



**Statement on behalf of the European Union and its Member States**

**By**

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Minister Counsellor  
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**at the Sixth Committee**

**on**

**Agenda item 144  
"Administration of justice at the United Nations"**

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**- CHECK AGAINST DELIVERY -**

Mr. Chairman,

I have the honour to speak on behalf of the Member States of the European Union.

The Candidate Countries Turkey, the former Yugoslav Republic of Macedonia\*, Montenegro\*, Serbia\* and Albania\*, the country of the Stabilisation and Association Process and potential candidate Bosnia and Herzegovina, as well as Ukraine, the Republic of Moldova, Armenia, and Georgia, align themselves with this statement.

We continue to attach great importance to the functioning of the system of administration of justice at the United Nations. The progress made since 2009 represents a collective achievement and should be commended.

We take note with appreciation of the two recent reports by the Secretary-General on the administration of justice at the United Nations (A/69/227), on the activities of the Office of the United Nations Ombudsman and Mediation Services (A/69/205), as well as the report by the Internal Justice Council (A/69/126). The processing of cases through all phases of both the informal and formal systems continues to demonstrate a marked improvement in efficiency and fairness of procedure. However, some challenges still remain to be addressed. 2015 will be an important year in this regard in light of the revised proposal for an assessment of the system.

We reiterate that the Internal Justice Council has a key role in promoting independence, professionalism and accountability in the system of administration of justice, and we note the view of the Internal Justice Council that the independent review panel in charge of the assessment of the system would be well placed to consider the issues at stake and to recommend to the General Assembly whether any changes to the statutes of the Tribunals are needed.

Mr Chairman,

The informal resolution of conflicts is one of the most crucial elements of the system of administration of justice, helping to avoid expensive and time-consuming litigation. It minimizes the negative impact of conflicts and mitigates associated risks. We welcome the activities of the Office of the United Nations Ombudsman and Mediation Services in this regard and support its efforts in advancing and encouraging the use of informal conflict resolution.

As far as the Management Evaluation is concerned we note with appreciation the high number of complaints disposed of every year. We commend the MEU for the work done. The fact that a large majority of MEU decisions were eventually confirmed in whole or in part by the Tribunals is a good indicator of the accuracy of the decisions taken by the Unit. We also welcome that the MEU systematically tries to identify the requests that have potential of settlement through informal resolution, and attempts to settle those cases in such manner whenever appropriate.

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\* *The former Yugoslav Republic of Macedonia, Montenegro, Serbia and Albania continue to be part of the Stabilisation and Association Process.*

In this regard all the components of the system must be aware that alternative resolution of disputes and non-judicial settlement must be encouraged and efforts to avert litigation should not be spared. The institutionalization of good practices by the Management Evaluation Unit and mainstreaming and disseminating the jurisprudence of the Tribunals have an essential role in shaping administrative and management practices. This is also important to enable the Office or Staff Legal Assistance to better provide preventive legal advice and prevent unmeritorious claims at the outset.

Concerning the UNDT we note that the number of new cases seems to be stabilizing and that progress is being made in disposing of them effectively. Compared to the situation under the previous system, the Tribunal is doing extremely well and needs to be able to keep up this level of success.

Concerning the work of the UNAT we are somewhat concerned about the relatively high number of decisions and judgments by the UNDT that get appealed to the UNAT, with markedly different success rates. Any accumulation of a backlog which plagued the previous system needs to be avoided. In this regard, we are concerned by the high number of interlocutory motions presented in 2014, referred to in paragraph 22 of the SG Report.

We are also concerned that the Tribunals have not yet amended their rules of procedure to provide that judgments imposing financial obligations on the United Nations are not executable until expiry of the deadline for appeal or conclusion of an appeal.

Concerning the Office of the United Nations Ombudsman and Mediation Services, we urge the Office to promulgate its revised terms of reference,

Turning now to some open issues addressed in the Secretary-General's report A/69/227, we would like to state the following:

As regards the interim assessment, we thank the Secretariat for the information provided in this year's report and the revised terms of reference proposed. We reiterate our call for *inter alia* a thorough analysis not only of the managerial functioning of the tribunals, but also of their jurisprudence and working methods under the statutes and the rules of procedure. The interim assessment should also represent an opportunity to evaluate the impact of the case law on the work of UN managers, in order to verify if and to what extent the principles enshrined in the jurisprudence of the Tribunals are implemented in the practice of the Organization. This is a demanding task for which legal expertise and sufficient time is needed. On the whole we welcome any measures that would strengthen the system of administration of justice and improve its effectiveness, and we are of the view that the proposed terms of reference should adequately reflect the relevant operational aspects to be examined.

We see the mainstreaming of good management practices, as confirmed or corrected by the case law of the Tribunals, as an essential element on which the interim assessment should focus. In this regard we commend the work done so far in various areas of the UN administration of justice system, including the lessons learned exercises, the strengthening of the search engine, and the good work of the Office of Staff Legal Assistance, and encourage full implementation of lessons learned.

Mr Chairman,

As far as the numerous proposals for adoption or amendment of legal instruments, contained in the Report of the Secretary General, are concerned, we confirm our readiness to engage in conducive discussions on the code of conduct for legal representatives and we see a lot of merit in the proposal made.

The same goes for the proposed mechanism for addressing potential complaints made under the code of conduct for the Judges of the Tribunals.

In this context, consideration could also be given to the scope of the code of conduct, which could also apply to in-house counsel.

Cautiousness is needed as far as proposals for amending the Statute are concerned: we need to explore all their possible systemic consequences. We are in particular ready to consider the proposed amendment concerning the qualifications for appeals tribunal judges already made in 2012, which should be carefully examined.

Moreover, although we see merit in the request to ensure that the judges are accorded full diplomatic immunities as provided in section 19 of the General Convention on Privileges and Immunities, it will be necessary to further examine in this connection the issue of upgrading the rank of judges in order to secure privileges and immunities. The independence and impartiality of the Judges must be preserved by protecting them against any undue interference. Nonetheless, we need to make sure this is done in the most coherent way.

We note that all the issues above mentioned are evidence that there are specific legal aspects in this domain that remain crucial. Not all problems in the system can be addressed through technical or administrative measures.

We also urge the Secretary-General to submit proposals on realizing accountability where violations of rules and procedures have led to financial loss.

Mr. Chairman,

We commend the staff of OSLA to whom staff members turn for advice and whose counsel helps to avoid mistakes and misunderstandings, and ultimately a lot of unnecessary work. OSLA is, in the words of the SG's report, an important "filter" in the system. We strongly support that OSLA continues to represent staff in the proceedings before the Tribunals and we further encourage their activities across the spectrum.

Mr. Chairman,

We keep encouraging recourse to informal resolution of disputes; we believe that incorporating best practices and mainstreaming principled approaches deriving from the case law of the Tribunals will help doing that. Moreover, transparency and accountability, coupled with legal certainty should in the long run decrease the number of cases.

Finally, on the issue of the legal protection of non-staff personnel, we continue to favor a differentiated system that provides an adequate, effective and appropriate remedy. In this regard, and in line with the broad preference for non-judicial mechanisms whenever possible, we would like to reaffirm that the Organization should always provide answers to non-staff personnel and where appropriate should not refrain from proposing possible remedies.

It is in the interest of the Organization and its Member States that an assessment is made and appropriate remedies are provided. We also encourage the Office of the Ombudsman to provide information as previously requested in relation to non-staff personnel.

I thank you Mr. Chairman.