related to the privileges and immunities of the Members of the United Nations and officials of the Organization that are necessary for the independent exercise of their functions in connection with the Organization, in particular Article 105 of the Charter,

Recalling also the Convention on the Privileges and Immunities of the United Nations, adopted by the General Assembly on 13 February 1946, and the Agreement between the United Nations and the United States of America regarding the Headquarters of the United Nations (the United Nations Headquarters Agreement), adopted by the Assembly on 31 October 1947, and the Vienna Convention on Diplomatic Relations,

Recognizing the role of the Special Committee on the Charter of the United Nations and on the Strengthening of the Role of the Organization in enhancing the ability of the United Nations to achieve its purposes,

Bearing in mind the recommendations issued in the most recent report of the Committee on Relations with the Host Country, established pursuant to General Assembly resolution [2819 \(XXVI\)](#),¹

Considering seriously and with concern the continuing and escalating level of serious setbacks and unprecedented breaches of the United Nations Headquarters Agreement by the Government of the host country for United Nations Headquarters in New York,

Emphasizing that the practices of any Government hosting a United Nations headquarters must be kept free from politicization and the imposition of punitive or reciprocal procedures, and more importantly that these practices should not be subject to the nature and level of political relations between the host country's Government and the Governments of any other Member States,

¹ [A/74/26](#).

Recalling the statement made by the Under-Secretary-General for Legal Affairs and United Nations Legal Counsel to the Committee on Relations with the Host Country at its 295th meeting, on 15 October 2019, in particular the affirmation contained therein regarding the firm position of the Secretary-General that there is no room for the application of measures based on reciprocity in the treatment accorded to permanent missions accredited to the United Nations in New York,²

Emphasizing the importance of the role and responsibility of the Secretary-General in finding and implementing fundamental solutions that put an end to the politicization of the issue of relations with the host country in accordance with what is stated in the United Nations Headquarters Agreement and in all other available legal texts and instruments,

Emphasizing also the need to formulate approaches and mechanisms, in accordance with the Charter, ensuring the host country's commitment to the United Nations Headquarters Agreement, and granting the Secretariat the ability to intervene to defend its staff and the permanent missions of certain countries,

Considering the lack of clarity and vision regarding the implementation of article VIII, "Settlement of disputes", section 30, of the Convention on the Privileges and Immunities of the United Nations,

Considering also the position and related decisions of the Movement of Non-Aligned Countries at its recent summit, held in the Republic of Azerbaijan on 25 and 26 October 2019, at which the Heads of State and Government decided to launch consultations in New York with the wider membership of the United Nations, with a view to presenting before the General Assembly a short and action-oriented draft resolution demanding the fulfilment of host country responsibilities, by virtue of relevant headquarters agreements and the Vienna Convention on Diplomatic Relations,

Adopts the following:

Guidelines on privileges and immunities enjoyed by representatives of the Members of the United Nations and officials of the Organization that are necessary for the independent exercise of their functions in connection with the Organization

1. The role and effectiveness of the Committee on Relations with the Host Country should be enhanced through reconsideration of the process of selecting Member States for the Committee, in order to ensure equitable geographical distribution and to ensure adequate representation of Member States, especially those affected by the procedures, restrictions and discriminatory treatment imposed by the Government of the host country.
2. The effectiveness of the working methods followed in the context of the Committee on Relations with the Host Country and the legal instruments available to ensure the implementation of the recommendations issued by the Committee should be considered.
3. The importance of the role of the Secretary-General in addressing the concerns of Member States that suffer from negative, discriminatory and punitive treatment and restrictions imposed by the Government of the host country should be emphasized, and the Secretary-General should consider implementing available options in order to ensure the fair and impartial application of the Convention on the Privileges and Immunities of the United Nations, the United Nations Headquarters

² A/AC.154/415.

Agreement, relevant principles of international law and the Vienna Convention on Diplomatic Relations.

4. The host country's Government should adhere to the terms of the United Nations Headquarters Agreement in order to ensure that representatives of Member States and the staff of the Organization carry out their functions and contribute to enhancing the ability of the United Nations to achieve its purposes.
5. A periodic monitoring and evaluation mechanism that relies on collecting and considering reports from Member States on the problems and complications faced by their permanent delegations and representatives in the countries hosting United Nations headquarters should be established. These reports should include clear information and assessments about the best practices adopted by the Governments of the host countries for the headquarters of the United Nations.
6. The role of the Secretariat in ensuring the host country's commitment to the United Nations Headquarters Agreement should be strengthened, through the establishment of monitoring and evaluation mechanisms for problems raised by Member States in the context of relations with the host country.
7. The Secretary-General could be requested to prepare an annual report on the state of the relationship between the United Nations and the Governments hosting headquarters, which could include voluntary information provided by States Members of the United Nations, and the Secretariat's assessment of the extent to which host countries adhere to the provisions of the Convention on the Privileges and Immunities of the United Nations, the United Nations Headquarters Agreement and best practices in that regard.
8. Concrete steps should be taken in order to allow the General Assembly to conduct consultations to provide the necessary legal instruments that contribute to ensuring respect for such privileges and immunities of the Members of the United Nations and officials of the Organization as are necessary for the independent exercise of their functions in connection with the Organization.
