



UNITED NATIONS STAFF UNION
SYNDICAT DU PERSONNEL DE L'ORGANISATION DES NATIONS UNIES
44th STAFF COUNCIL/ 44^{ème} CONSEIL DU PERSONNEL

Resolution/Résolution

Resolution No.: 11

Meeting No.: 25

Date: 16 February 2012

Accountability and the Administration of Justice at the United Nations

The Staff Council,

Recognizing that a strong, independent system of internal justice at the United Nations is in the best interest of the Member States, their citizens, as well as staff of the United Nations;

Noting that numerous judgments and opinions of the United Nations Dispute Tribunal call attention to the conduct of some managers (see annex I), who have abused their authority and may have been reckless or grossly negligent in their duties, including those whose failures (e.g. Judgment UNDT/2011/035) have caused a financial loss to the Organization;

Further noting that the information revealed in the end-of-assignment report to the Secretary-General by the former Under-Secretary-General for Oversight Services (See Annex II) acknowledges the systemic lack of accountability and sheds light on the problems facing the Organization at this time;

Recalling the provisions of Staff Rule 1.7 on *Financial responsibility* and Staff rule 10.1 on *Misconduct* (see Annex III), which states in part, that a staff member may be required to reimburse the Organization for any financial loss suffered;

Concerned that the situation facing the Organization with respect to the systemic lack of personal accountability and transparency, management failures and disregard for the Staff Regulations and Rules at all levels has become more serious since the current Secretary-General took office;

Deeply concerned about the Secretary-General's apparent attempts to seriously undermine the independence and jurisdiction of the formal system of administration of justice in the United Nations by making questionable recommendations (document A/66/275 and Corr.1) that would have far-reaching consequences and would deprive staff members of the possibility of challenging certain decisions (document A/66/507);

Decides to call upon the Secretary-General,

1. To urgently and seriously take substantial measures to enforce individual managerial accountability of senior officials, including in matters regarding personnel decisions;
2. To hold financially accountable those UN officials whose recklessness and/or gross negligence failed the staff and the Organization, especially in cases that resulted in a loss of human life or caused serious injury;
3. To urgently revisit his recommendations regarding the internal system of justice and amend his proposals in such a way as to ensure that senior staff are held accountable for their actions and that the Charter of the Organization is respected;

Further decides,

4. To support the observations by the judges of the United Nations Dispute Tribunal (See Annex IV), in particular the judges' concerns about the attempt made by the Secretary-General to undermine the integrity of the Tribunal and its independence;
5. To request the President of the Staff Union to bring this resolution to the attention of the Secretary-General, the President of the General Assembly, the members of the Fifth and Sixth Committees, the members of the Advisory Committee on Administrative and Budgetary Questions, and to the staff at large and other interested parties.

Adopted	YES
For	13
Against	1
Abstention	1

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United Nations Dispute Tribunal
Case No.: UNDT/NBI/2010/012
Judgment No.: UNDT/2011/192

EXCERPT

Accountability of Managers

29. The new internal justice system that came into operation on 1 July 2009 marked the beginning of a new approach to justice delivery within the United Nations. While the General Assembly that birthed this new system hopes and expects that many of the disputes that arise between staff members and the Organization can be informally and amicably mediated and settled, it recognises that the Dispute and Appeals Tribunals would have to deal with conflicts that defy amicable resolution.

30. In order to see that justice is done in the settlement of disputes, the General Assembly in the relevant statutes made provision for monetary compensation. In discharging its duties, especially with regard to awarding compensation, the formal system made up of the Dispute and Appeals Tribunals have on occasions been portrayed as recklessly giving away the resources of the Organisation. This is far from the truth.

31. The Tribunal wishes to call attention to the conduct of some managers who have through recklessness and their lack of the required managerial skills, engaged in actions in their official capacity that not only embarrass the Organisation but bring about heavy cost-implications in the award of monetary compensation.

32. It is necessary that the Secretary-General calls such managers to account in a way that there are real or tangible consequences for the individual manager. Accountability in the new system of internal justice on the part of managers means that not only are their wrong decisions reversed but that they commit also to respecting the relevant rules and issuances and at all times acting in good faith in the interest of the Organisation. Such commitment on their part will minimise disputes, ensure better work environment and save the resources of the Organisation for the achievement of its substantive mandates.

(Signed)

Judge Nkemdilim Izuako
Dated this 10th day of November 2011

End-of-assignment report

Inga-Britt Ahlenius
Under-Secretary-General for Oversight Services
14 July 2010

EXCERPT

Accountability of senior managers

Senior staff members often are not subject to the same level of managerial oversight by their supervisor of record. They may, in fact, be remote from their supervisor and given wide discretionary powers with little oversight related to individual accountability. Even where the issue of individual accountability falls within OIOS' mandate, experience has demonstrated that senior staff, in particular those who may report to the Secretary-General, use their considerable authority to secure treatment not generally accorded to staff in more subordinate positions. This includes delaying investigations in different ways.

Regrettably, there is a strong perception in the Organization that individual accountability does not exist uniformly; that senior staff can act with impunity, absent accountability. This perception presumably follows from a perception of inconsistent practice as to proportionality. There are instances where certain forms of misconduct have resulted in summary dismissal while other conduct, seemingly more severe or perpetrated by staff with greater responsibility, is subject to little or no sanction.

Staff rules

Rule 1.7

Financial responsibility

Staff members shall exercise reasonable care in any matter affecting the financial interests of the Organization, its physical and human resources, property and assets.

Rule 10.1

Misconduct

(a) Failure by a staff member to comply with his or her obligations under the Charter of the United Nations, the Staff Regulations and the Staff Rules or other relevant administrative issuances, or to observe the standards of conduct expected of an international civil servant, may amount to misconduct and may lead to the institution of a disciplinary process and the imposition of disciplinary measures for misconduct.

(b) Where the staff member's failure to comply with his or her obligations or to observe the standards of conduct expected of an international civil servant is determined by the Secretary-General to constitute misconduct, such staff member may be required to reimburse the United Nations either partially or in full for any financial loss suffered by the United Nations as a result of his or her actions, if such actions are determined to be willful, reckless or grossly negligent.

(c) The decision to launch an investigation into allegations of misconduct, to institute a disciplinary process, and to impose a disciplinary measure shall be within the discretionary authority of the Secretary-General or officials with delegated authority.

A/66/507

Administration of justice at the United Nations

Observations by the judges of the United Nations Dispute Tribunal on recommendations contained in the report of the Secretary-General (A/66/275) and the report of the Internal Justice Council (A/66/158)

EXCERPT

2. In particular, the judges are concerned about what appears to be an attempt in the report of the Secretary-General to undermine the integrity of the Tribunal and its independence by presenting a misleading and one-sided account of the Dispute and Appeals Tribunals' case law. The judges are further of the view that, in any event, it is premature to propose fundamental changes to the Statute of the Tribunal based on only two years' experience.

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