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Promotion and protection of human rights: human rights questions, including alternative approaches for improving the effective enjoyment of human rights and fundamental freedoms

Austria, Belgium, Bulgaria, Comoros, Côte d'Ivoire, Cyprus, Denmark, Estonia, France, Germany, Ireland, Italy, Jordan, Luxembourg, Malta, Morocco, Netherlands, New Zealand, Poland, Portugal, Senegal, Slovakia, Spain, Tunisia and United States of America: draft resolution

The role of Ombudsman and mediator institutions in the promotion and protection of human rights, good governance and the rule of law

The General Assembly,

Reaffirming its commitment to the purposes and principles of the Charter of the United Nations and the Universal Declaration of Human Rights,¹

Recalling the Vienna Declaration and Programme of Action adopted by the World Conference on Human Rights on 25 June 1993,² in which the Conference reaffirmed the important and constructive role played by national institutions for the promotion and protection of human rights,

Reaffirming its resolutions [65/207](#) of 21 December 2010, [67/163](#) of 20 December 2012, [69/168](#) of 18 December 2014, [71/200](#) of 19 December 2016 and [72/186](#) of 19 December 2017 on the role of the Ombudsman and mediator institutions in the promotion and protection of human rights,

Recalling the principles relating to the status of national institutions for the promotion and protection of human rights (the Paris Principles), welcomed by the General Assembly in its resolution [48/134](#) of 20 December 1993 and annexed thereto,

Acknowledging the principles on the protection and promotion of the Ombudsman institution (the Venice Principles),

¹ Resolution [217 A \(III\)](#).

² [A/CONF.157/24 \(Part I\)](#), chap. III.



Recalling its previous resolutions on national institutions for the promotion and protection of human rights, in particular resolutions [66/169](#) of 19 December 2011, [68/171](#) of 18 December 2013, [70/163](#) of 17 December 2015, and [74/156](#) of 18 December 2019 as well as Human Rights Council resolutions [23/17](#) of 13 June 2013,³ [27/18](#) of 25 September 2014,⁴ [33/15](#) of 29 September 2016,⁵ [39/17](#) of 28 September 2018⁶ and [45/22](#) of 6 October 2020;⁷

Reaffirming the functional and structural differences between national human rights institutions, on the one hand, and Ombudsman and mediator institutions, on the other, and underlining in this regard that reports on the implementation of General Assembly resolutions on the role of the Ombudsman and mediator institutions by the Office of the United Nations High Commissioner for Human Rights should be stand-alone reports,

Acknowledging the long history of Ombudsman institutions and the subsequent extensive developments throughout the world in creating and strengthening Ombudsman and mediator institutions, and recognizing the important role that these institutions can play, in accordance with their mandate, in the promotion and protection of human rights and fundamental freedoms, promoting good governance and respect for the rule of law by addressing the imbalance of power between the individual and the providers of public services;

Welcoming the rapidly growing interest throughout the world in the creation and strengthening of Ombudsman and mediator institutions, and recognizing the important role that these institutions can play, in accordance with their mandate, in support of national complaint resolution,

Recognizing that the role of Ombudsman and mediator institutions, whether they are national human rights institutions or not, is the promotion and protection of human rights and fundamental freedoms, promotion of good governance and respect for the rule of law, as a separate and additional function, but also as an integral part to all other aspects of their work,

Underlining the importance of autonomy and independence from the executive or judicial branches of Government, its agencies or political parties, of Ombudsman and mediator institutions, where they exist, in order to enable them to consider all issues related to their fields of competence, without real or perceived threat to their procedural ability or efficiency and without fear of reprisal, intimidation or recrimination in any form, whether online or offline, that may threaten their functioning or the physical safety and security of their officials,

Considering the role of Ombudsman and mediator institutions in promoting good governance in public administrations and improving their relations with citizens, in promoting respect for human rights and fundamental freedoms and in strengthening the delivery of public services, by promoting the rule of law, good governance, transparency, accountability, and fairness,

Considering also the important role of the existing Ombudsman and mediator institutions in contributing to the effective realization of the rule of law and respect for the principles of justice and equality,

³ See *Official Records of the General Assembly, Sixty-eighth Session, Supplement No. 53 (A/68/53)*, chap. V, sect. A.

⁴ *Ibid.*, *Sixty-ninth Session, Supplement No. 53A* and corrigenda ([A/69/53/Add.1](#), [A/69/53/Add.1/Corr.1](#) and [A/69/53/Add.1/Corr.2](#)), chap. IV, sect. A.

⁵ *Ibid.*, *Seventy-first Session, Supplement No. 53A* and corrigendum ([A/71/53/Add.1](#) and [A/71/53/Add.1/Corr.1](#)), chap. II.

⁶ *Ibid.*, *Seventy-third Session, Supplement No. 53A (A/73/53/Add.1)*, chap. III.

⁷ *Ibid.*, *Seventy-fifth Session, Supplement No. 53A (A/75/53/Add.1)*, chap. III.

Acknowledging the importance of affording these institutions, as appropriate, the necessary mandate, including the authority to assess, monitor and, where provided for by national legislation, investigate matters on their own initiative, as well as protection to allow action to be taken independently and effectively against unfairness towards any person or group and the importance of State support for the autonomy, competence and impartiality of the Ombudsman and of the process,

Stressing the importance of the financial and administrative independence and stability of these institutions, and noting with satisfaction the efforts of those States that have provided their Ombudsman and mediator institutions with more autonomy and independence, including by giving them an investigative role or enhancing such a role,

Stressing also that these institutions, where they exist, can play an important role in advising Governments with respect to drafting or amending existing national laws and policies, ratifying relevant international instruments and bringing national legislation and national practices into line with their States' international human rights obligations,

Stressing further the importance of international cooperation between Ombudsman offices and mediators, and recalling the role played by regional and international associations of Ombudsman and mediator institutions in promoting cooperation and sharing best practices,

Noting with satisfaction the active continuing work of the global network of Ombudsmen, the International Ombudsman Institute, and the close cooperation with the active regional Ombudsman and mediator associations and networks, namely, the Association of Mediterranean Ombudsmen, the Ibero-American Federation of Ombudsmen, the Association of Ombudsmen and Mediators of la Francophonie, the Asian Ombudsman Association, the African Ombudsman and Mediators Association, the Arab Ombudsman Network, the European Mediation Network Initiative, the Pacific Ombudsman Alliance, the Eurasian Ombudsman Alliance, and other active Ombudsman and mediator associations and networks,

1. *Takes note* of the report of the Secretary-General;⁸

2. *Strongly encourages* Member States:

(a) To consider the creation or the strengthening of independent and autonomous Ombudsman and mediator institutions at the national level and, where applicable, at the regional or local level, consistent with the principles on the protection and promotion of the Ombudsman institution (the Venice Principles), either as national human rights institutions or alongside them;

(b) To endow Ombudsman and mediator institutions, where they exist, with the necessary constitutional and legislative framework, as well as State support and protection, adequate financial allocation for staffing and other budgetary needs, a broad mandate across all public services, the powers necessary to ensure that they have the tools they need to select issues, resolve maladministration, investigate thoroughly and communicate results, and all other appropriate means, in order to ensure the efficient and independent exercise of their mandate and to strengthen the legitimacy and credibility of their actions as mechanisms for the promotion and protection of human rights and the promotion of good governance and respect for the rule of law;

(c) Where they exist, to take the appropriate steps to ensure that the means of appointment of the Ombudsman or mediator respect the full independence and State

⁸ [A/75/224](#).

recognition of, as well as respect for, the Ombudsman and mediator institutions and their work;

(d) To provide for the clear mandate of Ombudsman and mediator institutions, where they exist, to enable the prevention and appropriate resolution of any unfairness and maladministration and the promotion and protection of human rights, and to report on their activities, as may be appropriate, both generally and on specific issues;

(e) To take the appropriate steps to ensure that adequate protection exists for Ombudsman and mediator institutions, where they exist, against coercion, reprisals, intimidation or threat, including from other authorities, and that these acts are promptly and duly investigated and the perpetrators held accountable;

(f) To give due consideration to the principles relating to the status of national institutions for the promotion and protection of human rights (the Paris Principles)⁹ when assigning to the Ombudsman or the mediator institution the role of national preventive mechanisms and national monitoring mechanisms;

(g) To develop and conduct, as appropriate, outreach activities at the national level, in collaboration with all relevant stakeholders, in order to raise awareness of the important role of Ombudsman and mediator institutions;

(h) To share and exchange best practices on the work and functioning of their Ombudsman and mediator institutions, in collaboration with the Office of the United Nations High Commissioner for Human Rights and with the International Ombudsman Institute and other international and regional Ombudsman organizations;

3. *Recognizes* that, in accordance with the Vienna Declaration and Programme of Action, it is the right of each State to choose the framework for national institutions, including those of the Ombudsman and the mediator, which is best suited to its particular needs at the national level, in order to promote human rights in accordance with international human rights instruments;

4. *Recognizes* that the practical effectiveness of the chosen framework for such national institutions should be monitored and assessed, consistent with internationally accepted and recognized standards, and that this framework should neither threaten the autonomy nor the independence of the institution nor diminish its ability to carry out its mandate;

5. *Welcomes* the active participation of the Office of the High Commissioner in all international and regional meetings of Ombudsman and mediator institutions, whether in person or, alternatively, by electronic means;

6. *Encourages* Member States and regional and international Ombudsman and mediator institutions to regularly interact, exchange information and share best practices with the Office of the High Commissioner on all matters of relevance;

7. *Encourages* the Office of the High Commissioner, through its advisory services, to develop and support activities dedicated to the existing Ombudsman and mediator institutions and to strengthen their role within national systems for human rights protection;

8. *Encourages* Ombudsman and mediator institutions, where they exist:

(a) To operate, as appropriate, in accordance with all relevant international instruments, including the Paris Principles and the Venice Principles, in order to strengthen their independence and autonomy and to enhance their capacity to assist

⁹ Resolution 48/134, annex.

Member States in the promotion and protection of human rights and the promotion of good governance and respect for the rule of law,

(b) To request, in cooperation with the Office of the High Commissioner, their accreditation by the Global Alliance of National Human Rights Institutions, where the Ombudsman or mediator institution is the national human rights institution, in order to enable them to interact effectively with the relevant human rights bodies of the United Nations system;

(c) To publicly report, in the interests of accountability and transparency, to the authority that appoints the Ombudsman or the mediator of Member States on their activities at least annually;

(d) To cooperate with relevant State bodies and develop cooperation with civil society organizations, without compromising their autonomy or independence;

(e) To conduct awareness-raising activities on their roles and functions, in collaboration with all relevant stakeholders;

(f) To engage with the International Ombudsman Institute, the Global Alliance of National Human Rights Institutions and other regional networks and associations, with a view to exchanging experiences, lessons learned and best practices;

9. *Requests* the Secretary-General to report to the General Assembly at its seventy-seventh session on the implementation of the present resolution, in particular on the obstacles encountered by Member States in this regard, as well as on best practices in the work and functioning of Ombudsman and mediator institutions.