



STATEMENT BY DR. K. DHANARAJU, MEMBER OF PARLIAMENT AND MEMBER OF THE INDIAN DELEGATION, ON AGENDA ITEM 132 – ADMINISTRATION OF JUSTICE IN THE UNITED NATIONS AT THE FIFTH COMMITTEE OF THE 63RD SESSION OF THE UNITED NATIONS GENERAL ASSEMBLY ON NOVEMBER 20, 2008



We thank the Under Secretary-General for the Department of Management for introducing the report of the Secretary-General on Administration of Justice in the United Nations. We also wish to thank the Ombudsman for introducing the report of the Secretary-General on the activities of the Office of the Ombudsman. We convey our appreciation to the Chairperson of the Advisory Committee on Administrative and Budgetary Questions (ACABQ) for introducing her Committee's relevant report. My delegation aligns itself with the statement made by the Distinguished Deputy Permanent Representative of Antigua and Barbuda on behalf of the Group of 77.

The General Assembly in its resolution 61/261 established a new, independent, transparent, professionalized, adequately resourced and decentralized system of internal justice, consistent with relevant rules of international law and the principles of the rule of law and due process, to ensure respect for the rights and obligations of staff members and accountability of managers and staff members alike. The new system, which emphasizes on informal resolution of employment-related disputes, is expected to improve accountability and have a positive impact on human resources management in the Secretariat.

While the new system of administration of justice was to become operational from 1st January 2009, we are cognizant that the Secretariat is behind schedule in the preparatory work related to the implementation of the new system, particularly on staffing of the Office of Administration of Justice, finalization of the terms of reference for the registries, establishment of the Mediation Division in the Office of the Ombudsman and finalization of cost-sharing arrangements with the funds and programmes. The inability of the General Assembly to consider the draft statutes of the two tribunals and the arrangement for transition from the current system to the new one has added to the delay. In order to avoid further setback in the timetable, we call upon the Secretary-General to expedite the completion of the preparatory work, including filling up of all vacant posts, required for the implementation of the new system of administration of justice and also to update the timeline for its execution, while awaiting the approval of the statutes of the tribunals and the transitional measures by the General Assembly.

Given the considerable increase in the number of disciplinary cases, from 72 in 2006 to 277 in 2008 even before the new system of internal justice is in place, all necessary steps should be taken to ensure that the backlog of cases from the old system does not overwhelm the new system at birth, and the current system continues to function properly until the new system becomes fully operational. In this regard, we support the Secretary-General's proposals for the transitional measures, including, transfer of all pending cases to the United Nations Dispute Tribunal, once the new system is in place. We also endorse the recommendations of the ACABQ on appropriation of resources to finance the three *ad litem* Judges and nine registry staff for a 12-month period for placement in New York, Geneva and Nairobi, to deal with the backlog cases.

Decentralization is the basic to the reform of the UN's internal justice system. Given that the Secretariat is no longer headquarters-based and more UN staff work in the field [80% of the disciplinary cases in 2008 coming from peacekeeping operations], the Secretary-General has proposed a limited delegation of authority for disciplinary matters to heads of offices away from headquarters and heads of field missions to impose minor sanctions, including censures and/or fines at an appropriate level. My delegation is of the view that in order to ensure a consistent application of disciplinary measures, a robust system must be in place in the field, accompanied by certain safeguards, including legal capacity to advise the management and staff on disciplinary matters. The delegation of authority must also be accompanied by the pre-requisites in respect of human resources, administrative instructions, guidelines and training, as well as relevant manuals and standard operating procedures. Much work still needs to be done on these issues, besides other areas that have been identified by the ACABQ.

According to the ACABQ, the Secretary-General's proposals on delegation of authority do not fully respond to the General Assembly's request in paragraph 49 of resolution 62/228 in terms of an assessment of possible implications for due process rights of staff members and on other options for delegation of authority. Little data is provided on actual number of cases opened and disposed of in peacekeeping missions. No estimate has been given of the number of minor cases that would be

processed at the mission level and those that would be handled at headquarters. Even the basis for requested resources for each peacekeeping mission is not clear. Therefore, we must carefully examine all the unanswered issues related to proper delegation of authority for disciplinary measures before taking a final decision. The Office of Internal Oversight Services in its recent report on the in-depth evaluation of the Office of Human Resources Management has given a detailed critique of the delegation of authority in the area of human resources management. Though not perfectly comparable, it may be useful to draw on the lessons learnt from that study.

We urge the Secretary-General to expedite the early conclusion of cost sharing agreements with the funds and programmes. We reiterate paragraph 62 of resolution 62/228, wherein the General Assembly had approved the cost sharing arrangement for the new system of administration of justice on the basis of "headcount" approach, rather than on the basis of actual cases disposed, as proposed by the funds and programmes.

We welcome the use of Information and Communication Technology to improve the functioning of the system of administration of justice, in terms of transparency and speed in the processing of the cases, as well as providing access to information via internet and e-filing of submissions. In this process strict confidentiality should be ensured so that damage due to leakages may not be caused to the Organization and to the concerned staff member.

My delegation convey its appreciation to the Office of the Ombudsman and calls for an expedited recruitment of all approved posts in that office and the new Mediation Division, in view of its critical role in the new system of administration of justice for facilitating conflict resolution. Besides providing an informal mechanism for dispute resolution, the reports of the Office of the Ombudsman give valuable insight into human resources management issues, including identification of a number of areas of systemic malfunction, such as perceived disparities in recruitment processes, mobility and career development. The Secretary-General should utilize these findings in addressing the systemic problems faced in human resources management in the Organization.

In conclusion, my delegation hopes for an early resolution of all outstanding issues on the subject in the coming weeks so that the United Nations has in place, by January 2009, a fully functional system of administration of justice as approved by the General Assembly.

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