



# General Assembly

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## Seventy-fifth session

Agenda items 146 and 154

### Human resources management

#### Administrative and budgetary aspects of the financing of the United Nations peacekeeping operations

## Seconded active-duty military and police personnel

### Report of the Advisory Committee on Administrative and Budgetary Questions

#### I. Introduction

1. The Advisory Committee on Administrative and Budgetary Questions has considered the report of the Secretary-General on seconded active-duty military and police personnel ([A/75/646](#)). During its consideration of the report, the Committee met online with representatives of the Secretary-General, who provided additional information and clarification, concluding with written responses dated 26 February 2021.

2. The report of the Secretary-General was submitted in response to General Assembly resolution [74/254](#) B, in which the Assembly requested the Secretary-General to increase outreach and engagement with Member States and to explore all viable options to resolve issues involving the engagement of seconded active-duty military and police personnel, in particular the conflicts between national legislation and the Staff Regulations and Rules of the United Nations, and to report on the development of the matter and present his proposals for its consideration at the first part of its resumed seventy-fifth session. With a view to identifying solutions to conflicts between national legislation and the Staff Regulations and Rules of the United Nations, the Assembly authorized the Secretary-General to extend the exceptional measures regarding seconded active-duty military and police personnel until 31 July 2021, unless a permanent solution is implemented before that date.

#### II. Background

3. In its resolution [52/248](#), the General Assembly approved the proposals of the Secretary-General for the recruitment of seconded active-duty military and police personnel, who would be engaged on staff contracts as United Nations staff members



and would serve normally for two years, for a maximum of four years. As such, they would be subject to both the Staff Regulations and Rules and the policies and procedures of the Member State concerned ([A/75/646](#), para. 16).

4. The Secretary-General first highlighted a conflict between the Staff Regulations and Rules of the United Nations and the national legislation or practices of some Member States with respect to their active-duty military and police personnel seconded to the Secretariat in his report entitled “Overview of the financing of the United Nations peacekeeping operations: budget performance for the period from 1 July 2011 to 30 June 2012 and budget for the period from 1 July 2013 to 30 June 2014” ([A/67/723](#)). The report referred to a conflict between staff regulation 1.2 (j), under which staff members are prohibited from accepting any honour, decoration, favour, gift or remuneration from any Government, and the national legislation of several Member States, under which government personnel on secondment to an outside organization such as the United Nations are prohibited from accepting financial remuneration and benefits directly from that organization. A survey conducted at that time revealed that, in some cases, national legislation may not be the only reason for additional remuneration and/or benefits. In addition, it appears that certain countries may have inconsistent practices with regard to their seconded officers. Remuneration and benefits can take various forms, from the salary to expatriate allowances and payments ([A/75/646](#), para. 1).

5. In its resolution [67/287](#), the General Assembly noted the difficulties related to reconciling the national legislation of some countries with the Staff Regulations and Rules and requested the Secretary-General to report during the main part of its sixty-eighth session on proposals to resolve the conflict. As an exceptional measure, the Assembly agreed to waive the requirement for seconded active-duty military and police personnel to comply with staff regulation 1.2 (j) until 31 December 2013 in order to facilitate the full participation of all Member States in seconding active-duty officers (*ibid.*, para. 2).

6. The Secretary-General submitted reports on the subject in subsequent sessions for the consideration of the General Assembly, which were not endorsed. The Advisory Committee’s previous comments and recommendations are contained in its previous reports ([A/74/584](#) and [A/74/769](#)). The waiver was extended by the Assembly in subsequent resolutions, the most recent of which was resolution [74/254 B](#), as described above ([A/75/646](#), paras. 3–10).

### **III. Engagement with Member States and seconded active-duty military and police officers**

7. It is stated that, since 2012, the Secretariat has been engaging with Member States and seconded active-duty personnel through various outreach and engagement activities, including presentations to the Military and Police Advisers’ Community on upcoming recruitment campaigns, and presentations to the Special Committee on Peacekeeping Operations. In September 2020, the Secretariat conducted its most recent survey of Member States and seconded active-duty military and police personnel at Headquarters and in field missions. Of the 193 Member States, 69 responded to the survey. A total of 45 of them had active-duty military or police personnel currently serving on secondment to the United Nations, of which 27 responded that they provided some sort of remuneration or benefits. Of the remaining 24 Member States that responded but did not currently have seconded active-duty officers with the United Nations, 8 indicated that they would provide benefits and allowances if their nationals were recruited as seconded active-duty officers. With respect to seconded active-duty officers, 219 of the 232 officers responded to the

survey on payments, benefits and/or allowances that they received, with 77 confirming that they received remuneration or benefits and the remaining 142 indicating that they received none (ibid., paras. 20–23).

8. Upon enquiry, the Advisory Committee was informed of discrepancies in the information provided by Member States, seconded active duty officers of the same nationality, and the Secretariat. These include some Member States reporting the provision of payments while the officers from those countries reported receipt of no such payments or vice versa, and some Member States reporting that they did not have seconded officers seconded while the Department of Peace Operations confirms that there are nationals of those Member States currently serving in that capacity or vice versa. The Committee notes that there are further discrepancies in the written responses provided to the Committee, as well as discrepancies between the information provided in the context of the present report and that provided in the context of the previous reports of the Secretary-General.

9. The Committee was further informed that the Secretariat is of the view that any further survey or outreach activity will not lead to a different result or new information than is already available to the General Assembly, particularly after the most recent outreach effort in September and October 2020.

**10. The Advisory Committee acknowledges the engagement by the Secretary-General with Member States through the latest survey. The Committee, however, notes the discrepancies between the information provided by Member States, seconded officers and the Secretariat, as well as discrepancies in the information and data provided by the Secretariat in the current and previous sessions. The Committee is of the view that further clarification of the discrepancies and analysis of the survey results is necessary, and trusts that the Secretary-General will provide this information in his next report.**

#### IV. Options presented by the Secretary-General

11. The Secretary-General states that any viable option to address the challenges related to the identified conflicts should be guided by the following principles, based on Articles 100 and 101 of the Charter of the United Nations and General Assembly resolution [51/243](#):

- (a) To enable all Member States to participate;
- (b) To ensure that the same contractual modality is applied to all seconded active-duty military and police personnel;
- (c) To assign the accountabilities necessary to enable seconded active-duty military and police personnel to carry out the full functions of their positions, including staff supervision and the commitment of funds and/or resources;
- (d) To ensure that seconded active-duty military and police personnel remain subject to the disciplinary authority of the Secretary-General; and
- (e) To avoid the creation of a separate category of staff to whom different values and rules apply (ibid., para. 24).

**12. Regarding the principles to be applied, the Advisory Committee also notes that, in its resolution [74/254 B](#), the General Assembly recalled that the selection of staff members, including seconded active-duty military and police personnel, should be made in accordance with the principles of the Charter of the United Nations, and requested the Secretary-General to enable the participation of all Member States in seconding active-duty military and police personnel. The**

**Committee recalls that the Assembly also urged the Secretary-General to ensure accountability and impartiality of the seconded active-duty military and police personnel through applicable and relevant standards and supervision.**

13. The report indicates that three new options and two former options are provided for consideration. The first new option would be to engage the active-duty military and police personnel as non-staff so that they would not be in violation of the Staff Regulations and Rules, although this option would not uphold the principles outlined in paragraph 11 (c) and (e) above (*ibid.*, para. 26). Upon enquiry, the Advisory Committee was informed that non-staff members are not subject to the Staff Regulations and Rules of the United Nations. They are usually hired for a specific period of time, often with strict limits on the possibility of extension of contracts, and are barred from performing supervisory staff functions, certifying financial matters or performing representational functions for the Organization. Their compensation is normally calculated on the basis of an all-inclusive fee, and they are not entitled to additional benefits such as sick leave or paid annual leave. Non-staff members are also ineligible to participate in the pension plan and are required to obtain their own health insurance, although they are usually covered under appendix D to the Staff Rules. In addition, there is no age limit for the hiring of non-staff and their remuneration is subject to taxation under the applicable laws of their country of residence. The Committee was further informed that the General Assembly would need to revise its resolution [52/248](#) so that seconded officers could be engaged as non-staff, which may mean reverting to engaging gratis personnel. Under this option, in the absence of transitional measures, all the existing seconded active-duty officers would have to separate.

14. The report indicates that the second new option would be the strict enforcement of the Staff Regulations and Rules. The Secretariat would not hire active-duty military and police personnel from any Member State that declared that its national legislation conflicted with the Staff Regulations and Rules; however, this option would not uphold the principle outlined in paragraph 11 (a) above (*ibid.*, para. 27). Upon enquiry, the Advisory Committee was informed that this option would limit the desired recruitment from as wide a geographical basis as possible and would affect the Secretariat's ability to execute its mandate for military and police activities both at Headquarters and in the field. Under this option, in the absence of transitional measures, according to the Secretariat, 120 seconded active-duty officers would have to be separated. **The Advisory Committee trusts that further clarification will be provided to the General Assembly regarding the number of seconded military and police personnel that will be affected under this option (see paras. 8 and 10 above).**

15. In paragraph 28 of the report, it is stated that the third new option would be for the Secretariat to cease to hire active-duty personnel, recruiting instead non-active military and police personnel with relevant experience through the staff selection system. However, the option would run counter to the objective of engaging active-duty personnel in order to secure the most current military and police expertise for the planning and management of peacekeeping operations. In addition, it could be difficult to attract candidates, given that they would need to leave their national military or police careers to join the Secretariat, and the Organization would be deprived of the fresh experience that comes from the rotation of active-duty officers.

16. Upon enquiry, the Advisory Committee was informed that rotation of civilian staff would not be possible, as civilian candidates apply in their personal capacity, while active-duty military and police personnel are nominated by their Governments. If non-active military and police personnel were hired through the staff selection system, they would be subject to the same mobility policy as that for staff members of the Secretariat. The Committee was also informed that the General Assembly

would need to revise its resolution [52/248](#) so that non-active officers could be considered. With this option, in the absence of transitional measures, all the existing seconded active-duty officers would have to separate.

17. With respect to the former options being presented by the Secretary-General, the first would be to amend staff regulation 1.2 (j) and staff rule 1.2 (l) on honours, gifts or remuneration, which would result in seconded personnel working under different conditions of service with possible inequalities of payments ([A/75/646](#), para. 25). Finally, as the second former option being presented, the Secretary-General proposes the reconsideration of the option presented at the seventy-fourth session: to identify remuneration or benefits provided by Member States to seconded personnel and to implement an agreement to amend the conditions of employment to ensure that there is no duplication of remuneration or benefits between Member States and the United Nations (*ibid.*, para. 29). Upon enquiry, the Advisory Committee was informed that, according to the Secretariat, this option would allow all Member States to submit nominations, enable recruitment from a wide geographical basis and provide the Secretariat with the knowledge and expertise necessary to execute its mandate for military and police activities both at Headquarters and in the field. According to the Secretariat, under this option, existing seconded active-duty officers could remain in service while the agreements are put in place.

18. The Advisory Committee was informed upon enquiry that the Secretariat believes this option is the best way to address the potential for unequal treatment of staff by instituting agreements whereby, in the case of an identified payment, the Organization adjusts the entitlement/benefit provided accordingly to ensure that there is no duplication of benefits. The Committee was informed that, under this option, as long as Member States comply with the disclosure on conflicts with their national legislation, no Member State would be excluded from participation. **The Advisory Committee further reiterates the need for the payments and benefits of active-duty seconded personnel to be fair, transparent and equitable in order to ensure that seconded officers performing functions similar to those of international civil servants are remunerated in accordance with the standards established by the International Civil Service Commission ([A/74/769](#), para. 12).**

19. **The Advisory Committee is of the view that more details regarding the implementation of the options are required, in particular in terms of how to ensure that the principle of “equal pay for equal work” will be ensured through adjustments to the payments of seconded active duty officers, along with the potential financial implications of introducing the proposed new administrative measures (see *ibid.*).**

20. Upon enquiry as to the possibility of combining different options, the Advisory Committee was informed that the Secretariat does not believe that it would be possible to combine the options. For example, according to the Secretariat, two options relate to the hiring of non-staff and the hiring of non-active officers on staff contracts, which are incompatible, as they are governed by two different sets of rules. Regarding a combination of the options of hiring both active and non-active officers while strictly enforcing the Staff Regulations and Rules, the Committee was informed that this option would not fully align with the principle regarding the same contractual modality for all seconded active-duty military and police personnel, and active-duty and non-active-duty personnel would be subject to different recruitment processes.

21. With respect to the possibility of establishing independent staff regulations and rules for seconded active-duty military and police personnel, the Advisory Committee was informed that, at the time of the creation of the seconded officer programme, the General Assembly, in its resolution [52/248](#), decided to recruit these staff members

under the same contractual framework as other United Nations staff and decided against the creation of a separate category of personnel.

22. Upon enquiry, the Advisory Committee was informed that all staff members, including seconded active-duty military and police personnel, are required to sign the declaration, or oath of office, declaring and promising not to seek or accept instruction with regard to the performance of their duties from any Government or other source external to the Organization. Seconded active-duty military and police personnel on secondment from government services are required to make an additional written declaration indicating that, in the event of any conflict between the declaration made under the staff regulation and the oath or affirmation of office made as a member of their Governments, they will immediately inform the United Nations and offer to resign.

**23. The Advisory Committee notes that, of the five options presented, the three new options do not align with one or more of the stated principles, while the two remaining options were previously presented to the General Assembly, which did not endorse them. The Committee considers that more detailed analysis is required of the information on the remuneration and benefits provided by Member States and received by seconded officers. The Committee is also of the view that there should be further assessment of the practical impact, including on Member States, of the different options and possible combinations of options. The Committee recommends that the Assembly request the Secretary-General to provide the results of this analysis and assessment in his next report, to be submitted no later than the second part of the resumed seventy-sixth session.**

24. The report indicates that the recruitment of seconded active-duty military and police personnel addresses the need of the Secretariat to effectively and efficiently manage, direct and support peace operations. It is stated that, on average, 65 Member States submit nominations for posts circulated during any military and police recruitment campaign, resulting in an average of 1,300 candidates per campaign. As at 1 July 2020, there were 283 seconded posts within peacekeeping, 164 of which were at Headquarters and 119 of which were in the field. A total of 158 posts at Headquarters are in the Department of Peace Operations, including 104 in the Office of Military Affairs, 41 in the Office of the Rule of Law and Security Institutions (Police Division) and 13 in the Policy, Evaluation and Training Division. There are two such posts in the Conduct and Discipline Unit, Department of Management Strategy, Policy and Compliance, and four in the Medical Support Section, Department of Operational Support ([A/75/646](#), paras. 17–19). Upon enquiry, the Committee was provided with a table showing the distribution by nationality and duration of appointment of seconded active-duty military and police personnel who were subject to the exceptional measures in the past 10 years.

25. The report indicates that, if there is no decision on the proposals and no further extension of the exceptional measures, the consequences would be as follows:

(a) Currently serving seconded active-duty officers from Member States with national legislation or practices in conflict with the Staff Regulations and Rules would be in breach of those regulations and rules after the expiration date set by the General Assembly for the exceptional measure, which may amount to misconduct and lead to disciplinary measures;

(b) The Secretariat would not be in a position to recruit seconded active-duty military and police officers from Member States with identified conflicts, which would affect the implementation of mandates for military and police activities both at Headquarters and in the field (*ibid.*, para. 30).

26. The Advisory Committee was informed upon enquiry that, if the exceptional measures are not extended, 120 seconded officers would be affected, both at Headquarters and in the field.<sup>1</sup> The Committee was also informed that the continuation of the exceptional measures would ensure geographical diversity and balance, as well as enhanced military and police oversight and guidance for complex and challenging missions. The Committee was further informed that the Secretariat would experience serious organizational gaps and difficulties in implementing peace operations initiatives without these key personnel.

**27. Subject to its recommendations and observations above, the Advisory Committee recommends that the General Assembly authorize the Secretary-General to extend the exceptional measures regarding seconded active-duty military and police personnel until 1 July 2022.**

## V. Conclusion

28. In paragraph 31 of document [A/75/646](#), the General Assembly is requested:

- (a) To consider the options presented and decide on a solution;
- (b) To approve the continuation of the exceptional measure already approved in resolution [67/287](#) for currently serving seconded personnel until the end of their appointment as a transitional measure pending the implementation of an adopted solution. **The comments and recommendations of the Advisory Committee are contained in the present report, in particular paragraphs 19, 23 and 27 above.**

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<sup>1</sup> See paras. 8, 10 and 14 above.