



Seventh session
Agenda item 75

REPORT OF THE SECRETARY-GENERAL ON PERSONNEL POLICY

Note by the Secretary-General

1. On 12 March 1952, the Secretary-General sent the following letter to certain former staff members whose cases are pending before the Administrative Tribunal, and also sent copies to their attorneys:

"I wish to draw your attention to the following extract from the statement which I made to the General Assembly on 10 March 1953 in regard to personnel policy:

"If the United States Executive Order had been in effect last autumn, the staff members with permanent contracts whom I terminated for refusing to answer questions, would have had an opportunity to clear themselves through the procedures established by that Order. Even now, although I believe that no one should remain in the Secretariat who refuses to answer questions relating to subversive activity on grounds of self-incrimination, I would be prepared to offer them this opportunity if they were willing to submit themselves to the investigation and review of their cases by the appropriate United States agencies and then by the Advisory Panel I have appointed. I sincerely hope that they will accept this offer and in that respect place themselves alongside almost 2,000 of their fellow Americans serving in the Secretariat who have complied with the United States Executive Order. If, as a result, they should be cleared, I would also be prepared to consider them for re-employment".

"Upon your informing me of your agreement to the procedure indicated, I shall submit your name to the United States authorities for investigation under the terms of the Executive Order of 9 January 1953. It would also be necessary for you to submit the forms provided by the United States authorities for the implementation of this Executive Order.

"I should appreciate a reply to this letter not later than Monday, 16 March at 6.00 p.m."

2. On 16 March 1953, the Secretary-General received the following reply from the attorneys of the staff members:

"Our respective clients have transmitted to us your letters of 12 March 1953.

"The entire matter, of course, is presently sub judice. Accordingly, it would seem appropriate for any disposition of it to be made through the channels of the Administrative Tribunal in order to ensure complete and continued protection of our clients' rights. Your direct communication with the applicants and the inclusion of a time limitation in your letters are not in accord with the customary procedures in pending litigation where parties are represented by counsel.

"The offer as formulated creates serious problems of interpretation and application. It is couched in extremely vague language. It purports to change the reasons for the termination of employment. It establishes conditions which we believe are violative of the Charter and of the permanent appointment rights of our clients.

"We are confident of the justice of the position taken by our clients and that the Tribunal will sustain their claims. We believe that your proposal is significant in its implicit recognition of the very serious injustice done to our clients and the untenability of the respondent's position upon the appeal. It would certainly have seemed more appropriate for your letters to offer immediate reinstatement and remedial relief to the applicants for the injury caused them.

"We are prepared to entertain, under the aegis of the Administrative Tribunal, a serious proposal of settlement of our clients' claims within the frame of reference of their rights under the Charter, the Staff Regulations and their letters of appointment. To that end, we are available for early discussions at your pleasure, provided that such discussions will not delay the proceedings, including argument on 2 April 1953 before the Tribunal, or otherwise prejudice our clients' rights.

Very truly yours,

DONNER, KINOY and FERLIN;
KAPLAN, AXELROD and JAFFE;
SHAPIRO, RABINOWITZ and BOUDIN.

(Signed) by: Leonard B. BOUDIN

3. On 19 March 1953, the Secretary-General replied as follows:

"I have received your letter of 16 March 1953.

"I regret that you evidently misunderstood the import of my communication of 12 March 1953 addressed to your respective clients. The purpose of this communication was to offer to them, if they so desired, the use of a procedure which had not been available at the time of the termination of their appointments. As I stated, if, as a result, they should be cleared, I would also be prepared to consider them for re-employment. I note that this offer has been refused.

"I might add that my communication did not purport in any way to change the reasons for the termination of your clients' employment."
