

## **Sixty-eighth session**

### **Items 136, 145 and 149 of the provisional agenda\***

#### **Proposed programme budget for the biennium 2014-2015**

##### **Administration of justice at the United Nations**

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

##### **Introduction of the report of the Secretary-General on administration of justice (A/68/346)**

Distinguished Members of the Fifth Committee,

It is my pleasure to introduce the report of the Secretary-General on the system of administration of justice at the United Nations.

##### **Report of the Secretary-General on administration of justice at the United Nations**

Consistent with past practice, the report of the Secretary-General is the result of close collaboration between the Office of Administration of Justice and relevant stakeholders, including the Department of Management, the Office of Legal Affairs, the Office of Programme Planning, Budget and Accounts, the Office of Human Resources Management including the Administrative Law Section, the Management Evaluation Unit, Offices away from Headquarters, participating Funds and Programmes including UNDP, UNICEF, UNHCR, UNOPS and UNFPA, and the Office of the Ombudsman and Mediation Services. Representatives of many of these offices, departments and entities are present today.

The report contains statistics on the functioning of the formal system of administration of justice for calendar year 2012, as requested by the Advisory Committee on Administrative and Budgetary Questions (ACABQ) in its report to the Fifth Committee (A/67/547, paragraph 13). In that regard, the practice commenced last year in response to the ACABQ's request to make greater use of tables and charts and to provide statistical data in a manner that is more structured, descriptive and consistent has been continued in this report.

For the first time, the report contains observations on the operation of the formal system of administration of justice, drawn from the experience of the offices, departments and entities previously mentioned. As emerging trends in the system become discernible, they will be reported in future reports.

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\* A/68/150

The report also provides a consolidated response to the requests of the General Assembly in resolution 67/241.

The report is divided into six sections: (I) an overview; (II) a review of the formal system of justice; (III) consolidated responses to requests relating to administration of justice made by the General Assembly in resolution 67/241; (IV) other matters; (V) resource requirements; and (VI) conclusions and recommendations for action to be taken by the General Assembly.

The review of the formal system (Section II) begins with observations on the operations of the formal system of administration of justice during the calendar year 2012 and since its inception on 1 July 2009. Although it may be too early in the life of the current system of administration of justice to definitively identify systemic trends, these observations provide a reflection on discernible markers in the system during the period under review, including:

- a reduction in requests for management evaluation submitted to the Management Evaluation Unit (MEU) and new cases filed with the UN Dispute Tribunal (UNDT) in 2012;
- an increase in the caseload of the UN Appeals Tribunal (UNAT), the Office of Staff Legal Assistance (OSLA), the Administrative Law Section (ALS) and the Office of Legal Affairs (OLA) in 2012;
- the important role of management evaluation in resolving disputes in the formal system of administration of justice;
- the success of informal dispute resolution within the formal system, including as a result of the efforts of UNDT Judges and the MEU to encourage parties to settle and the facilitation of settlements when staff members are represented by counsel, including OSLA;
- the process of settling the jurisprudence of the Tribunals;
- the negative impact of self-represented staff members in the formal system; and
- the importance of OSLA's role as a filter in the internal justice system.

Section II also reports on the activities of the MEU, the UNDT and UNAT, OSLA, the Office of the Executive Director as well as the Legal Offices representing the Secretary-General as Respondent. The Secretary-General gives an account of the accomplishments of the current system of administration of justice during the reporting period of 1 January to 31 December 2012, and provides detailed statistics concerning the activities of the various entities involved in the system of administration of justice. The Secretary-General also identifies the need to maintain the ability of the UNDT to manage its caseload by extending the sitting *ad litem* judges of the UNDT and their current staffing complement for a period of one year.

Section III provides detailed responses to specific requests by the General Assembly, including:

- efforts made to institutionalize good management practices to address underlying factors that give rise to workplace disputes;
- preparation of a code of conduct for external legal representatives;
- staff contribution to the financing of OSLA;
- practice of tribunals in other international organizations and in Member States regarding awards for moral damage, emotional distress, procedural irregularities and violations of due process;
- the status of a cost-sharing arrangement for the totality of the internal justice system;
- a report on accountability measures taken in relation to contested decisions that have resulted in financial loss;
- the performance appraisal system;
- issues relevant to review of the Statutes of the Tribunals;
- measures to encourage informal dispute resolution and avoid litigation;
- responsibility for the resolution of conflicts;
- revised terms of reference for the Office of the United Nations Ombudsman and Mediation Services; and
- information on disputes involving non-staff personnel.

The other information requested by the General Assembly is set out in Annexes I through IX of the report.

Section IV of the report raises an issue relating to the salary level of Judges of the UNDT and invites the General Assembly to consider clarifying whether their salary remains at a fixed equivalent to UN staff members at the D-2, step 4 level.

In Section V, the Secretary-General notes that no new resource requests have been made in the context of the report.

In Section VI, the Secretary-General sets out his conclusions and recommendations for action to be taken by the General Assembly.

### **The Annexes**

The report has nine annexes.

Annex I is the administration of justice flow chart, depicting the process by which a staff grievance is addressed in the formal system and illustrating the opportunities for informal dispute resolution within the formal system.

Annex II contains a proposal for conducting an interim independent assessment of the formal system of administration of justice, as requested by the General Assembly in paragraphs 19 and 20 of resolution 67/241.

The Secretary-General indicates in paragraph 121 of the report that he is of the view that it would be in the best interest of the Organization for the Organization to fund

the entire cost of OSLA, including the additional resources that it requires. However, in compliance with the request of the General Assembly in paragraph 48 of resolution 67/241, and in the event the General Assembly wishes to proceed with a scheme for a staff contribution to the cost of additional resources for OSLA, Annex III sets out a proposal for consideration by the General Assembly.

Annex IV summarizes the information received from seven further Member States regarding awards for moral damage, emotional distress, procedural irregularities and violations of due process.

Annex V reports on the implementation of the recommendations contained in the report of the activities of the Office of the Ombudsman and Mediation Services.

Annex VI provides observations on the Convention on the Rights of Persons with Disabilities.

Annex VII concerns a pilot project on the feasibility of decentralizing elements of disciplinary matters relating to the field.

In line with the request of the ACABQ (A/66/7/Add.6, paragraph 89) that information on the level of compensation awarded by the Tribunals continue to be included in the Secretary-General's report on administration of justice, Annex VIII provides a table showing monetary compensation recommended by the MEU and awarded by the Tribunals in 2012.

Finally, Annex IX sets out the position of the UNDT Judges on the application of "within grade step increments" to their salaries and on the recovery of monies paid.

### **Report of the Internal Justice Council**

I would like to draw the Committee's attention to the report prepared by the Internal Justice Council (IJC) (A/68/306), pursuant to its mandate elaborated by the General Assembly in resolution 62/228. The report includes the Council's views on the implementation and functioning of the current system of administration of justice, and responds to specific mandates given to the Council in General Assembly resolution 67/241.

In the report, the IJC addresses and makes recommendations with respect to, *inter alia*, the following:

- its mandate;
- the interim independent assessment of the formal system;
- the delay in appointing the members of the new IJC;
- general matters relating to the Tribunals that raise substantive legal issues and require resource investment in the internal justice system;

- the status of the Judges;
- the qualifications of UNAT judges;
- abuse of proceedings;
- a code of conduct for all legal representatives appearing in the internal justice system;
- the value of OSLA and the importance of both its advisory and representation functions; and
- the IJC's future work programme.

The IJC concludes its report with a summary of its recommendations with respect to these matters.

In accordance with paragraph 57 of resolution 67/241, the IJC report also includes the views of the Judges of the UNAT and UNDT, which are set out in Annexes I and II thereto.

Thank you.