



Statement on behalf of The Kingdom of the Netherlands

By Mr. Sidney Kemble

First Secretary Permanent Mission to the United Nations

on

agenda Item 79

Criminal accountability of United Nations Officials and Experts on Mission

at the Sixth Committee

-Check against delivery-

Mr. Chairman,

As this is the first time my delegation is taking the floor, let me congratulate you and the other members of the bureau on their election. I am confident that under your able leadership we will be able to conclude the work of the Sixth Committee expeditiously.

We align ourselves with the statement of the European Union on behalf of the EU and its Member States.

We would like to thank the Secretary-General for his reporting on the implementation of resolution 72/112, and for his commitment to fight criminal misconduct by United Nations officials and experts on mission.

[Introduction]

Criminal accountability of United Nations officials and experts covers a broad range of unlawful conduct, from fraud, theft, to sexual abuse and exploitation. Clearly some conduct is more serious than other, but all unlawful conduct by United Nations officials and experts on mission is unacceptable and has a detrimental effect on the fulfilment of the mandate of the United Nations, its Funds and Programs.

Let me stress that, even though prosecution is sometimes difficult, no United Nations official stands above the law. It is our responsibility to ensure that they are held accountable for their actions, as much as anyone else.

We have been discussing this topic for more than ten years, and although progress has been made, for instance in the reporting of criminal misconduct, we seem to be unable to prevent criminal misconduct and hold those responsible accountable. This situation can no longer continue, and we need to step up our efforts in order to ensure criminal accountability of UN officials and experts on mission.

[Accountability]

Ensuring accountability requires effective reporting, investigation and – where appropriate – prosecution. It also requires cooperation between the United Nations and Member States, in particular the state of nationality of individual perpetrators. The latter has the responsibility to ensure that they can exercise jurisdiction.

We welcome the Secretary-General's efforts to strengthen procedures for reporting and investigation. Of particular importance is the harmonization of standards for investigation across the UN system. We look forward to the outcome of this work.

We note that during the last reporting period the number of referrals of alleged crimes committed by United Nations officials and experts on mission went down compared to the previous reporting period. If the decrease in referrals reflects a decrease in alleged crimes, this is a positive development.

We note with appreciation that sixty Member States have submitted information to the Secretariat on their establishment of jurisdiction over crimes committed by United Nations officials and experts on mission. We equally appreciate the analysis of this information by the Secretariat.

At the same time, this analysis suggests that there are situations in which no jurisdiction can be exercised. We support the call by the Secretary-General that Member States extend their extraterritorial jurisdiction over crimes, particularly those of a serious nature, that may be committed by their nationals when assigned to the United Nations or operating under its authority. The Secretary-General should urge particularly the contributing state to establish such jurisdiction.

In addition, the Secretary-General should ensure that the Contributing State accept the arrangements set out in the *'Voluntary Compact on the Commitment on preventing and addressing sexual exploitation and abuse'*.

We note with appreciation that ninety-eight (98) States, the Netherlands being one of them, have signed the Compact and welcome efforts by the Secretary-General to increase this number.

[United Nations officials]

The Secretary-General, in para 56 of report 73/129, expressed his expectation that any criminal conduct committed by United Nations staff members, or other categories of personnel, would be prosecuted in a manner consistent with the gravity of the offense. During the reporting period 24 cases involving 25 United Nations officials and experts, were referred to the State of nationality for investigation and conduct.

While we share the expectation of the Secretary-General that any criminal conduct committed by UN officials should be fully investigated and prosecuted, we are aware that immunities may apply to United Nations officials and that they may prevent certain legal proceedings.

Annex I lists all the cases that the Secretary-General referred to the state of nationality for investigation and prosecution. It also lists whether the state of nationality requested a waiver of immunity. Nine of the referred cases concerned UN officials (SG report A/73/71 on the Practice in disciplinary matters and cases of possible criminal behavior of the referred cases).

Unclear to my delegation is whether the immunity was waived of those nine officials or whether this was not necessary since the United Nations official will only enjoy functional immunity and misconduct evidently is not covered?

The topic of criminal accountability of UN officials and experts on mission is closely linked to the topic of combating Sexual Exploitation and Abuse, and sexual harassment. We fully support the Secretary-General's strategy to combat Sexual Exploitation and Abuse, launched in 2017. We commend the work done so far and strongly encourage further work.

Over the past years, new Administrative Instructions have been issued, new policies and measures have been adopted and implemented, including a zero-tolerance policy. There is a Secretary-General's bulletin on *'Prohibition of discrimination, harassment, including sexual harassment, and abuse of authority'*, there is one on *'Special measures for protection from sexual exploitation and abuse'*, on *'Protection against retaliation'*, and many more.

On paper the right policies are in place. But if policy alone was successful, we would not be discussing this issue today. We therefore support the recent announced strategy aimed at bringing about a cultural and operational change to improve dramatically how the United Nations addresses sexual exploitation and abuse, and sexual harassment.

The fact that there is still a culture of silence concerning sexual exploitation and abuse, sexual harassment and criminal misconduct by officials of the United Nations, its funds and programs, is deeply troubling.

The Netherlands is committed to eliminate Sexual Exploitation and Abuse, and the Prime Minister of the Netherlands has joined the Secretary-General's circle of leadership. This is a sign of our strong commitment to this issue.

As a donor to the United Nations, its Funds and Programs, my Government no longer wants to be seen as enabling, financing and approving such conduct. Therefore, before financially contributing to funds and programs, we will require the organization to take measures to prevent and report criminal misconduct. In case internal procedures addressing criminal misconduct,

sexual exploitation and abuse, and sexual harassment are not put in place and properly executed, we will suspend the contribution.

As one of the co-founders of the Group of Friends to Eliminate Sexual Harassment, we will coordinate our efforts with the other members of the group.

Finally, I would like to reiterate that the Kingdom of the Netherlands remains ready to consider a proposal for a comprehensive international legal framework, which would clarify the circumstances under which UN Member States can exercise jurisdiction, as well as the categories of individuals and crimes subject to that jurisdiction.

Thank you, Mr. Chairman