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## Fifth Committee

### Summary record of the 15th meeting

Held at Headquarters, New York, on Tuesday, 21 November 2023, at 10 a.m.

*Chair:* Mr. Mahmoud. . . . . (Egypt)  
*Vice-Chair of the Advisory Committee on Administrative  
and Budgetary Questions:* Ms. Gaspar Ruas

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*The meeting was called to order at 10 a.m.*

**Agenda item 144: Administration of justice at the United Nations** ([A/78/121](#), [A/78/156](#), [A/78/170](#) and [A/78/580](#))

1. **Ms. Frankson-Wallace** (Executive Director, Office of Administration of Justice), introducing the report of the Secretary-General on the administration of justice at the United Nations ([A/78/156](#)), said that the report was the result of coordination between the Office of Administration of Justice and all relevant stakeholders. In 2022, the justice system had functioned well and programme delivery had been maintained, with some outputs exceeding those of prior periods. The Management Evaluation Unit had closed 328 of the 368 requests received. Of the management evaluation requests received in the Secretariat, 71 per cent had not proceeded to the United Nations Dispute Tribunal, which indicated that the function had played an important role in addressing workplace grievances. The Office of Staff Legal Assistance had received 1,202 new requests for assistance and closed 954 requests through settlement or otherwise. The United Nations Dispute Tribunal and United Nations Appeals Tribunal had focused on operational efficiency with the aim of reducing processing times and avoiding a backlog. The report contained responses to requests made by the General Assembly in its resolution [77/260](#), with regard to multilingualism, the accountability of managers, remedies available to non-staff personnel, protection against retaliation, informal dispute resolution, the voluntary supplemental funding mechanism for the Office of Staff Legal Assistance, and opportunities to increase the use of informal dispute resolution, including mediation. The report also included information on the Caselaw portal that had been launched in October 2022; as at 6 November 2023, the portal had had 287,116 views. Systemic issues concerning the activities of the Office of the United Nations Ombudsman and Mediation Services were covered in annex I to the report.

2. Following consultations with stakeholders, the Secretary-General presented an amended request to the Assembly to approve an amendment of the statute of the Dispute Tribunal to clarify the scope of the review to be conducted by the Tribunals in disciplinary cases. In addition, proposed amendments to the rules of procedure of the Dispute Tribunal, together with comments by relevant stakeholders, were submitted to the Assembly for consideration. The Secretary-General also invited the General Assembly to consider whether a recent Appeals Tribunal judgment on anonymization of the names of parties, including those found to have

engaged in serious misconduct, reflected its intention regarding transparency in the system of administration of justice.

3. **Ms. Dodson** (United Nations Ombudsman), introducing the report of the Secretary-General on the activities of the Office of the United Nations Ombudsman and Mediation Services ([A/78/170](#)), said that in the 20 years since the Office's establishment it had handled over 25,000 cases, thereby contributing to the good functioning of the Organization. The Office had responded to 1,560 cases in 2022 and had already addressed 1,836 cases in 2023, including 110 mediation cases. That trend indicated employees' willingness to use the informal system as intended by the General Assembly. Her team had made efforts to promote the "informal first" approach whereby the ombudsman and mediation services were the preferred first step in addressing workplace disputes. The Office took a three-pronged, holistic approach to the delivery of its mandate by offering confidential and impartial assistance to resolve workplace disputes; identifying the root causes of conflict and providing feedback to the Organization for organizational learning; and raising awareness and building conflict competence skills. The Office continued to raise awareness about mediation as a key tool for resolving workplace conflicts, and those efforts had resulted in more self-referred requests for mediation in 2023. The three categories of issue most frequently reported had been evaluative relationships, job and career, and compensation and benefits. The Office had observed that those issues directly affected the mental health and well-being of employees and the United Nations System Mental Health and Well-being Strategy provided guidance on fostering an inclusive, sustainable work environment that placed mental health and well-being at the forefront.

4. In accordance with General Assembly resolution [77/260](#), the Office had continued the pilot project to provide its services to non-staff personnel, and in 2022 it had handled 182 cases from that category of employees. Since non-staff personnel would remain a critical part of the workforce, it was proposed that the pilot project be regularized within existing resources. She expressed gratitude for Member States' continued support, which enabled the Office to fulfil its mandate of helping personnel thrive and contribute in a harmonious workplace.

5. **The Chair** drew attention to the report of the Internal Justice Council on the administration of justice at the United Nations ([A/78/121](#)).

6. **Ms. Gaspar Ruas** (Vice-Chair of the Advisory Committee on Administrative and Budgetary

Questions), introducing the related report of the Advisory Committee (A/78/580), said that, while the level of activity in the new system of administration of justice had fluctuated in the 15 years since its establishment, that activity had been declining in recent years. A fuller analysis of the trends was warranted. The Advisory Committee trusted that the Secretary-General would continue to report on the caseloads of the different entities and existing tools and mechanisms to minimize the risk of unnecessary, vexatious or frivolous litigation, and in his next report would provide enhanced trend analysis and assessment of the functioning of the system. Given the centrality of the policy on protection against retaliation for enhanced transparency and accountability in the Organization, the Advisory Committee trusted that the Secretary-General would also provide in his next report more detailed information on protection against retaliation, including an analysis of any identifiable trends and challenges and the level of awareness and reliance of staff on the policy. The Secretary-General should provide detailed information on the voluntary supplemental funding mechanism for the Office of Staff Legal Assistance, including regarding opt-out rates, the amount of revenue generated, services provided and client satisfaction, along with a comprehensive analysis of potential future funding options for the consideration of the General Assembly at its seventy-ninth session.

7. Regarding the proposed amendment to the statute of the Dispute Tribunal, the Advisory Committee noted with concern the potentially significant financial implications presented by the Secretary-General in a situation where the Dispute Tribunal would be conducting *de novo* trial hearings on disciplinary cases. The Advisory Committee trusted that, should financial implications arise in that connection, they would be presented for the Assembly's consideration in accordance with the relevant rules and procedures.

8. With respect to non-staff personnel, the Advisory Committee recommended the establishment of the envisaged standing arrangement with the Permanent Court of Arbitration, on a trial basis for an initial period of three years, to support arbitration proceedings involving consultants and individual contractors. The Advisory Committee also saw merit in regularizing, within existing resources, the pilot project to offer access to informal dispute resolution services to non-staff personnel.

9. The Advisory Committee encouraged the Secretary-General to undertake further efforts, including through intensified awareness-raising activities and coordination with relevant stakeholders,

in order to strengthen the "informal first" approach as a means of avoiding unnecessary litigation.

10. **Mr. Hernandez Morera** (Cuba), speaking on behalf of the Group of 77 and China, said that the Group attached great importance to the system of administration of justice as an independent, transparent and professionalized mechanism for the effective management of the Organization's human resources. The resolution of work-related disputes must be explored, and accountability and respect for the rights and obligations of staff members must be guaranteed. A sustainable, adequately resourced and decentralized system that respected international law, the rule of law and due process was necessary for the effective management of the Organization's human resources, its most valuable asset.

11. The Management Evaluation Unit had received 284 fewer requests in 2022 than in 2021. A full 71 per cent of requests for management evaluation had not proceeded to the Dispute Tribunal, a situation that indicated the importance of the management evaluation function in providing resolution to staff members. The Group acknowledged the progress made by the Dispute Tribunal in reducing its backlog of cases, and encouraged the Secretary-General to ensure that cases and work-related disputes were disposed of within the stipulated time frame.

12. The Group noted the information provided by the Secretary-General on multilingualism, accountability of managers, protection against retaliation, the voluntary supplemental funding mechanism for the Office of Staff Legal Assistance and matters pertaining to the statute of the Dispute Tribunal and jurisprudence concerning disciplinary proceedings, and remedies available to non-staff personnel. The proposed amendment to the statute of the Dispute Tribunal was a legal matter that required consultation with all relevant stakeholders.

13. The Group supported the Office of the United Nations Ombudsman and Mediation Services and encouraged the Secretary-General to maintain the positive trend in informal dispute resolution, without prejudice to the basic right of staff members to access the formal system. Recalling that the Assembly, in its resolution 77/260, had encouraged the Office to provide observations on the trends and patterns of racism and racial discrimination and remedial actions taken within the Organization, the Group acknowledged the 105 dialogue sessions that the Office had delivered to 3,655 staff members to address that important issue. It was a matter of concern that many United Nations staff had indicated that they felt marginalized, unseen and not valued and that the existence of racism undermined their

professional achievements and well-being. The Group would thoroughly assess the report of the Internal Justice Council, which contained recommendations aimed at enhancing performance and improving the operational efficiency and transparency of the administration of justice system. The Group hoped that the Secretary-General would continue his efforts to promote multilingualism and improve the geographical representation of developing countries in the formal system of administration of justice and the Office of the United Nations Ombudsman and Mediation Services.

14. **Ms. Schmied** (Switzerland), speaking also on behalf of Liechtenstein, said that the delegations of the two countries looked forward to the letter from the Sixth Committee on the legal aspects of that important item. Fair, transparent and non-discriminatory access to justice was essential to the effectiveness and credibility of the United Nations, which were of particular importance given the significant challenges faced by the Organization.

15. The issue of the resolution of conflicts involving non-staff personnel, who made a key contribution to the Organization, was vital. Such personnel faced many of the same problems as staff members in carrying out their work, but did not have access to the internal justice system. The result was inequality. The two delegations supported initiatives to provide all categories of United Nations staff, without distinction, with effective protection and remedies. During the five years since the start of the pilot project to include non-staff personnel in the mandate of the Office of the United Nations Ombudsman and Mediation Services, the number of cases had remained stable and the Office's budget had not been exceeded. The two delegations were therefore in favour of regularizing the pilot project within existing resources.

16. Mediation was an effective and fast method for resolving workplace conflicts that obviated the need for long, costly litigation, thereby bringing benefits in terms of the relations between the parties and in financial terms. The two delegations commended the Office for raising awareness about the possibilities for amicable dispute resolution and encouraged the Secretary-General to promote the use of mediation. They also welcomed efforts to increase the efficiency of the Dispute Tribunal, but emphasized that the development of institutions should not undermine parties' fundamental procedural rights.

17. **Ms. Brash** (Israel) said that her delegation supported the system-wide efforts to promote protection against retaliation for reporting misconduct and was of the view that retaliation against complainants or staff

appearing as witnesses in itself constituted misconduct. Efforts to build a strong culture of accountability should be enhanced by raising awareness among all categories of staff. The integration of mental health considerations into the work of the Office of the United Nations Ombudsman and Mediation Services underscored the importance of mental health and well-being in creating a resilient work culture that valued the prevention of and response to cases of sexual exploitation and abuse. The actions of Hamas against Israeli women on 7 October had constituted sexual terrorism. There could be no justification for sexual abuse and atrocities. She called on all Member States to remember their obligation to validate the experience of the victims and survivors of sexual exploitation and abuse and, above all, to believe them.

18. **Mr. Roshdy** (Egypt) said that the preceding speaker was making a laughingstock of the Committee by speaking about the rule of law at a time when her State was committing genocide in Gaza and by raising a matter that was irrelevant to the Committee's work. He urged the Committee members to remain focused on the matters before them and not to allow their work to be politicized.

*The meeting rose at 10.35 a.m.*