

INTERNATIONAL COURT OF JUSTICE

PLEADINGS, ORAL ARGUMENTS, DOCUMENTS

APPLICATION FOR REVIEW OF
JUDGEMENT No. 158 OF THE
UNITED NATIONS
ADMINISTRATIVE TRIBUNAL

COUR INTERNATIONALE DE JUSTICE

MÉMOIRES, PLAIDOIRIES ET DOCUMENTS

DEMANDE DE RÉFORMATION
DU JUGEMENT N° 158
DU TRIBUNAL ADMINISTRATIF
DES NATIONS UNIES



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*I.C.J. Pleadings, Application for Review of Judgement No. 158 of
the United Nations Administrative Tribunal*

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du Tribunal administratif des Nations Unies*

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INTERNATIONAL COURT OF JUSTICE

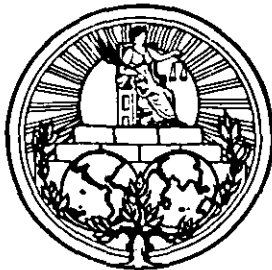
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The present volume reproduces the Request for opinion, the written statements and comments, and the correspondence in the case concerning the *Application for Review of Judgement No. 158 of the United Nations Administrative Tribunal*. This case, entered on the Court's General List on 28 June 1972 under number 57, was the subject of an Advisory Opinion delivered on 12 July 1973 (*Application for Review of Judgement No. 158 of the United Nations Administrative Tribunal, Advisory Opinion, I.C.J. Reports 1973*, p. 166). The documents, and the appendices and attachments to the written statements, are not reproduced.

With reference to certain passages in the texts reproduced, it should be emphasized that the Court did not carry out a thorough study of the facts in the case and that it has therefore made no pronouncement upon the correctness of certain allegations.

The Hague, 1976.

Le présent volume reproduit la requête pour avis consultatif, les exposés écrits et observations écrites et la correspondance concernant l'affaire de la *Demande de réformation du jugement n° 158 du Tribunal administratif des Nations Unies*. Cette affaire, inscrite au rôle général de la Cour sous le n° 57 le 28 juin 1972, a fait l'objet d'un avis consultatif rendu le 12 juillet 1973 (*Demande de réformation du jugement n° 158 du Tribunal administratif des Nations Unies, avis consultatif, C.I.J. Recueil 1973*, p. 166). Les documents, appendices ou pièces jointes ne sont pas reproduits.

Au sujet de quelques passages des textes reproduits, il convient de souligner que, ne s'étant pas livrée à un examen approfondi des faits en l'espèce, la Cour ne s'est pas prononcée sur le bien-fondé de certaines allégations.

La Haye, 1976.

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REQUEST FOR ADVISORY OPINION

THE SECRETARY-GENERAL OF THE UNITED NATIONS
TO THE PRESIDENT OF THE INTERNATIONAL
COURT OF JUSTICE

28 June 1972.

I have the honour to refer to resolution 957 (X), adopted by the General Assembly of the United Nations on 8 November 1955, whereby the Assembly amended the Statute of the United Nations Administrative Tribunal to provide a procedure for the review of the Tribunal's judgements. The same resolution provided, *inter alia*, for the addition of a new Article 11 to the Tribunal's Statute, whereby a Committee on Applications for Review of Administrative Tribunal Judgements was established and, for the purpose of Article 11, was authorized under paragraph 2 of Article 96 of the Charter to request advisory opinions of the International Court of Justice.

The tenth session of the Committee on Applications for Review of Administrative Tribunal Judgements was held at United Nations Headquarters from 8 to 20 June 1972. The purpose of the session was to consider an application from Mr. Mohamed Fasla (document A/AC.86/R.59) for a review of Judgement No. 158, delivered by the United Nations Administrative Tribunal on 28 April 1972, in the case of *Fasla v. the Secretary-General of the United Nations* (document AT/DEC/158). At a meeting on 20 June 1972, the Committee adopted the formulation of certain questions on which the Committee had decided to request an advisory opinion of the Court. This decision is recorded in the report of the Committee on the work of its tenth session (document A/AC.86/14).

The decision of the Committee reads as follows:

"The Committee on Applications for Review of Administrative Tribunal Judgements has decided that there is a substantial basis within the meaning of Article 11 of the Statute of the Administrative Tribunal for the application for the review of Administrative Tribunal Judgement No. 158, delivered at Geneva on 28 April 1972.

Accordingly, the Committee requests an advisory opinion of the International Court of Justice on the following questions:

1. Has the Tribunal failed to exercise jurisdiction vested in it as contended in the applicant's application to the Committee on Applications for Review of Administrative Tribunal Judgements (A/AC.86/R.59)?
2. Has the Tribunal committed a fundamental error in procedure which has occasioned a failure of justice as contended in the applicant's application to the Committee on Applications for Review of Administrative Tribunal Judgements (A/AC.86/R.59)?"

I am enclosing herewith one copy each of the English and French texts of the report of the Committee on Applications for Review of Administrative Tribunal Judgements on the work of its tenth session¹, in which the decision of the Committee has been duly certified. In accordance with Article 65 of the

¹ Not reproduced.

Statute of the International Court of Justice, I shall transmit to the Court all documents likely to throw light upon the question. Furthermore, as required by paragraph 2 of Article 11 of the Statute of the United Nations Administrative Tribunal, I shall arrange to transmit to the Court any views which the applicant to the Committee on Applications for Review of Administrative Tribunal Judgements may wish to submit.

(Signed) Kurt WALDHEIM.

**DOSSIER TRANSMITTED BY THE
SECRETARY-GENERAL
OF THE UNITED NATIONS
(ARTICLE 65, PARAGRAPH 2,
OF THE STATUTE)**

INTRODUCTORY NOTE

1. On 28 June 1972 the Secretary-General informed the President of the International Court of Justice that, by a decision adopted on 20 June 1972 at the final meeting of its tenth session, the Committee on Applications for Review of Administrative Tribunal Judgements, after having considered an application relating to Judgement No. 158 of the Tribunal, decided to request the Court to give an advisory opinion on the following questions:

- “1. Has the Tribunal failed to exercise jurisdiction vested in it as contended in the applicant’s application to the Committee on Applications for Review of Administrative Tribunal Judgements (A/AC.86/R.59)?
2. Has the Tribunal committed a fundamental error in procedure which has occasioned a failure of justice as contended in the applicant’s application to the Committee on Applications for Review of Administrative Tribunal Judgements (A/AC.86/R.59)?”

2. The present dossier contains documents likely to throw light upon the questions on which an advisory opinion of the Court is requested. The documents, which are part of the records of the General Assembly, of the Committee on Applications for Review of Administrative Tribunal Judgements, of the Administrative Tribunal, of certain other subsidiary organs of the General Assembly, as well as of the Secretariat of the United Nations, have been certified to be final official records of the United Nations or true copies thereof, except for certain documents that exist in mimeographed form only and are so indicated in the table of contents of the dossier. Each document or extract therefrom is identified by title and official United Nations symbol. Wherever possible, a citation is also given to the volume and page where the document may be found in the records of the United Nations. In addition to the official identification, the documents, for convenience in use, have been numbered consecutively in the order in which they appear in the dossier, and references to documents in this introductory note are based on this system of numbering. A complete list of the documents may be found in the table of contents.

3. The dossier consists of two parts. Part I contains documentation relating to the proceedings leading to the request by the Committee for Review for an advisory opinion of the International Court of Justice; this Part consists of two sections: section A contains the documentation of the Committee for Review, and section B contains certain other documents referred to in or otherwise relevant to the documentation of the Committee. Part II contains the documentation of the General Assembly and of its committees relating to the formulation of Article 11 of the Statute of the Administrative Tribunal, by which the Committee on Applications for Review of Administrative Tribunal Judgements was established and pursuant to which the Committee addressed the present request to the Court.

Part I of the Dossier. Documentation relating to the Proceedings Leading to the Request by the Committee on Applications for Review of Administrative Tribunal Judgements for an Advisory Opinion of the International Court of Justice in Relation to Judgement No. 158 of the Administrative Tribunal

A. Documents of the Tenth Session of the Committee on Applications for Review of Administrative Tribunal Judgements

4. On 26 May 1972 the attorneys for Mr. Mohamed Fasla addressed an application (doc. No. (3)¹) to the Committee on Applications for Review of Administrative Tribunal Judgements asking the Committee to request an advisory opinion of the International Court of Justice in relation to Administrative Tribunal Judgement No. 158: *Fasla against the Secretary-General of the United Nations* (AT/DEC/158—doc. No. (11)). The Secretary-General commented on this application on 31 May (doc. No. (4)). The tenth session of the Committee was thereupon convened (doc. Nos. (1)-(2)) to consider the application, and the Committee met for this purpose on 8, 13, 19 and 20 June. According to its custom, no written records were kept of the meetings, the proceedings of which are summarized in the report of the Committee (doc. No. (10)).

5. Consequent on a request made at the second meeting of the Committee, the Secretariat on 13 June 1972 circulated to the Committee the four questions which arise for the Committee's decision under the terms of article 11, paragraph 1, of the Tribunal's Statute (doc. No. (5)). At its third meeting the Committee voted on the questions which it considered to arise in the light of the application before it (see doc. No. (10), para. 7). Thereupon the representatives of Peru and Zambia circulated proposals for the formulation of the questions to be addressed to the Court (doc. Nos. (6)-(7)). The Committee adopted such a formulation by a roll-call vote at its fourth meeting (see doc. No. (10), para. 8). At the same meeting it received a statement by the Secretariat on the financial implications of its decision (doc. No. (8)) and decided to express no opinion on the applicant's request for costs in connection with his application for certification (see doc. No. (3), para. E.1 and Annex 92, part B, and doc. No. (10), para. 9).

B. Other Documents Cited in or Relevant to Documents Considered by the Committee on Applications for Review of Administrative Tribunal Judgements at its Tenth Session

6. The rules of procedure that governed the tenth session of the Committee for Review were the Provisional Rules adopted by the Committee at the first meeting of its first session and amended at the second and third meetings of that session (doc. No. (12)).

7. Prior to initiating the proceeding before the Administrative Tribunal to which Application No. 14 before the Committee for Review related, Mr.

¹ This is the document A/AC.86/R.59 referred to in the questions formulated by the Committee for Review. The 92 annexes to the application (a list of which appears at the end of that document) are reproduced in a special annex to the dossier; most of these are formulated in English, a few in French. They consist of the 84 annexes to the pleadings that had been submitted to the Administrative Tribunal, numbered in their original sequence, of the Judgement of the Tribunal (Annex 85), of the six pleadings (Annexes 86-91—see para. 8, below), and of a statement of costs (Annex 92) prepared for the information of the Committee for Review.

Mohamed Fasla had submitted two appeals to the Joint Appeals Board of the United Nations, established by and functioning in accordance with Staff Rules 111.1-111.3 (doc. No. (15)). The reports of the Board were submitted to the Secretary-General on 3 June 1970 (JAB Case No. 172, doc. No. (3), Annex 2) and 18 January 1971 (JAB Case No. 181, doc. No. (3), Annex 67).

8. After the Secretary-General had taken his decision based on the first report of the Joint Appeals Board (doc. No. (3), Annex 3), Mr. Fasla on 31 December 1970 initiated a proceeding before the Tribunal as Case No. 144, by filing an Application (doc. No. (3), Annex 86) to which were attached sixty-three annexes (doc. No. (3), Annexes 1-63). The Secretary-General filed his Reply (answer) on 1 June 1971 (doc. No. (3), Annex 87), together with three annexes (doc. No. (3), Annexes 64-66). After the Secretary-General had taken his decision based on the second report of the Joint Appeals Board (doc. No. (3), Annex 68), Mr. Fasla on 11 June 1971 filed a Supplement to his Application (doc. No. (3), Annex 89), together with six annexes (doc. No. (3), Annexes 67-72). The Secretary-General filed a Supplement to his Reply on 12 August 1971 (doc. No. (3), Annex 90), together with one annex (doc. No. (3), Annex 73). On 15 November 1971 Mr. Fasla filed his Comments (observations) on the Replies submitted by the Secretary-General (doc. No. (3), Annexes 88 and 91), together with eleven annexes to the former (doc. No. (3), Annexes 74-84). The Administrative Tribunal also had available to it Mr. Fasla's official Status File, the Joint Appeals Board files on the two appeals filed by Mr. Fasla, and a dossier of correspondence between the Executive Secretary of the Tribunal and the parties to the proceeding. The Tribunal held no oral proceedings, but deliberated on the case from 10 to 28 April 1972, on which day it issued its Judgement No. 158 (doc. No. (11)).

9. The Statute and Rules of the Tribunal in force during the proceeding leading to that Judgement were those in effect from 16 October 1970 (doc. No. (13)). Except for the amendments to which Part II of this dossier relates, the Statute of the Tribunal has not been changed from the version to which the Advisory Opinion of the Court on *Effect of Awards of Compensation Made by the United Nations Administrative Tribunal (I.C.J. Reports 1954, p. 47)* related.

10. The Staff Regulations effective on 1 January 1969 and throughout that year appear in document No. (14); none of the amendments made by the General Assembly in the Regulations previous or subsequent to this period appear relevant to the claims to which the questions addressed to the Court relate. The Staff Rules effective from January 1969 appear in document No. (15); similarly, no amendments to these Rules promulgated by the Secretary-General in the period under consideration appear relevant to the above-mentioned claims. An Administrative Instruction issued on 11 April 1956 still governs the preparation of Periodic Reports on staff members (doc. No. (16)). On 2 December 1960 a Personnel Directive was issued on "Transfer and Change of Official Duty Station" (doc. No. (17)), which was qualified by an addition issued on 13 March 1968 (doc. No. (18)).

11. After the Administrative Tribunal had assessed costs in the first cases submitted to it (Judgement No. 3: *Cases Nos. 1 to 15: Aubert and 14 Others and Intervention No. 1: Hall against The Secretary-General of the United Nations* (Costs in Judgement No. 2)), the Acting Secretary-General on 31 August 1950 addressed a letter to the President of the Tribunal asking that the Tribunal give an opportunity to present arguments on its authority to assess costs and on the nature and amount of such costs (doc. No. (19)). In this connection a document was issued reproducing extracts of two judgements of the League of Nations Tribunal (doc. No. (20)). In addition, the Legal Department of the United

Nations submitted a memorandum (doc. No. (21)) and the Vice-President of the Tribunal also presented a note (doc. No. (22)). On 18 December 1950 the Tribunal issued a Statement of Policy on assessing costs (doc. No. (23)), which statement has not since been superseded by any general statement of policy on this subject. On 10 December 1951 the Tribunal was informed of the comments of the Board of Auditors and of the Advisory Committee on Administrative and Budgetary Questions on the question of award of costs by the Tribunal and of the fact that the General Assembly had adopted a resolution accepting the reports in which these observations were contained (doc. No. (24)).

Part II of the Dossier. Documentation relating to the Formulation of Article 11 of the Statute of the Administrative Tribunal

A. Documentation of the Ninth Session of the General Assembly

12. After the International Court of Justice rendered its Advisory Opinion of 13 July 1954 on the *Effect of Awards of Compensation Made by the United Nations Administrative Tribunal* (I.C.J. Reports 1954, p. 47), the Secretary-General transmitted the text to the General Assembly for consideration at its ninth session (doc. No. (33)). This item was referred to the Fifth Committee, which considered it at its 474th to 480th meetings (doc. Nos. (25)-(31) and (34), p. 6). In connection with this item, the representatives of Argentina and the United States introduced a draft resolution by which, *inter alia*, the Statute of the Administrative Tribunal would have been amended by establishing a Board of Judicial Review (doc. No. (34), p. 3). Later the sponsors withdrew their original proposal and, together with the representatives of Canada, Chile, Cuba and Turkey, submitted another one (*ibid.*, p. 4), proposing that the General Assembly accept the principle of judicial review of Administrative Tribunal judgements and establish a special committee to develop an appropriate procedure. The representatives of Belgium, Brazil, Egypt, India, Norway and Pakistan jointly submitted an amendment to this proposal, whereby the Assembly would initially merely solicit the views of Member States and the specialized agencies concerned on this question (*ibid.*, p. 5). Both the sponsors of the principal proposal and of the amendment thereafter submitted modified texts (*ibid.*, pp. 4, 5), which were voted on at the 480th meeting of the Committee (doc. No. (31)), on the basis of which a modified version of the principal proposal was recommended to the Assembly.

13. The General Assembly considered the proposed resolution at its 515th plenary meeting (doc. No. (32)), and after further amending it (doc. No. (34), p. 11, note 1) adopted it as resolution 888 (IX) (doc. No. (34), p. 12). By part A of that resolution the Assembly took note of the advisory opinion of the Court; by part B it accepted in principle the judicial review of judgements of the Administrative Tribunal, requested Member States to communicate their views as to the establishment of an appropriate procedure, made provision for consultation with the specialized agencies concerned, and established a Special Committee of eighteen Member States to "study the question of the establishment of such a procedure in all its aspects" and to report to the Assembly.

B. Documentation of the Special Committee on Review of Administrative Tribunal Judgements

14. The Special Committee on Review of Administrative Tribunal Judgements held 13 meetings from 4 April to 31 May 1955 (doc. Nos. (35)-(47)). It had before it a working paper by the Secretary-General (reproduced as Annex II

(A) to the report of the Special Committee to the General Assembly (doc. No. (60), p. 1)), the preliminary views of three Member States and the observations of six specialized agencies concerned (*ibid.*, Annex III), the views of the United Nations Staff Council (*ibid.*, Annex IV), and notes by the Secretary-General on the members of the Permanent Court of Arbitration and on the participation of individuals in proceedings before the International Court of Justice (*ibid.*, Annexes II.B and II.C).

15. The Committee then proceeded to consider a series of proposals and alternatives for amending the Statute of the Administrative Tribunal, submitted by the representatives of China, Iraq and the United States (*ibid.*, Annex I (B)), of France (*ibid.*, Annex I (A)), by the Secretary-General (*ibid.*, Annex I (C)), and by the representatives of India (*ibid.*, paras. 52 and 64), Australia (*ibid.*, Annex I (D)), China, Iraq, Pakistan, United Kingdom and United States (same as text given *ibid.*, para. 116) and France (*ibid.*, para. 91). The Committee's report to the General Assembly (doc. No. (60), p. 1) traced the details of this consideration and concluded by recommending the addition of new articles 11 and 12 to the Statute of the Administrative Tribunal, the former to provide for the establishment of a special committee of Member States authorized to request, at the initiative of any Member State, of the Secretary-General or of any person in respect of whom a judgement has been rendered by the Tribunal, the International Court of Justice to give an advisory opinion on certain specified questions relating to such judgement.

C. Documentation of the Tenth Session of the General Assembly

16. The General Assembly at its tenth session referred the report of the Special Committee to the Fifth Committee, which considered it at its 493rd to 501st and 505th meetings (doc. Nos. (48)-(57)). The Fifth Committee also had before it the views of six Member States and two specialized agencies (doc. No. (60), p. 33), of the United Nations Staff Council (*ibid.*, p. 35) and of the Secretary-General (*ibid.*, p. 37). The representatives of Argentina, Canada, China, Cuba, Iraq, Pakistan, the United Kingdom and the United States introduced a draft resolution, later slightly revised, by which, *inter alia*, the Statute of the Administrative Tribunal would be amended in accordance with the Special Committee's proposals and it would be recommended that Member States and the Secretary-General should not make oral statements before the Court in any proceeding pursuant to the new article 11 of the Tribunal's Statute. The representative of India introduced a series of amendments to the draft resolution (*ibid.*, pp. 41-42, para. 32), to extend and modify the proposed grounds for requesting review of Administrative Tribunal judgements, to replace the proposed special screening committee of Member States by an *ad hoc* panel of the Tribunal, and to replace the advisory opinion of the Court by a decision of the full bench of the Tribunal. The sponsors of the draft resolution accepted the Indian proposals regarding the grounds for review (*ibid.*, para. 41), and the Fifth Committee then voted against the other amendments, which were therefore not included in the Committee's recommendation to the Assembly.

17. The General Assembly considered the recommendation of the Fifth Committee at its 540th and 541st plenary meetings (doc. Nos. (58)-(59)). In addition it considered and rejected a proposal by Belgium (doc. No. (60), p. 44), that the International Court of Justice be requested to give an advisory opinion on whether the resolution proposed by the Fifth Committee was juridically well-founded, and if not, which provisions of the resolution were not well-founded. The representative of India also introduced those of his amend-

ments that had been rejected by the Fifth Committee, but after a decision of the Assembly that the resolution would not require a two-thirds vote for approval, the representative withdrew the proposed amendments (doc. No. (59), paras. 121-161). The General Assembly thereupon adopted the text recommended to it by the Fifth Committee as its resolution 957 (X) (doc. No. (60), p. 44).

D. Documentation of the Twelfth Session of the General Assembly

18. In the course of the work of the Special Committee on Review of Administrative Tribunal Judgements the representative of Australia introduced a proposal to amend article 9 of the Tribunal's Statute so as to regulate further the power of the Tribunal to fix amounts of compensation (reproduced as Annex I.D, part III, to the report of the Special Committee to the General Assembly (doc. No. (60), p. 1)), and later the same proposal was introduced in the Fifth Committee at the tenth session of the General Assembly (doc. No. (60), p. 42, para. 36). The Fifth Committee agreed that this proposal be referred to the Secretary-General and to the Advisory Committee on Administrative and Budgetary Questions (ACABQ) for consideration at the twelfth session of the Assembly (*ibid.*, para. 38). Both the Secretary-General and ACABQ submitted reports on this question to the Assembly at its twelfth session (doc. No. (62), pp. 23 and 25), suggesting that no action need be taken. These reports were considered by the Fifth Committee at its 628th meeting (doc. No. (61)), at which time it concurred with the representative of Australia that action on his proposal be deferred until the Tribunal's further experience made a review of its Statute appear desirable (doc. No. (61), p. 6, paras. 51-52).

CONTENTS OF THE DOSSIER¹

Part I of the Dossier. Documentation relating to the Proceedings Leading to the Request by the Committee on Applications for Review of Administrative Tribunal Judgements for an Advisory Opinion of the International Court of Justice in Relation to Judgement No. 158 of the Administrative Tribunal

A. Documents of the Tenth Session of the Committee on Applications for Review of Administrative Tribunal Judgements (all mimeographed)

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| (1) Information circular on the tenth session of the Committee | A/AC.86/INF.10 |
| (2) Provisional Agenda for the Tenth Session | A/AC.86/R.58 |
| (3) Application No. 14: Application submitted by the attorneys for Mr. Mohamed Fasla, dated 26 May 1972, addressed to the Committee and asking the Committee to request an advisory opinion from the International Court of Justice | A/AC.86/R.59 (the 92 annexes to the Application appear in a special annex to the dossier—see pp. 20-23, <i>infra</i>) |
| (4) Application No. 14: Comments by the Secretary-General on applicant's written statement (A/AC.86/R.59) | A/AC.86/R.60 |
| (5) Application No. 14: Note by the Secretariat | A/AC.86/R.61 |
| (6) Application No. 14: Suggestion by Peru | A/AC.86/R.62 |
| (7) Application No. 14: Suggestion by Zambia | A/AC.86/R.63 |
| (8) Application No. 14: Note by the Secretariat | A/AC.86/R.64 |
| (9) Application No. 14: Draft Report of the Committee | A/AC.86/R.65 |
| (10) Application No. 14: Report of the Committee | A/AC.86/14 |

B. Other Documents Cited in or Relevant to Documents Considered by the Committee on Applications for Review of Administrative Tribunal Judgements at its Tenth Session

1. Judgement of the Administrative Tribunal

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| (11) Administrative Tribunal Judgement No. 158 — Case No. 144: <i>Fasla against the Secretary-General of the United Nations</i> | AT/DEC/158 (also doc. No. (3), Annex 85) |
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2. Rules of Procedure of the Committee and Statute and Rules of the Administrative Tribunal

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| (12) Provisional Rules of Procedure of the Committee | A/AC.86/2/Rev.1 |
| (13) United Nations Administrative Tribunal: Statute and Rules, Provisions in force with effect from 16 October 1970 | AT/11/Rev.3 |

¹ Documents not reproduced. [Note by the Registry.]

3. *Regulations, Rules, Instructions and Directives on staff administration*

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|---|---|
| (14) Staff Regulations (effective 1 January 1969) | ST/SGB/Staff Regulations/Rev.6 |
| (15) Staff Rules: Staff Regulations of the United Nations and Staff Rules 101.1 to 112.8: Secretary-General's Bulletin (1966, amended as of January 1969) | ST/SGB/Staff Rules/1/Rev.1 (including Amend's 1-10) |
| (16) Administrative Instructions: Periodic Reports | ST/AI/115 (also doc. No. (3), Annex 63) |
| (17) Personnel Directive: Transfer and Change of Official Duty Station | PD/8/60 (English only) |
| (18) Personnel Directive: Transfer and Change of Official Duty Station | PD/8/60/Add.1 (English only; also doc. No. (3), Annex 73) |

4. *Documents relevant to the competence of the Administrative Tribunal to award costs*

- | | |
|---|------------|
| (19) Competence of the Tribunal to award costs: Letter dated 31 August 1950 from the Acting Secretary-General, addressed to the President of the Tribunal | A/CN.5/3 |
| (20) Competence of the Tribunal to award costs: Extracts of Judgements delivered by the League of Nations Tribunal | A/CN.5/4 |
| (21) Competence of the Tribunal to award costs: Memorandum submitted by the Legal Department | A/CN.5/5 |
| (22) Competence of the Tribunal to award costs: Note by Mrs. Bastid, Vice-President | A/CN.5/R.1 |
| (23) Statement of Policy | A/CN.5/R.2 |
| (24) Award of Costs in Cases 1-15 | AT/R.7 |

Part II of the Dossier. Documentation relating to the Formulation of Article 11 of the Statute of the Administrative Tribunal

A. Documents of the Ninth Session of the General Assembly

1. *Records of meetings*

(a) *Records of meetings of the Fifth Committee*

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|---|---|
| (25) 474th meeting, 3 December 1954
(see paras. 48-55) | } <i>General Assembly
Official Records,
Ninth Session,
Fifth Committee
(A/C.5/SR.474-480)</i> |
| (26) 475th meeting, 4 December 1954 | |
| (27) 476th meeting, 6 December 1954 | |
| (28) 477th meeting, 7 December 1954
(see paras. 1-59) | |
| (29) 478th meeting, 8 December 1954
(see paras. 34-47) | |
| (30) 479th meeting, 9 December 1954 | |
| (31) 480th meeting, 9 December 1954
(see paras. 1-26) | |

(b) *Records of plenary meetings of the General Assembly*

- (32) 515th meeting, 17 December 1954
(see paras. 6-105)
- General Assembly
Official Records,
Ninth Session
Plenary Meetings
(A/PV.515)*

2. *Other documents*

- (33) Note by the Secretary-General transmitting the Advisory Opinion of the International Court of Justice: *Effect of Awards of Compensation Made by the United Nations Administrative Tribunal*, Advisory Opinion of 13 July 1954 (*J.C.J. Reports 1954*, pp. 47-97) A/2701
- (34) *Official Records of the General Assembly, Ninth Session, Annexes*, agenda item 48 on "Awards of compensation made by the United Nations Administrative Tribunal: advisory opinion of the International Court of Justice"
- page 1 Thirty-third report of the Advisory Committee on Administrative and Budgetary Questions A/2837
- page 2 Report of the Secretary-General A/C.5/607
- page 3 Argentina and United States of America: draft resolution A/C.5/L.317
- page 4 Argentina, Canada, Chile, Cuba, Turkey and United States of America: draft resolution A/C.5/L.321
- page 4 Argentina, Canada, Chile, Cuba, Turkey and United States of America: revised draft resolution A/C.5/L.321/Rev.1
- page 5 Belgium, Brazil, Egypt, India, Norway and Pakistan: amendments to the draft resolution A/C.5/L.322
- page 5 Belgium, Brazil, Egypt, India, Norway and Pakistan: amendments to the revised draft resolution A/C.5/L.322/Rev.1
- page 6 Report of the Fifth Committee A/2883
- page 11 Argentina, Australia, Canada, (note 1) Chile, Colombia, Cuba, Dominican Republic, Guatemala, Iraq, Lebanon, Peru, Thailand, Turkey, United Kingdom of Great Britain and Northern Ireland, United States of America: amendments to the draft resolution submitted by the Fifth Committee A/L.192 (mimeographed)
- page 11 Sweden: amendment to the draft (note 1) resolution submitted by the Fifth Committee A/L.193 (mimeographed)

3. *Resolution adopted by the General Assembly*

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|---------|--|---|
| page 12 | Resolution 888 (IX): Awards of compensation made by the United Nations Administrative Tribunal: advisory opinion of the International Court of Justice | A/RES/295 (also reproduced in <i>General Assembly, Official Records</i> , Ninth Session, Supplement No. 21 (A/2890), p. 43) |
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B. *Documents of the Special Committee on Review of Administrative Tribunal Judgements*1. *Records of meetings*

- | | | |
|------|-----------------------------|-----------------------------------|
| (35) | 1st meeting, 4 April 1955 | A/AC.78/SR.1-13
(mimeographed) |
| (36) | 2nd meeting, 5 April 1955 | |
| (37) | 3rd meeting, 6 April 1955 | |
| (38) | 4th meeting, 7 April 1955 | |
| (39) | 5th meeting, 11 April 1955 | |
| (40) | 6th meeting, 12 April 1955 | |
| (41) | 7th meeting, 13 April 1955 | |
| (42) | 8th meeting, 14 April 1955 | |
| (43) | 9th meeting, 14 April 1955 | |
| (44) | 10th meeting, 20 April 1955 | |
| (45) | 11th meeting, 21 April 1955 | |
| (46) | 12th meeting, 21 April 1955 | |
| (47) | 13th meeting, 31 May 1955 | |

2. *Other documents*¹

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| Judicial review of United Nations Administrative Tribunal judgements: working paper submitted by the Secretary-General | A/AC.78/L.1 inc. Corr.1, reproduced as A/2909 (doc. No. (60), p.1), Annex II (A) |
| Preliminary views of Member States and observations of specialized agencies concerned | A/AC.78/L.3 and Add.1, 2 and 3, reproduced <i>ibid.</i> , Annex III |
| Note by the Secretary-General transmitting the views of the United Nations Staff Council | A/AC.78/L.4, reproduced <i>ibid.</i> , Annex IV |
| China, Iraq and United States of America: revised draft amendment to the Statute of the United Nations Administrative Tribunal | A/AC.78/L.6/Rev.1 reproduced <i>ibid.</i> , Annex I (B) |
| France: revised draft amendment to the Statute of the United Nations Administrative Tribunal | A/AC.78/L.7/Rev.1, reproduced <i>ibid.</i> , Annex I (A) |

¹ All documents of the Special Committee of permanent interest were annexed to its report to the General Assembly (A/2909), which is reproduced in doc. (60), p. 1; the number of each annex is indicated in the right-hand column of this subsection of the present list.

- Suggestions by the Secretary-General on judicial review of United Nations Administrative Tribunal judgements A/AC.78/L.8, reproduced *ibid.*, Annex I (C)
- Members of the Permanent Court of Arbitration: note by the Secretary-General A/AC.78/L.9/Rev.1, reproduced *ibid.*, Annex II (B)
- Participation of individuals in proceedings before the International Court of Justice: memorandum submitted by the Secretary-General A/AC.78/L.10, reproduced *ibid.*, Annex II (C)
- India: proposed addition to suggestions by the Secretary-General on judicial review of United Nations Administrative Tribunal judgements A/AC.78/L.11, incorporated *ibid.*, para. 64
- Australia: proposals on judicial review of United Nations Administrative Tribunal judgements A/AC.78/L.12, reproduced *ibid.*, Annex I (D)
- India: amendment to part II of the Australian proposals (A/AC.78/L.12) A/AC.78/L.13, incorporated *ibid.*, para. 52
- China, Iraq, Pakistan, United Kingdom of Great Britain and Northern Ireland and United States of America: draft amendment to the Statute of the United Nations Administrative Tribunal A/AC.78/L.14 inc. Corr.1 (same text as *ibid.*, para. 116, draft article 11)
- France: amendment to document A/AC.78/L.14 and Corr. 1 A/AC.78/L.15, incorporated *ibid.*, para. 91

C. Documents of the Tenth Session of the General Assembly

1. Records of meetings

(a) Records of meetings of the Fifth Committee

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|---|---|---|
| <p>(48) 493rd meeting, 17 October 1955</p> <p>(49) 494th meeting, 17 October 1955</p> <p>(50) 495th meeting, 18 October 1955</p> <p>(51) 496th meeting, 19 October 1955</p> <p>(52) 497th meeting, 24 October 1955</p> <p>(53) 498th meeting, 24 October 1955</p> <p>(54) 499th meeting, 25 October 1955</p> <p>(55) 500th meeting, 25 October 1955
(see paras. 1-24)</p> <p>(56) 501st meeting, 31 October 1955
(see para. 1)</p> <p>(57) 505th meeting, 4 November 1955
(see paras 1-4)</p> | } | <p><i>General Assembly,
Official Records,
Tenth Session,
Fifth Committee
(A/C.5/SR.493-501
and 505)</i></p> |
|---|---|---|

(b) Records of plenary meetings of the General Assembly

- | | | |
|---|---|---|
| <p>(58) 540th meeting, 8 November 1955
(see paras. 23-47)</p> <p>(59) 541st meeting, 8 November 1955
(see paras. 1-162)</p> | } | <p><i>General Assembly,
Official Records,
Tenth Session
Plenary Meetings
(A/PV.540-541)</i></p> |
|---|---|---|

2. Other documents

(60) *Official Records of the General Assembly, Tenth Session, Annexes, agenda item 49 on "Report of the Special Committee on Review of Administrative Tribunal Judgements"*

page 1	Report of the Special Committee on Review of Administrative Tribunal Judgements	A/2909
page 33	Views of Member States and specialized agencies concerned	A/2917 and Add. 1 and 2
page 35	Note by the Secretary-General transmitting the views of the United Nations Staff Council	A/C.5/634
page 37	Statement made by the Secretary-General at the 493rd meeting of the Fifth Committee	A/C.5/635
—	Argentina, Canada, China, Cuba, Iraq, Pakistan, United Kingdom of Great Britain and Northern Ireland and United States of America: revised draft resolution	A/C.5/L.335/Rev.1 (mimeographed) this text, as amended at the 499th meeting of the Fifth Committee (doc. No. (54)), para. 48, appears as resolution 957 (X) (doc. No. (60), p. 44)
—	Australia: draft resolution	A/C5./L.337 (mimeographed) incorporated in A/3016 (doc. No. (60), p. 38), para. 36
—	India: amendment to document A/C.5/L.335/Rev. 1	A/C.5/L.339 (mimeographed) incorporated in A/3016 (doc. No. (60), p. 38), para. 32
page 38	Report of the Fifth Committee	A/3016
—	India: amendments to the draft resolution proposed by the Fifth Committee	A/L.198 (mimeographed) same text as A/C.5/L.339 (incorporated in doc. No. (60), p. 38, para. 32)
page 44	Belgium: Draft Resolution	A/L.199

3. Resolution adopted by the General Assembly

page 44	Resolution 957 (X)—Procedure for Review of United Nations Administrative Tribunal Judgements: amendments to the Statute of the Administrative Tribunal	A/RES/316 (also reproduced in <i>General Assembly, Tenth Session Supplement No. 19, (A/3316), p. 30</i>)
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*D. Documents of the Twelfth Session of the General Assembly**1. Record of a meeting of the Fifth Committee*

- (61) 628th meeting, 26 November 1955
(see paras. 44-45)
- General Assembly,
Official Records,
Twelfth Session,
Fifth Committee
(A/C.5/SR.628)*

2. Other documents

- (62) *Official Records of the General Assembly, Twelfth Session, Annexes,* agenda item 51 (e) on "Personnel questions: Proposal to amend article 9 of the Statute of the United Nations Administrative Tribunal: report of the Secretary-General"
- | | | |
|---------|---|--------|
| page 2 | Report of the Fifth Committee | A/3797 |
| page 23 | Report of the Secretary-General | A/3629 |
| page 25 | Eighth report of the Advisory Committee on Administrative and Budgetary Questions | A/3684 |

**Annexes to the Application submitted by Mr. Mohamed Fasla to the
Committee on Applications for Review of Administrative Tribunal
Judgements ¹**

1. Letter of Appointment, dated 5 June 1968, extending Applicant's fixed-term appointment from 2 April 1968 to 31 December 1969.
2. United Nations Joint Appeals Board, Case No. 172, Report to the Secretary-General, dated 3 June 1970.
3. Letter to the Applicant from the Officer-in-Charge, Office of Personnel, United Nations, dated 10 July 1970.
4. Letter to the Applicant from the Executive Secretary, United Nations Administrative Tribunal, dated 2 October 1970.
5. Note to the Applicant from the UNTAB/Special Fund Resident Representative in the Syrian Arab Republic, dated 6 September 1964.
6. Note from the Applicant to the UNTAB/Special Fund Resident Representative in the Syrian Arab Republic, dated 25 November 1964.
7. Note to the Applicant from the UNTAB/Special Fund Resident Representative in the Syrian Arab Republic, dated 28 November 1964.
8. Letter from the Applicant to the Chairman of the UN Technical Assistance Board, New York, dated 22 July 1965.
9. Applicant's Periodic Report, covering the period from 30 June 1964 to 30 June 1965, dated 1 July 1965 and 15/19 October 1965; rebuttal by Applicant, dated 22 November 1965.
10. Letter from the UNTAB/Special Fund Resident Representative in the Syrian Arab Republic to the Administrative Officer, Joint Administration Division, UN Technical Assistance Board, dated 23 December 1965.
11. Letter from the UNDP Resident Representative in Lebanon to the Chief, Personnel Branch, Bureau of Administrative Management and Budget, UNDP, dated 8 April 1966.
12. Letter from the UNDP Deputy Resident Representative in Lebanon to the Chief, Personnel Branch, Bureau of Administrative Management and Budget, UNDP, dated 27 April 1966.
13. Applicant's Periodic Report, covering the period from 1 January to 31 May 1966, not dated, provided to the Applicant in October 1970.
14. Applicant's Periodic Report, covering the period from June to October 1966, dated 9/14 November 1966.
15. Draft of memorandum by Mr. Yuri V. Filippov, Deputy Director, Bureau of Evaluation and Reports, UNDP, not dated (written early in 1967).
16. Letter from Mr. Filippov to the Assistant Director-General, Department of Administration and Finance, Food and Agriculture Organization, dated 12 April 1967.
17. Cable from the Assistant Director-General, Department of Administration and Finance, Food and Agriculture Organization, not dated (sent in April 1967).
18. Letter from Mr. Filippov to the Assistant Director-General, Department of Administration and Finance, Food and Agriculture Organization, dated 19 May 1967.

¹ Annexes not reproduced. [Note by the Registry.]

19. Letter from the Assistant Director-General, Department of Administration and Finance, Food and Agriculture Organization, to the Assistant Director, FAO Liaison Office with the United Nations, not dated (sent late in May 1967).
20. UNDP Division of Technical Assistance Operations, list of Country Assignments and Secretarial Assignments, dated 25 September 1967.
21. Applicant's Periodic Report, covering the period from November 1966 to November 1967, dated 21/24 November 1967.
22. Applicant's Periodic Report, covering the period from January to March 1968, dated 28 September 1970.
23. United Nations Personnel Action form (P.5), dated 2 May 1968.
24. United Nations Personnel Action form (P.5), dated 6 June 1968.
25. Note from the Applicant to the UNDP Resident Representative in Yemen, and comments by the Resident Representative, both dated 2 November 1968.
26. Letter from the Foreign Minister of the Yemen Arab Republic to the Applicant, dated 2 April 1969, Arabic with English translation.
27. Letter from the UNDP Resident Representative in Yemen to the Director, Accounts Division, Office of the Controller, United Nations, dated 6 January 1969.
28. Letter from the Foreign Ministry of the Yemen Arab Republic to the Office of the UNDP Resident Representative in Yemen, dated 2 April 1969, Arabic with English translation.
29. Letter from the Applicant to the Director, Bureau of Administrative Management and Budget, UNDP, dated 14 April 1969.
30. Letter from the Foreign Minister of the Yemen Arab Republic to the Applicant, dated 3 April 1969, Arabic with English translation.
31. Letter from the Foreign Ministry of the Yemen Arab Republic to the Office of the UNDP in Yemen, dated 12 March 1969.
32. Cable from the UNDP Resident Representative in Yemen to the Director, Bureau of Administrative Management and Budget, UNDP, received on 27 December 1968.
33. Letter from the Applicant to the Chief, Personnel Division, Bureau of Administrative Management and Budget, UNDP, dated 30 December 1968.
34. Cable from the UNDP Resident Representative in Yemen to the UNDP in New York, received 3 January 1969.
35. Letter from the Applicant to the Director, Bureau of Administrative Management and Budget, UNDP, dated 17 January 1969.
36. Letter from the Applicant to the Chief, Personnel Division, Bureau of Administrative Management and Budget, UNDP, dated 8 February 1969.
37. Letter from the Applicant to the Executive Officer, Bureau of Administrative Management and Budget, UNDP, dated 24 February 1969.
38. Cable from the Chief, Personnel Division, Bureau of Administrative Management and Budget, UNDP, to the Applicant, received 24 February 1969.
39. Letter from the Applicant to the Assistant Administrator and Director, Bureau of Operations and Programming, UNDP, dated 29 March 1969.
40. Letter from the Minister of Foreign Affairs of the Yemen Arab Republic to the Applicant, dated 2 April 1969, Arabic with English translation.
41. Letter from the Applicant to the Assistant Administrator and Director, Bureau of Operations and Programming, UNDP, dated 6 April 1969.
42. Summary draft report by Consultant to the UNDP Administrator on his visit to Yemen, dated 23 March 1969.

43. Letter to the Applicant from the UNDP Resident Representative in Turkey, dated 1 April 1969.
44. Letter to the Applicant from the Administrator, UNDP, dated 9 April 1969.
45. Cable from the Applicant to the UNDP, New York, dated 24 April 1969.
46. Cable from the Applicant to the UNDP, New York, dated 4 May 1969.
47. Letter from the Applicant to the Chief, Personnel Division, Bureau of Administrative Management and Budget, UNDP, dated 29 April 1969.
48. Cable to the Applicant from the Director, Bureau of Administrative Management and Budget, UNDP, dated 10 May 1969.
49. Cable to the Applicant from the Minister of State and Personal Representative of the President, Yemen Arab Republic, received 1 June 1969.
50. Letter to the Applicant from the Chief, Personnel Division, Bureau of Administrative Management and Budget, UNDP, dated 22 May 1969.
51. Personnel Record (Fact Sheet) of the Applicant, prepared by the UNDP in 1969.
52. Letter from the Chief, Secretariat Recruitment Service, Office of Personnel, United Nations, to the Personnel Officer, UNDP, dated 30 June 1969.
53. Letter from the UNDP Acting Resident Representative in Morocco to the Chief, Personnel Division, Bureau of Administrative Management and Budget, UNDP, dated 11 August 1969.
54. Cable from the Applicant to the Chief, Personnel Division, Bureau of Administrative Management and Budget, UNDP, dated 17 June 1969.
55. Cable from the Applicant to the Chief, Personnel Division, Bureau of Administrative Management and Budget, UNDP, dated 9 July 1969.
56. Letter to the Applicant from the Director, Bureau of Administrative Management and Budget, UNDP, dated 20 November 1969.
57. Letter from the Applicant to the Administrator, UNDP, dated 12 August 1970.
58. Letter to the Applicant from the Officer-in-Charge, Bureau of Administrative Management and Budget, UNDP, dated 31 August 1970.
59. Letter to the Applicant from the Chief, Rules and Procedures Section, Personnel Division, UNDP, dated 1 October 1970.
60. Applicant's Periodic Report, covering the period from June 1968 to March 1969, dated 22 September 1970.
61. Memorandum from the Applicant to the Chairman of the United Nations Joint Appeals Board, dated 22 October 1970.
62. Letter to the Applicant from the Secretary of the United Nations Joint Appeals Board, dated 11 November 1970.
63. United Nations Secretariat, Administrative Instruction ST/SI/115 of 11 April 1956.
64. Letter from the Acting Resident Representative, Sierra Leone, to Headquarters, UNDP, dated 23 July 1968.
65. Report on the UNDP Mission to Yemen Arab Republic, by the Chief, Division for Europe, Mediterranean and Middle East Area, UNDP, dated 7 March 1969.
66. Applicant's Revised Fact Sheet, no date.
67. United Nations Joint Appeals Board, Case No. 181, Report to the Secretary-General, dated 18 January 1971.
68. Letter to the Applicant from the Director of Personnel, United Nations, dated 8 March 1971.
69. Appeal submitted on behalf of the Applicant to the United Nations Joint Appeals Board, dated 17 September 1970 (annexes omitted).

70. Memorandum from Applicant's counsel to the Chief, Staff Services, Office of Personnel, dated 19 January 1971.
71. Memorandum from the Chief, Staff Services, Office of Personnel, to Applicant's counsel, dated 25 January 1971.
72. Memorandum to the Applicant from the Resident Representative of TAB and Director of UNSF Programmes in the Syrian Arab Republic, dated 28 November 1965.
73. Personnel Directive from Acting Director of Personnel to All Executive Officers and All Administrative Officers in the Office of Personnel, dated 13 March 1968.
74. Cables from the Director, Bureau of Administrative Management and Budget, UNDP, to UNDP Resident Representative in Damascus and Beirut, dated 30 November 1965.
75. Letter from the Syrian Ministry of Planning to the UNDP Resident Representative in Damascus, dated 29 August 1965.
76. Letter from the Applicant to the UNDP Assistant Administrator, dated 11 December 1967.
77. Certificate from Dr. Mohammed Ben Mebarek, Algiers, dated 24 July 1968.
78. Certificate from Professor P. Mollaret, Paris, dated 29 July 1968.
79. Cable from the UN Health Service to the UNESCO Medical Service, dated 5 August 1968.
80. Memorandum from the Medical Officer, UN Health Service, to the Personnel Section, UNDP, dated 19 August 1968.
81. Letter from the UNDP Resident Representative in Sierra Leone to the Director, Bureau of Administrative Management and Budget, UNDP, dated 22 July 1968.
82. Letter from the UNDP Resident Representative in Sierra Leone to the Chief, Personnel Division, UNDP, dated 7 August 1968.
83. Letter from the UNDP Resident Representative in Sierra Leone to the Chief, Personnel Division, UNDP, dated 8 August 1968.
84. Cable to the UNDP office in Yemen from the UNDP Assistant Administrator, dated 11 March 1969.
85. Decision of the United Nations Administrative Tribunal Judgement No. 158—FASLA, dated 28 April 1972.
86. Application to the United Nations Administrative Tribunal by Mohamed Fasla, dated 31 December 1970.
87. Reply for the Respondent, Case No. 144—FASLA, dated 1 June 1971.
88. Applicant's Comments on Respondent's Replies, dated 15 November 1971.
89. Supplement to the Application to the United Nations Administrative Tribunal by Mohamed Fasla, dated 8 June 1971.
90. Supplemental Reply for the Respondent dated 11 August 1971.
91. Applicant's Comments on Respondent's Reply of 11 August 1971, dated 15 November 1971.
92. Statement of Legal Costs incurred by Applicant, dated 25 May 1972.