



Secretariat

ST/AI/300
5 January 1983

ADMINISTRATIVE INSTRUCTION

To: Members of the staff

From: The Assistant Secretary-General
for Personnel Services

Subject: REPATRIATION GRANT

1. The Secretary-General informed the General Assembly at its thirty-seventh session (A/C.5/37/26) of the action he proposed to take following confirmation by the United Nations Administrative Tribunal of its Judgement No. 273 (Mortished v. the Secretary-General of the United Nations), which was the subject of an advisory opinion of the International Court of Justice (ICJ). 1/ Specifically, the Secretary-General indicated his intention to treat similar claims in the same manner as decided by the Tribunal in the Mortished case and to act accordingly with respect to all claims for repatriation grant by staff members who had accrued qualifying service for the grant prior to 1 July 1979.
2. In its related report (A/37/675), the Advisory Committee on Administrative and Budgetary Questions stated that, following its examination of the Secretary-General's note, it decided not to contest the Secretary-General's conclusion and intention as indicated above.
3. The Advisory Committee also proposed:
 - (a) Certain amendments to article XII of the Staff Regulations (General provisions) which are intended to "make it possible for the Assembly to monitor more effectively how the Staff Regulations are being carried out";
 - (b) An amendment to the introductory paragraph of annex IV to the Staff Regulations (Repatriation grant) to "reflect the specific intent of the General Assembly with regard to the grant".

The proposals were approved by the General Assembly, in resolution 37/235 C, section I, of 21 December 1982, the text of which is reproduced in the annex to the present instructions.

4. In accordance with the decision of the General Assembly, the repatriation grant shall not be payable unless the staff member submits evidence of relocation satisfactory to the Secretary-General. As provided in administrative instruction ST/AI/269 of 21 December 1979, evidence of relocation shall be constituted by documentary evidence that the former staff member has established residence in a country other than that of the last duty station, such as a declaration by the immigration, police, tax or other authorities of the country, by the senior United Nations official in the country or by the former staff member's new employer.

5. In paragraph 2 of resolution 37/235 C, section I, the General Assembly also "endorses the comments and recommendations of the Advisory Committee as contained in its report" (see para. 2 above). Accordingly, the requirement for the evidence of relocation set out in the paragraph 4 above shall not apply to any qualifying service for repatriation grant that was accrued prior to 1 July 1979. As a consequence, the grant will be payable with respect to such qualifying service without the provision by the former staff member of evidence of relocation.

Notes

1/ International Court of Justice, Reports of Judgements, Advisory Opinions and Orders, Application for Review of Judgment No. 273 of the United Nations Administrative Tribunal, Advisory Opinion of 20 July 1982.

Annex

GENERAL ASSEMBLY RESOLUTION 37/235 C

The General Assembly,

I

Bearing in mind that Article 101 of the Charter of the United Nations provides that the staff shall be appointed by the Secretary-General under regulations established by the General Assembly,

Mindful of Judgement No. 273 of the United Nations Administrative Tribunal and the Advisory Opinion of 20 July 1982 of the International Court of Justice reviewing that judgement, a/

1. Takes note of the note by the Secretary-General on the repatriation grant b/ and the related reports of the Advisory Committee on Administrative and Budgetary Questions; c/

2. Endorses the comments and recommendations of the Advisory Committee as contained in its report;

3. Decides that, with effect from 1 January 1983, article XIII of the Staff Regulations of the United Nations and the introductory paragraphs of annex IV to the Staff Regulations shall be amended as shown in paragraphs 1 and 2 of the annex to the present resolution.

a/ Application for Review of Judgement No. 273 of the United Nations Administrative Tribunal, Advisory Opinion of 20 July 1982, I. C. J. Reports 1982.

b/ A/C.5/37/26.

c/ A/37/675.

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Appendix

AMENDMENTS TO THE STAFF REGULATIONS OF THE UNITED NATIONS

1. Article XII (General provisions) shall read as follows:

"REGULATION 12.1: These regulations may be supplemented or amended by the General Assembly, without prejudice to the acquired rights of staff members.

"REGULATION 12.2: Such staff rules and amendments as the Secretary-General may make to implement these regulations shall be provisional until the requirements of regulations 12.3 and 12.4 below have been met.

"REGULATION 12.3: The full text of provisional staff rules and amendments shall be reported annually to the General Assembly. Should the Assembly find that a provisional rule and/or amendment is inconsistent with the intent and purpose of the regulations, it may direct that the rules and/or amendment be withdrawn or modified.

"REGULATION 12.4: The provisional rules and amendments reported by the Secretary-General, taking into account such modifications and/or deletions which may be directed by the General Assembly, shall enter into full force and effect on 1 January following the year in which the report is made to the Assembly.

"REGULATION 12.5: Staff rules shall not give rise to acquired rights within the meaning of regulation 12.1 while they are provisional."

2. The introductory paragraph of annex IV (Repatriation grant) shall be amended to read:

"In principle, the repatriation grant shall be payable to staff members whom the Organization is obligated to repatriate. The repatriation grant shall not, however, be paid to a staff member who is summarily dismissed. Staff members shall be entitled to a repatriation grant only upon relocation outside the country of the duty station. Detailed conditions and definitions relating to eligibility and requisite evidence of relocation shall be determined by the Secretary-General. The amount of the grant shall be proportional to the length of service with the United Nations, as follows:"
