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Appointments to fill vacancies in subsidiary organs and other appointments

Proposed programme budget for 2020

Administration of justice at the United Nations

Administration of justice at the United Nations and activities of the Office of the United Nations Ombudsman and Mediation Services

Eleventh report of the Advisory Committee on Administrative and Budgetary Questions on the proposed programme budget for 2020

I. Introduction

1. The Advisory Committee on Administrative and Budgetary Questions has considered the reports of the Secretary-General on administration of justice at the United Nations ([A/74/172](#)) and on the activities of the Office of the United Nations Ombudsman and Mediation Services ([A/74/171](#)). The Committee also had before it the report of the Internal Justice Council on administration of justice at the United Nations ([A/74/169](#)). During its consideration of the reports, the Committee met with representatives of the Secretary-General, who provided additional information and clarification, concluding with written responses received on 11 October 2019.

2. The report of the Secretary-General on administration of justice at the United Nations provides information on the functioning of the system of administration of justice in 2018, as well as caseload statistics and responses to the requests of the General Assembly contained in its resolution [73/276](#). The report on the activities of the Office of the United Nations Ombudsman and Mediation Services provides information on the activities of the Office in 2018.



II. Administration of justice at the United Nations

A. Statistical data on the formal system of administration of justice for 2018

3. In his report, the Secretary-General provides data on the trends relating to the operation of the formal system of administration of justice in 2018. With respect to the Management Evaluation Unit, the report indicates that it received its third highest volume of requests in 2018, totalling 1,182, of which 1,087 requests were closed by 31 December 2018, which is in line with the output in previous years (A/74/172, para. 4).

4. The report also indicates that the Office of Staff Legal Assistance received 3,216 new requests for assistance and closed 2,483 requests during the reporting period. In 2018, the Office filed 173 requests for management evaluation and 119 applications to the Dispute Tribunal and represented staff in eight proceedings before the Appeals Tribunal. The majority (68 per cent) of requests for assistance from the Office related to benefits and entitlements, reflecting changes made to the staff salary and benefits package that came into effect during 2017 (A/74/172, paras. 6 and 7).

5. Regarding the United Nations Dispute Tribunal, the report indicates that the Tribunal received 316 new applications, for a total of 348 applications, including 32 transferred cases, as compared with 382 applications in 2017. Of the new applications, 27 per cent concerned appointment-related matters, 25 per cent concerned separation from service, 21 per cent involved benefits and entitlements, 10 per cent involved disciplinary matters and 17 per cent concerned miscellaneous matters. The figures by category reflect a consistent trend since the commencement of the system's operation in 2009. Forty-four applications were withdrawn and 128 judgments were issued, the third lowest number of judgments since the inception of the system, including years in which there were judicial vacancies. The number of pending applications at year end increased from 372 in 2017 to 404 in 2018, which is the highest number of pending applications since the system was introduced in 2009. With regard to compliance with the three-month deadline from the close of hearing or submission and delivery of the judgment at the Dispute Tribunal, in 2017 and 2018, the highest compliance rate at one Dispute Tribunal location was 67 per cent and the lowest was 14 per cent (A/74/172, paras. 8–10, 12 and 30, and table 4).

6. The report indicates that effective 1 January 2019, the full-time judge in Geneva was elected President of the Dispute Tribunal for one year. Subsequently, in April 2019, while the incumbent President was still in office, the ad litem judge in Nairobi was elected by the six other judges as the new President of the Tribunal for an unspecified period. The report also indicates that the situation affected implementation of the case disposal plan (A/74/172, paras. 17 and 86). Upon enquiry, the Advisory Committee was informed that the issue of a dual presidency had been resolved with the appointment of the four new half-time judges by the General Assembly, which ended the mandate of the ad litem judges on 10 July 2019, after which the initial President continued her term and proceeded with the implementation of the case disposal plan. The Committee was also informed upon enquiry of the cost implications related to delays in case disposal (see para. 12 below). **The Advisory Committee is concerned about the dual presidency of the Dispute Tribunal and its impact on case disposal, and trusts that every effort will be made to avoid any recurrence.**

7. On the Appeals Tribunal, the report indicates that 53 new appeals were filed against judgments of the Dispute Tribunal, and 54 pending appeals were disposed of. The proportion of Dispute Tribunal judgments appealed to the Appeals Tribunal

fluctuates from year to year. In 2017, 59 per cent of the appeals were filed by staff members and 41 per cent on behalf of the Secretary-General, while in 2018, 45 per cent of the appeals were filed by staff members and 55 per cent on behalf of the Secretary-General (A/74/172, paras. 18, 48 and 49).

8. In relation to self-representation, the report indicates that the proportion of self-represented applicants before the Dispute Tribunal remained relatively low, at 39.2 per cent, in 2018. Representation of staff by the Office of Staff Legal Assistance before the Tribunal was at 44.6 per cent in 2018, down from 57 per cent in 2017 (A/74/172, para. 19).

B. Responses to requests of the General Assembly contained in resolution 73/276

9. Section III of the Secretary-General's report provides responses to the requests of the General Assembly in its resolution 73/276 on outreach, root causes of conflict, the regulatory framework, informal dispute resolution, accountability of managers for gross negligence, trends and statistics in the system, the case disposal plan and related initiatives, self-representation before the Dispute Tribunal, the voluntary supplemental funding mechanism for the Office of Staff Legal Assistance and remedies available to non-staff personnel.

10. Regarding outreach, the Secretary-General states that the outreach strategy contemplates multimedia and multi-stakeholder approaches to dissemination of information, as well as face-to-face engagements at headquarters locations or through mission-related travel. More than 35 outreach briefings and events have been conducted for groups of staff members and managers. The handbook entitled "A staff member's guide to resolving disputes" was revised and made available in all six official languages of the United Nations, with all staff, including those in the field, being made aware of the guide (A/74/172, paras. 73–74 and 76–77). **The Advisory Committee welcomes the outreach efforts, including the availability of the handbook "A staff member's guide to resolving disputes" in all six official languages, as well as its dissemination to staff in the field. The Committee encourages the Secretary-General to continue his efforts related to the dissemination of information to staff at Headquarters and in the field.**

11. In relation to the case disposal plan and related initiatives, the General Assembly requested the President of the Dispute Tribunal and the Principal Registrar of the Dispute and Appeals Tribunals to work together to develop and implement a case disposal plan with a real-time case-tracking dashboard and performance indicators. The Secretary-General states that, as at 31 December 2018, 50.74 per cent of the caseload, representing 205 cases, had been pending for 401 days or longer. The President established targets in January 2019 for the number of judgments to be delivered every month and reassigned two group cases that had been pending over 401 days. A provisional version of a dashboard has been developed, providing real-time information on the number of pending cases at any location and their ageing, and the number of cases disposed of. The report indicates that following implementation of the case disposal plan in January 2019, the Dispute Tribunal caseload was reduced by 29.45 per cent, from 404 to 285, and the caseload pending over 401 days was reduced by 52.68 per cent, from 205 to 97 cases (A/74/172, para. 86).

12. Upon enquiry, the Advisory Committee was informed that since 2009, the longest case disposal time taken by the Dispute Tribunal from the filing of the application was 1,801 days, or 4 years and 11 months. With respect to the cost implications of ageing cases, the Committee was informed that the most significant

cost factor was the impact of an unresolved conflict on the applicant, the manager or other staff members involved and the organization, which could result in physical illness, absenteeism and delays in delivery of programmatic outputs. The Committee was further informed of other implications such as the inefficient use of resources of the Dispute Tribunal, the Registries and the Office of Staff Legal Assistance, and the requirement for additional resources to dispose of the backlog. **While the Advisory Committee notes the positive results of the case disposal plan, it remains concerned about the length of time taken to dispose of some cases. The Committee encourages strengthened efforts to reduce the length of time for case disposal and the number of ageing cases. The Committee looks forward to receiving an update on the case disposal plan in the next report of the Secretary-General.**

13. With respect to remedies available to non-staff personnel, the General Assembly, in its resolution [73/276](#), requested the Secretary-General to prepare a comprehensive analysis of the remedies available to non-staff personnel, including their effectiveness, efforts that could be made to prevent disputes and to resolve existing disputes *inter partes*, as well as the identification of good practices, drawing on information and proposals contained in his reports submitted to the Assembly at previous sessions. The report contains a description of five initiatives being implemented or proposed, including the establishment of a pilot project by the Office of the United Nations Ombudsman and Mediation Services to offer access to informal dispute-resolution services to non-staff personnel ([A/74/172](#), para. 95). The Advisory Committee's recommendations and observations on the pilot project are set out in section III below.

C. Actions to be taken by the General Assembly

14. As stated in the report, the Secretary-General considers that the proposals contained in the report would enhance the effectiveness of administration of justice at the United Nations ([A/74/172](#), para. 101). The report also includes a request to the General Assembly to take note of the information provided in the report ([A/74/172](#), para. 102). Upon enquiry, the Advisory Committee was informed that the report contained the following proposals:

(a) The Secretary-General proposes an amendment to the Staff Rules to provide a legal basis for the Organization to take voluntary action to ensure the fullest effective relief when staff members fail to comply with family support court orders, following a judgment issued by the Appeals Tribunal in the Ozturk case ([A/74/172](#), paras. 97–99), with the specific amendment being proposed under a different agenda item;

(b) The Secretary-General suggests that the General Assembly may wish to remedy the legal lacuna concerning the security of tenure of the Presidents of the two Tribunals based on a recommendation from the Internal Justice Council ([A/74/172](#), para. 17);

(c) The Secretary-General suggests that the General Assembly may wish to consider whether all judicial directions by the Tribunal that are of general application should be published and thus made available to all stakeholders, including the General Assembly, in line with the views of the Sixth Committee ([A/74/172](#), para. 88);

(d) The Secretary-General proposes to explore whether a neutral entity could be engaged in a cost-effective manner and, in the event of an arbitration, such entity could provide certain support functions to the United Nations and non-staff personnel to expedite the dispute resolution process ([A/74/172](#), para. 95 (d)).

15. The Advisory Committee was also informed, upon enquiry, that if positively considered by the General Assembly, the proposals would be implemented within existing resources.

16. **Regarding the proposal to make an amendment to the Staff Rules, the Advisory Committee notes that the proposal is submitted under a different agenda item of the General Assembly. With respect to the other proposals, the Advisory Committee is of the view that these are legal matters not within the purview of the Committee and are for the General Assembly to decide upon. The Advisory Committee trusts that if there are financial implications resulting from these proposals, the relevant rules and procedures for the consideration of the proposals will be adhered to.**

17. **Subject to its observations and recommendations above, the Advisory Committee recommends that the General Assembly take note of the information provided in the report of the Secretary-General on the administration of justice at the United Nations.**

III. Activities of the Office of the United Nations Ombudsman and Mediation Services

18. In his report on the activities of the Office of the United Nations Ombudsman and Mediation Services (A/74/171), the Secretary-General indicates that the Office opened 3,577 cases in 2018, including mediation cases, representing an increase of 10 per cent over the previous year. Of those cases, 2,776 originated in the Secretariat, 539 in the funds and programmes and 262 in the Office of the United Nations High Commissioner for Refugees (UNHCR), reflecting an overall upward trend. It is also stated that, as in previous years, the three issues most commonly reported to the Office in 2018 were related to: (a) job and career; (b) compensation and benefits; and (c) evaluative relationships, with an increase in cases under evaluative relationships and compensation and benefits and a decline in cases regarding job and career (A/74/171, paras. 23 and 26).

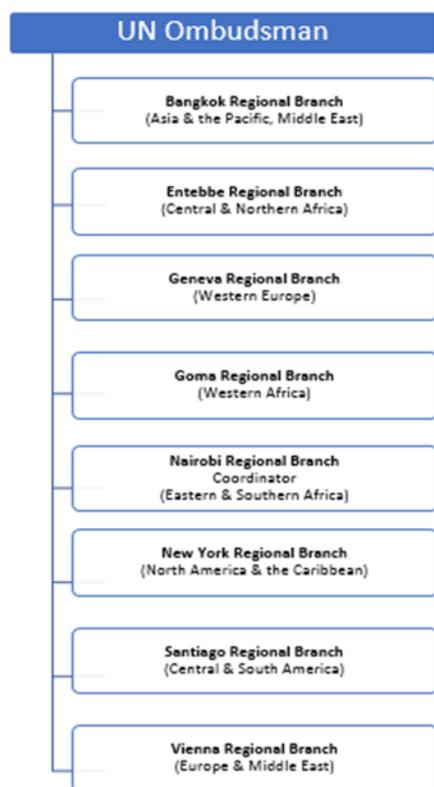
19. During the reporting period, 84 mediation cases were opened, comprising 63 emanating from the Secretariat, 15 from the funds and programmes and 6 from UNHCR. Of the 65 mediation cases closed in 2018, 52 were mediated, and 5 represented completed group processes (A/74/171, paras. 39 and 40).

20. **The Advisory Committee notes the overall importance of the informal dispute resolution process in the Organization, which represents a more cost-efficient method of dispute resolution as compared with the formal process, and trusts that continued efforts will be made to encourage its use.**

21. Regarding the global presence of the Office, the report indicates that apart from offices in Bangkok, Entebbe (Uganda), Geneva, Goma (Democratic Republic of the Congo), Nairobi, New York, Santiago and Vienna, regional ombudsman offices provide the full range of conflict-management services at the duty station they serve. The Office also engaged in a pilot initiative in locations where there is no resident ombudsman. To establish an outreach network of focal points, 25 staff members from 11 duty stations in the United Nations Multidimensional Integrated Stabilization Mission in the Central African Republic were trained to assist the Office in increasing awareness of early conflict resolution and fostering a respectful workplace (A/74/171, paras. 10, 11 and 51).

22. Upon enquiry, the Advisory Committee was provided with a chart indicating the regional coverage of each of the eight branches of the Office (see figure).

Figure
**Regional coverage of the branches of the Office of the United Nations
 Ombudsman and Mediation Services**



23. The Committee was also informed upon enquiry that, based on client needs, coverage could be adjusted on a case-by-case basis to allow for cost efficiencies and to make services available in certain official languages. **The Advisory Committee recommends that the General Assembly request the Secretary-General to provide an analysis of the pilot initiative on the outreach network of focal points in the next report of the Office of the United Nations Ombudsman and Mediation Services.**

Pilot project to offer access to informal dispute-resolution services to non-staff personnel

24. In its resolution [73/276](#), the General Assembly requested the Secretary-General to establish, within existing resources, a pilot project to offer access to informal dispute-resolution services to non-staff personnel. The Assembly also requested the Secretary-General to establish both quantitative and qualitative analysis and to provide that information and any recommendations in the context of his next report.

25. The report indicates that the total number of cases from non-staff personnel in the Secretariat increased from 225 in 2017 to 304 in 2018, prior to the adoption of the pilot by the General Assembly and without any targeted outreach or specific measures by the Office to raise awareness. In 2019, the Office had provided services to 173 non-staff personnel by the end of June. The report also indicates that if the increase in cases from non-staff personnel continues, and if the ongoing implementation of the pilot project leads to an increase in cases from non-staff personnel beyond 350 cases per year, additional resources would be required for the

project to be sustainable. The three issues most commonly brought to the Office by non-staff personnel in 2018 were: (a) evaluative relationships; (b) job and career; and (c) compensation and benefits (A/74/171, paras. 43 and 44).

26. Upon enquiry, the Advisory Committee was informed that the informal resolution of workplace concerns had an overall positive impact on workplace health and productivity and would allow the Office to provide a better analysis of non-staff grievances to the relevant offices in the Organization. The Office expects to receive disputes relating to: safety, health, well-being and work/life balance; evaluative relationships; compensation and benefits; legal and regulatory matters; and questions related to job and career and to leadership. The Committee was also informed that the Office had been distributing the caseload among its regional offices to absorb the additional volume; should the caseload increase significantly to the extent that it cannot be absorbed, the Office will report back to the General Assembly with proposals which may include a request to strengthen its capacity. Given the limited experience with the pilot project, the Committee was informed that more comprehensive information would be provided in the Ombudsman's report to the General Assembly at its seventy-fifth session.

27. The Advisory Committee recommends that the General Assembly request the Secretary-General to provide in the next report of the Office of the United Nations Ombudsman and Mediation Services more detailed information on and analysis of the pilot project to offer access to informal dispute-resolution services to non-staff personnel, including on the nature of conflicts and advice given, disaggregated data on each category of non-staff personnel, and the results of the pilot project on resolving disputes.