

**MECHANISM FOR ADDRESSING COMPLAINTS
REGARDING ALLEGED MISCONDUCT OR INCAPACITY
OF THE JUDGES OF THE UNITED NATIONS DISPUTE TRIBUNAL
AND THE UNITED NATIONS APPEALS TRIBUNAL**

1. Allegations regarding misconduct or incapacity of a judge should be made, in writing, directly to the President of the relevant Tribunal. In the event that a complaint is against a serving President, it shall be addressed to the most senior judge after the President (“receiving judge”).
2. The complainant shall receive a written acknowledgement of receipt of the complaint.
3. A complaint shall not be receivable unless it is received within 60 days of the date on which the alleged misconduct or incapacity took place, except as set out in paragraph 4 below.
4. By way of a transitional measure only, a complaint may be filed against a judge of either Tribunal related to alleged misconduct or incapacity during the period from the date of the General Assembly’s approval of the mechanism for addressing possible misconduct of judges in resolution 67/241 of 24 December 2012 to the date of approval of this mechanism, provided such complaint is filed within 60 days of the date of such approval.
5. The types of conduct that would warrant the sanctioning of a judge are violations of the standards established in the code of conduct for the judges of the United Nations Dispute Tribunal and the United Nations Appeals Tribunal approved by the General Assembly in resolution 66/106. The types of incapacity that would warrant removal from the Dispute Tribunal or the Appeals Tribunal would involve either a physical or a mental condition that would prevent a judge from performing his or her judicial functions and that cannot be addressed by a reasonable accommodation of such condition.
6. Consistent with the principles of the independence of the administration of justice and judicial independence, judicial decisions are not matters of conduct and shall not be the subject of a complaint under this mechanism. Recusal — whether a particular judge should preside over

a case or sit on a hearing — cannot be dealt with under the complaints mechanism.¹ A complaint is not an appeal.

7. As a general rule, filed complaints relating to a pending case will not be dealt with until the case is disposed of.

8. Complaints regarding the misconduct or incapacity of a judge shall contain:

- (a) The name and address of the complainant;
- (b) The date and location of the alleged misconduct;
- (c) The name of the judge against whom the complaint is made;
- (d) A detailed description of the alleged misconduct or incapacity, including the date on which it took place;
- (e) Any other relevant information, including the names and contact details of witnesses, if any, to the event complained of, and documentary evidence if available;
- (f) The signature of the complainant and date of submission.

9. A complainant may be represented by another person, at his or her own expense.

10. Upon receipt of a complaint, the President or receiving judge shall review it in order to determine what action, if any, is warranted.

11. If the President or receiving judge decides that no further action is appropriate, he or she will so inform the complainant in writing, within seven days, providing reasons for the decision and sending a copy to the judge against whom the complaint was made (“judge concerned”).

12. If the President or receiving judge decides that further action is warranted, he or she shall provide the judge concerned with a copy of the complaint and any supporting documentation thereto and invite him or her to provide comments in writing within two weeks, unless the President or receiving judge grants an extension of time to do so.

¹ Recusal of judges of the Dispute Tribunal or the Appeals Tribunal is covered in articles 4.9 and 3.9 of the respective statutes of the Tribunals.

13. If the complaint is informally resolved to the satisfaction of the parties at any time during its pendency before the President or receiving judge, the complainant will inform the President or receiving judge accordingly and the complaint will be closed.

14. If, following a preliminary review, the President or receiving judge is of the view that further inquiry is appropriate, the complainant will be so advised.

15. If the President or receiving judge is of the view that there are sufficient grounds to warrant a formal investigation, he or she shall establish a panel of outside experts to investigate the allegations and report its conclusions and recommendations to the President or receiving judge. The panel of experts shall comprise three members who shall be judges, former judges or other eminent jurists. When appointing the panel, the President or receiving judge shall take into account geographical distribution and gender balance.

16. The President or receiving judge shall establish the terms of reference for the panel of experts. Such terms of reference should ensure that the judge concerned is accorded all requisite due process safeguards.

17. The judge concerned may be represented by another person, at his or her own expense.

18. The panel of experts shall complete their inquiries and report in writing to the President or receiving judge within three months of the date of referral of the complaint to the panel.

19. All judges of the relevant Tribunal, with the exception of the judge concerned, shall review the report of the panel and recommend one of the following courses of action:

(a) If a majority of the judges are of the opinion that the complaint is not well founded, the complaint shall be closed and the President or receiving judge shall advise the judge concerned and complainant in writing;

(b) If a majority of the judges are of the opinion that the complaint is well founded but the removal of the judge concerned is not warranted, the President or receiving judge shall take such corrective action as he or she deems appropriate;

(c) If the judges are of the unanimous opinion that the complaint is well founded and that the matter is of sufficient severity to suggest that the removal of the judge concerned is warranted, they shall so advise the President or receiving judge of the Tribunal. The President or receiving judge shall report the matter to the General Assembly, through the Internal Justice Council, to request the removal of the judge concerned. The judge concerned will be advised of such recommendation as soon as possible by the President or receiving judge;

(d) If a majority of the judges are of the opinion that the complaint is well founded and the matter is of sufficient severity to suggest that the removal of the judge concerned is warranted, the President or receiving judge shall take such corrective action as he or she deems appropriate. The judge concerned shall be given an opportunity to make final written representations regarding the sanction proposed;

(e) When the process described in this paragraph is complete, the complainant will be advised of the disposition of his or her complaint.

20. The process of review of the complaint up to the final disposition thereof shall be confidential. If the final disposition is that set out in paragraph 11, 13 or 19 (a), the name of the judge concerned shall continue to remain confidential following completion of the process.

21. The respective Presidents of the Dispute Tribunal and the Appeals Tribunal shall submit an annual report to the General Assembly on the disposition of complaints through the Internal Justice Council.

22. This mechanism shall come into effect upon approval by the General Assembly.
