



Coordinating Committee International Staff Unions and Associations

Briefing note on administration of justice issues for the 69th session of the General Assembly

CCISUA represents 60,000 staff across the world. Many work in difficult locations, including in the deep field. Some work in danger of their lives.

Introduction

CCISUA fully supports the current system of formal administration of justice that is designed to be independent, transparent, professionalized, adequately resourced and decentralized system consistent with the 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 the accountability of managers and staff members alike.

We believe that that the GA's expectations from the redesigned system have been predominantly met. Staff observe the change in the managerial culture that is increasingly rules-based. We note that managers are more aware of consequences of their unlawful decisions, which leads to more accountability in the Organization and to more good management practices to address the underlying factors that give rise to disputes in the workplace.

CCISUA recommends that Member States continue to support the formal system of administration of judges and seek to reinforce it further.

Independence of judges

CCISUA stresses the importance of judges and is concerned about increasing attempts to weaken the independence of judges at the formal administration of justice and to limit the scope of the tribunals' jurisdiction. We think it is essential that, in line with the international standards of the rule of law, the judges of the Tribunals apply and interpret legal provisions, previously adopted by the GA, in an independent manner, without influence or interference with their judiciary work.

CCISUA recommends that Member States reiterate the importance of the principle of the independence of judges and strive to prevent attempts that would undermine this important principle.

Appealability of interim orders

We are concerned about requests from the Secretary-General, recommending the GA to amend article 7.5 of the statute of the United Nations Appeals Tribunal to "clarify that appealing an interlocutory order issued by the Dispute Tribunal shall have the effect of suspending the execution of the contested order" and to change the related provisions of the rules of procedure of the Tribunals. This recommendation would regrettably enable the Secretary-General, as a respondent at the UNDT, to delay judicial proceedings for lengthy periods of time by a multitude of appeals against interim orders. The disruption would be aggravated because the Appeals Tribunal meets only three times a year for about two weeks.

We note that in regard to interim orders, the jurisprudence of the Appeals Tribunal provides a remedy to applicants against whom interim orders had been made by the Dispute Tribunal in excess of its competence or jurisdiction. Furthermore, if a claim is eventually dismissed on the merits the various interim orders made at an earlier point in the proceedings become moot, and the time and expense involved in their appeal, as suggested by the Secretary-General would simply lead to unnecessary waste of costs and human capacity.

CCISUA considers that the recommendation of the Secretary-General is proposing to “fix something that is not broken”, and we therefore recommend that Member States should resist acting on it.

Disproportionate rejection of staff case by the Appeals Tribunal

According to the latest figures, the United Nations Appeals Tribunal rendered 115 judgments and issued 47 orders in 2013. Of the 62 appeals filed by staff members, 45 (73 %) were rejected and 17 were granted in full or in part (27 %). Of the 37 appeals filed on behalf of the Secretary-General, 6 were rejected (16 %) and 31 were granted in full or in part (84 %). As at 31 August 2014, of the 28 cases filed by staff members, 21 were rejected (75 %), 5 were granted in full or in part (18 %) and 2 were closed on withdrawal (7 %). Of the 33 cases filed on behalf of the Secretary-General, 11 were rejected (33 %) and 22 were granted in full or in part (67 %).

CCISUA is concerned at the disproportionately higher rate of rejection by the Appeals Tribunal of cases filed by staff (73-75 %) versus of those filed on behalf of the Secretary-General (16-33%).

OSLA financing

CCISUA notes the General Assembly resolution [68/254](#), piloting, from 1 January 2014 to 31 December 2015, a voluntary payroll deduction from staff to supplement the funding of the Office of Staff Legal Assistance for the purpose of financing additional resources (two P-4 legal officers, four GS administrative assistants). We support the voluntary nature of the pilot scheme and appreciate the continued access for staff to OSLA services, whatever their decision is on the payroll deduction.

We further note that the Advisory Committee on Administrative and Budgetary Questions in its 2014 report on AOJ recommends that the GA request the Secretary-General to provide, in his next report, “information on the reasons for staff opting out of the mechanism, as well as data on the numbers of staff who have accessed the services provided by the Office of Staff Legal Assistance during the experimental period, in order to examine, among other issues, whether there is any correlation between staff members who have opted out and staff members who have accessed the Office’s services” (para.37, A/69/519). While appreciating the reasons for such collection of data for further financial analysis by the Advisory Committee, CCISUA is concerned that collection and analysis of such disaggregated data may expose staff members who opted out from contributing to the scheme for potential retaliation or denial of services by OSLA.

CCISUA recommends that Member States modify the request from the Advisory Committee to ensure that the collection of individual staff members’ data will be duly protected for privacy and confidentiality purposes.

Interim independent assessment of the system of administration of justice

With regard to the membership of the interim independent assessment of the system of administration of justice, CCISUA recommends that Member States appoint the panel that would comprise of independent and impartial legal experts that will have a broad mix of legal and judiciary expertise, including knowledge internal labour dispute mechanisms, staff/management issues, and of different legal and justice systems.

With respect to the entities to be consulted, CCISUA recommends that Member States mandate the panel of independent experts to consult broadly with Member States on national labour dispute mechanisms; external entities such as other international and regional organizations; experts on labour disputes; and staff councils and unions on staff/management relations and perspectives from staff on the administration of justice.

About CCISUA

CCISUA represents staff of the UN Secretariat as well as staff of the ILO, UNHCR, UNICEF, UNIDO and WFP.

Contact

Ian Richards, President
ian.richards@unctad.org, +41 76 456 8392