

**Sixth activity report of the Office of Administration of Justice
1 January to 31 December 2012**

CONTENTS

I.	INTRODUCTION.....	4
II.	ACTIVITIES OF THE OFFICE OF THE EXECUTIVE DIRECTOR.....	4
III.	ACTIVITIES OF THE UNITED NATIONS DISPUTE TRIBUNAL.....	5
A.	COMPOSITION OF THE DISPUTE TRIBUNAL	5
1.	Judges of the Dispute Tribunal	5
2.	Election of the President	5
3.	Plenary meetings	5
B.	JUDICIAL STATISTICS.....	5
1.	General activity of the UNDT	5
2.	Cases transferred to the UNDT by the JABs and JDCs	7
3.	Cases transferred to the UNDT by the former UN Administrative Tribunal.....	7
4.	Number of judgments, orders and court sessions	7
5.	Cases referred for mediation	8
6.	Cases referred for accountability	8
7.	Cases pending before the UNDT as at 31 December 2012.....	8
8.	Cases by subject-matter	8
9.	Legal representation of applicants before the UNDT	9
10.	Outcome of closed cases	10
11.	Relief.....	10
12.	Information on staff who filed applications in 2012 by level, nationality, and employment entity	11
13.	Jurisprudence	11
IV.	ACTIVITIES OF THE UNITED NATIONS APPEALS TRIBUNAL.....	11
A.	COMPOSITION OF THE APPEALS TRIBUNAL	11
1.	Judges of the Appeals Tribunal.....	11
2.	Election of the President and Vice-Presidents	11
B.	JUDICIAL STATISTICS.....	12
1.	General activity of the Appeals Tribunal.....	12
2.	Outcome of disposed cases	13
3.	Relief.....	13
4.	Legal representation of staff members (as appellants or respondents) before UNAT	14
5.	Jurisprudence	14
V.	ACTIVITIES OF THE OFFICE OF STAFF LEGAL ASSISTANCE.....	14
A.	GENERAL ACTIVITY	14
B.	OUTREACH AND TRAINING ACTIVITIES	14
C.	STATISTICS/ACTIVITIES	14
1.	Number of cases received	15
2.	Breakdown of the cases	15
3.	Cases by subject-matter	16
4.	Cases by client (Department, Agency, Fund or Programme)	17

5. Cases by gender	18
6. Representation before the Dispute Tribunal	18
APPENDIX I: PRONOUNCEMENTS OF THE UNDT	20
Introduction.....	20
Non-selection	21
Compensation	22
Other	23
APPENDIX II: PRONOUNCEMENTS OF THE UNAT	26
Introduction.....	26
Non-renewal of fixed-term appointment.....	26
UNAT's jurisdiction over entities and agencies other than UNRWA.....	26
Staff member's income tax liability and foreign tax credits.....	26
Interlocutory appeals.....	26
Renouncement of permanent residency as a condition for joining the Organization	27
Representation by OSLA	27
APPENDIX III: UNDT CASES 2012 - COUNTRY OF NATIONALITY	28
APPENDIX IV: UNDT CASES 2012 - EMPLOYMENT ENTITY	29

I. Introduction

1. The sixth report of the Office of Administration of Justice (OAJ) outlines the activities of the Office for the period 1 January to 31 December 2012, and covers the activities of the Office of the Executive Director, the United Nations Dispute Tribunal (Dispute Tribunal or UNDT) and United Nations Appeals Tribunal (Appeals Tribunal or UNAT) and their Registries, and the Office of Staff Legal Assistance (OSLA).
2. The report provides updated statistical information for the UNDT, UNAT and OSLA. It also covers the main activities of the Office of the Executive Director and contains summaries of major legal pronouncements made by the UNDT and UNAT in judgments rendered in 2012, which are set out in Appendix I and Appendix II, respectively.

II. Activities of the Office of the Executive Director

3. In May 2012, Ms. Linda Taylor became Executive Director, replacing Mr. Andrei Terekhov.
4. As in prior years, OAJ coordinated the preparation of the Secretary-General's report on administration of justice in the United Nations, and coordinated the replies to questions posed by the Advisory Committee for Administrative and Budgetary Questions and the Fifth Committee and the Sixth Committee of the General Assembly.
5. The Executive Director attended the meeting of the Staff-Management Committee (SMC) in Arusha in June 2012. Subsequently, the Executive Director visited Nairobi and Geneva and met with the UNDT judges, UNDT Registry staff, OSLA staff and stakeholders. She also met with the UNAT judges and UNAT Registry staff in Geneva during the Tribunal's summer session. The Principal Registrar also visited Geneva and Nairobi in mid-June 2012 to meet with the UNAT judges and Registry staff, and the UNDT Geneva and Nairobi judges and Registry staff.
6. OAJ continued to make improvements to the OAJ website and the new web-based court case management system (CCMS) in response to requests from users and in order to ensure the accuracy and timeliness of the data. Extensive work was done to improve access to the UNDT and UNAT judgments and orders and to provide linkages between the judgments of the two Tribunals. Eight new releases of CCMS containing critical upgrades were rolled out in 2012. A major upgrade of the platform also was undertaken to ensure continued vendor support and to improve overall performance and functionality.
7. OAJ also supported the Internal Justice Council (IJC) in its work. In the first half of 2012, it provided technical support to facilitate General Assembly elections on judicial candidates recommended by the IJC, which resulted in a total of six judicial appointments to the UNDT and UNAT. It also supported the IJC in the preparation of its report that was presented to the 67th session of the General Assembly. Following the expiry of the term of the members of the IJC, OAJ facilitated the appointment of new members. On 13 November 2012, the Secretary-General appointed four new IJC members: Mr. Sinha Basnayake (Sri Lanka), Mr. Frank Eppert (United States), Ms. Victoria Phillips (United Kingdom of Great Britain and Northern Ireland) and Ms. Carmen Artigas (Uruguay). The process of selecting a chair was ongoing at the end of 2012.

III. Activities of the United Nations Dispute Tribunal

A. Composition of the Dispute Tribunal

1. Judges of the Dispute Tribunal

8. On 16 April 2012, the General Assembly held elections to fill vacancies in the UNDT and elected the following judges:

- (a) Ms. Memooda Ebrahim-Carstens (Botswana), full-time judge, for a second term of office beginning on 1 July 2012 and ending on 30 June 2019;
- (b) Mr. Goolam Hoosen Kader Meeran (United Kingdom), half-time judge, for a second term of office beginning on 1 July 2012 and ending on 30 June 2019;
- (c) Ms. Alessandra Greceanu (Romania), *ad litem* judge, for a term of office beginning on 6 April 2012 and ending on 31 December 2012.

9. At the same meeting, the General Assembly decided to extend the terms of office of the incumbent *ad litem* judges of the UNDT, Mr. Jean-François Cousin (France) and Ms. Nkemdilim Amelia Izuako (Nigeria), until 31 December 2012.

10. At the time of the preparation of this report, the composition of the Dispute Tribunal was as follows:

- (a) Judge Vinod Boolell (Mauritius), full-time judge based in Nairobi;
- (b) Judge Memooda Ebrahim-Carstens (Botswana), full-time judge based in New York;
- (c) Judge Thomas Laker (Germany), full-time judge based in Geneva;
- (d) Judge Goolam Hoosen Kader Meeran (United Kingdom), half-time judge;
- (e) Judge Coral Shaw (New Zealand), half-time judge;
- (f) Judge Jean-François Cousin (France), *ad litem* judge based in Geneva;
- (g) Judge Nkemdilim Amelia Izuako (Nigeria), *ad litem* judge based in Nairobi;
- (h) Judge Alessandra Greceanu (Romania), *ad litem* judge based in New York.

11. At its 66th session, the General Assembly decided to extend the tenure of the three *ad litem* judges and their supporting staff until 31 December 2012 (see resolution 66/237).

2. Election of the President

12. On 2 July 2012, Judge Vinod Boolell was elected President of the UNDT for one year ending on 30 June 2013.

3. Plenary meetings

13. During the reporting period, the judges of the UNDT held two plenary meetings, from 23 to 27 April 2012 in New York and from 15 to 19 October 2012 in Nairobi.

B. Judicial statistics

1. General activity of the UNDT

14. As at 1 January 2012, the UNDT had 269 pending cases. During the reporting period, the UNDT received 258 new cases and disposed of 260 cases, including two remanded cases and three

cases closed by inter-registry transfer. As at 31 December 2012, there were 267 pending cases before the UNDT, including nine cases that were transferred from the former system of administration of justice. Those pending cases amounted to approximately one year of work.

15. Table 1a below shows the number of cases received, disposed of and pending for the years 2009 to 2012. Table 1b provides a breakdown of the cases received, disposed of and pending from 1 July 2009 to 31 December 2012 by UNDT location.

Table 1a

Entity	Cases received					Disposition of cases and requests					Pending cases (end of year)			
	2009	2010	2011	2012	Total	2009	2010	2011	2012	Total	2009	2010	2011	2012
UNDT	283 ¹	305 ²	282	258	1128	92	237	272	260	861	191	259	269	267

Table 1b

Entity	Cases received					Disposition of cases and requests					Pending cases (end of year)			
	2009	2010	2011	2012	Total	2009	2010	2011	2012	Total	2009	2010	2011	2012
Geneva	108	118	95	94	415	52	104	119	106	381	56	70	46	34
Nairobi	75	81	90	78	324	18	57	60	76	211	57	81	111	113
NY	100	106	97	86	389	22	76	93	78	269	78	108	112	120

16. Table 1c provides the average monthly rate of registration and disposal of cases for the same four-year period for each Registry.

Table 1c

Category	Jul.- Dec. 2009	Jan.- Jun. 2010	Jul.- Dec. 2010	Jan.- Jun. 2011	Jul.- Dec. 2011	Jan.- Jun. 2012	Jul.- Dec. 2012	Overall period (42 months)
	2009	2010	2010	2011	2011	2012	2012	
A. Average monthly rate of registration of new cases in each reporting period								
Geneva	7.8	6.7	4.5	6.2	9.7	9.5	6.2	7.2
Nairobi	3.3	3.0	3.8	5.5	9.5	6.5	6.5	5.5
New York	7.8	4.7	4.3	9.2	7.0	10.0	4.3	6.8
Three registries combined	19.0	14.3	12.7	20.8	26.2	26.0	17.0	19.4
B. Average monthly rate of case disposal in each reporting period								
Geneva	8.7	10.5	6.8	9.7	10.2	9.0	8.7	9.1
Nairobi	3.0	4.3	5.2	4.7	5.3	6.0	6.7	5.0
New York	3.7	6.8	5.8	8.7	6.8	7.5	5.5	6.4
Three registries combined	15.3	21.7	17.8	23.0	22.3	22.5	20.8	20.5

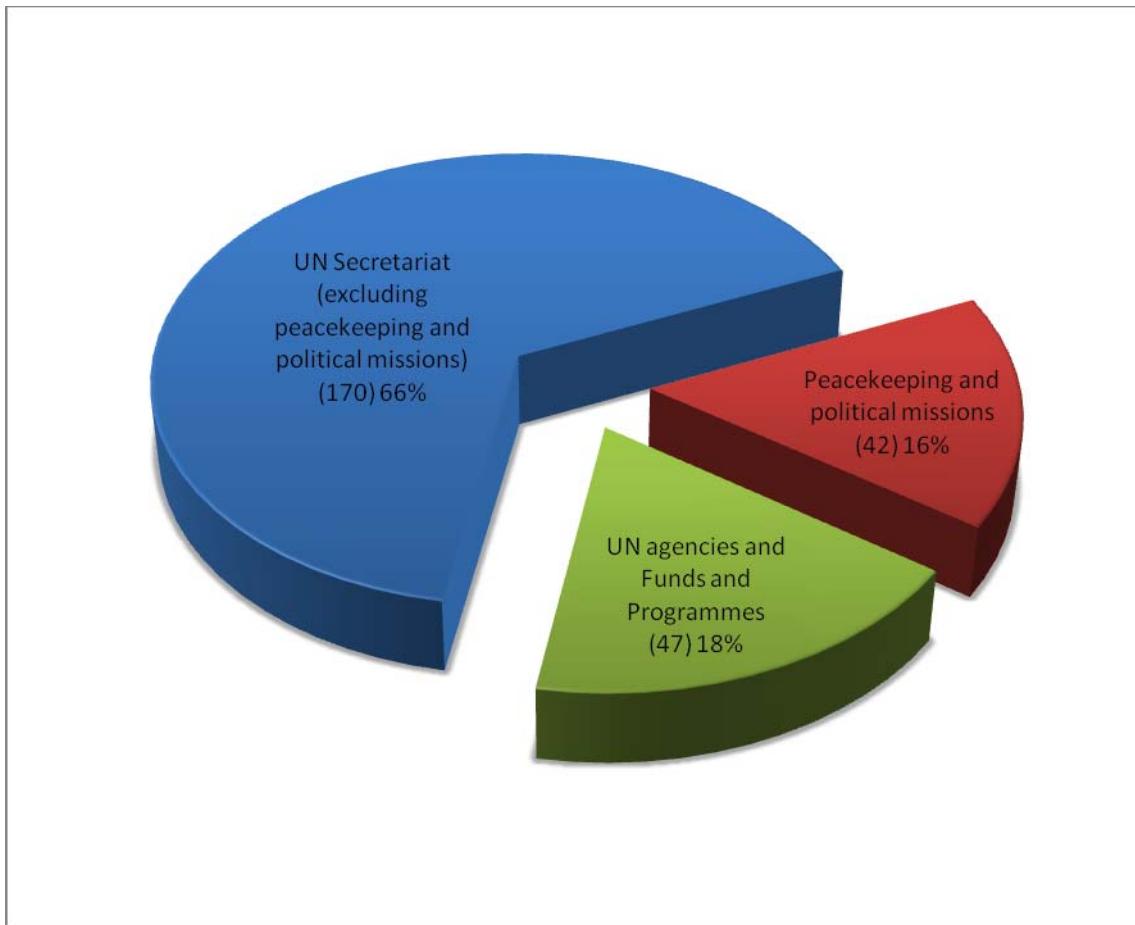
17. Of the 258 cases received during the reporting period, 170 cases originated from the UN Secretariat (excluding peacekeeping and political missions) including the regional commissions, offices away from Headquarters, ICTR and ICTY, and various UN departments and offices; 42 cases originated

¹ Includes 169 cases transferred from the former Joint Appeals Board and Joint Disciplinary Committee.

² Includes 143 cases transferred from the former UN Administrative Tribunal.

from peacekeeping and political missions; and 46 cases originated from UN agencies, and Funds and Programmes including UNHCR, UNDP, UNICEF, UNFPA, UNOPS and WFP. This is illustrated in Chart 1 below.

Chart 1 Distribution of registered cases by clients (1 January to 31 December 2012)



2. Cases transferred to the UNDT by the JABs and JDCs

18. During the reporting period, four cases transferred from the former JABs and JDCs were disposed of; one in Geneva and three in Nairobi. Three such cases were pending at the end of 2012; two in Nairobi and one in New York.

3. Cases transferred to the UNDT by the former UN Administrative Tribunal

19. During the same period, 18 of the cases transferred from the former UN Administrative Tribunal were disposed of; two in Geneva, eight in Nairobi and eight in New York. A total of six of such cases remained pending; five in Nairobi and one in New York.

4. Number of judgments, orders and court sessions

20. During the reporting period, the UNDT issued 208 judgments on both the merits of cases and interlocutory matters. A total of 626 orders were issued and 187 court sessions were held. The UNDT in Geneva rendered 79 judgments, issued 172 orders and held 24 court sessions; the UNDT in Nairobi

rendered 65 judgments, issued 183 orders and held 88 court sessions; and the UNDT in New York rendered 64 judgments, issued 271 orders and held 75 court sessions. Table 2a reflects the total number of judgments, orders and court sessions for the years 2009 to 2012 and Table 2b provides the same information broken down by Registry.

Table 2a

Entity	Judgments					Orders					Court sessions				
	2009	2010	2011	2012	Total	2009	2010	2011	2012	Total	2009	2010	2011	2012	Total
UNDT	97	217	219	208	741	255	679	672	626	2232	172	261	249	187	869

Table 2b

Entity	Judgments					Orders					Court sessions				
	2009	2010	2011	2012	Total	2009	2010	2011	2012	Total	2009	2010	2011	2012	Total
Geneva	44	83	86	79	292	39	93	224	172	528	21	54	54	24	153
Nairobi	20	52	52	65	189	26	248	144	183	601	33	116	117	88	354
NY	33	82	81	64	260	190	338	304	271	1103	118	91	78	75	362

5. Cases referred for mediation

21. At the outset of the reporting period, there were two ongoing mediation cases previously referred by the UNDT to Mediation Services in the Office of the Ombudsman and Mediation Services. During the reporting period, the UNDT identified twelve additional cases suitable for mediation and referred them. Of these, six cases were successfully mediated and four were unsuccessful. At the end of 2012, four cases were still pending completion of mediation.

6. Cases referred for accountability

22. In 2012, two cases were referred for accountability under article 10.8 of the UNDT Statute.

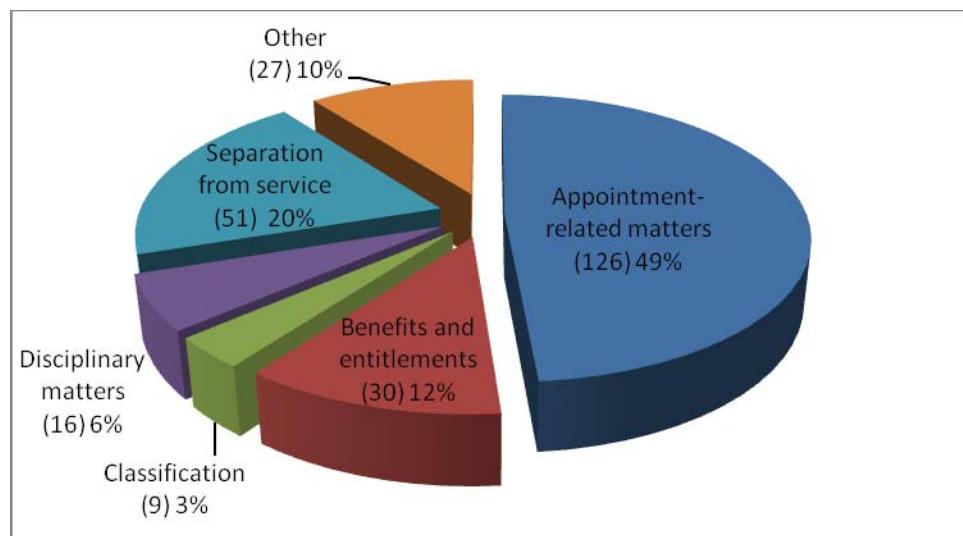
7. Cases pending before the UNDT as at 31 December 2012

23. As at 31 December 2012, the UNDT had 267 cases pending; 258 new cases, three cases transferred by the former JABs and JDCs and six cases transferred by the former Administrative Tribunal. As at 31 December 2012, 34 new cases were pending in the Geneva Registry, 106 new cases were pending in the Nairobi Registry together with two JAB/JDC cases and five cases from the former Administrative Tribunal, and 118 new cases were pending in the New York Registry together with one JAB/JDC case and one case from the former Administrative Tribunal.

8. Cases by subject-matter

24. The nature of cases before the UNDT received during the reporting period fall into six main categories: (1) appointment-related matters (non-selection, non-promotion and other appointment-related matters): 126 cases; (2) benefits and entitlements: 30 cases; (3) classification: 9 cases; (4) disciplinary matters: 16 cases; (5) separation from service (non-renewal and other separation matters): 50 cases; and (6) other: 27 cases. Chart 2 below provides a breakdown of the number of cases registered between 1 January and 31 December 2012 by subject-matter for the three Registries.

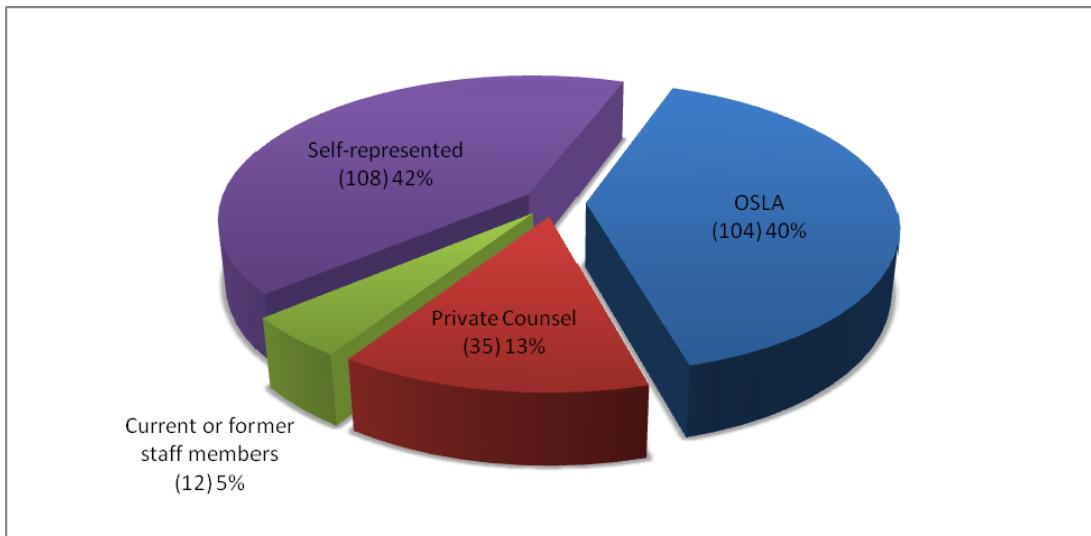
Chart 2 Cases registered between 1 January and 31 December 2012 by subject-matter (combined data for the three Registries)



9. Legal representation of applicants before the UNDT

25. OSLA provided legal assistance in 103³ of the 258 new cases received in 2012. In 35 cases, staff members were represented by private counsel, in 12 cases staff members were represented by volunteers who were either current or former staff members of the Organization, and in 108 cases, staff members were self-represented. This is illustrated in Chart 3 below.

Chart 3 Legal representation of applicants (combined data for the three Registries)

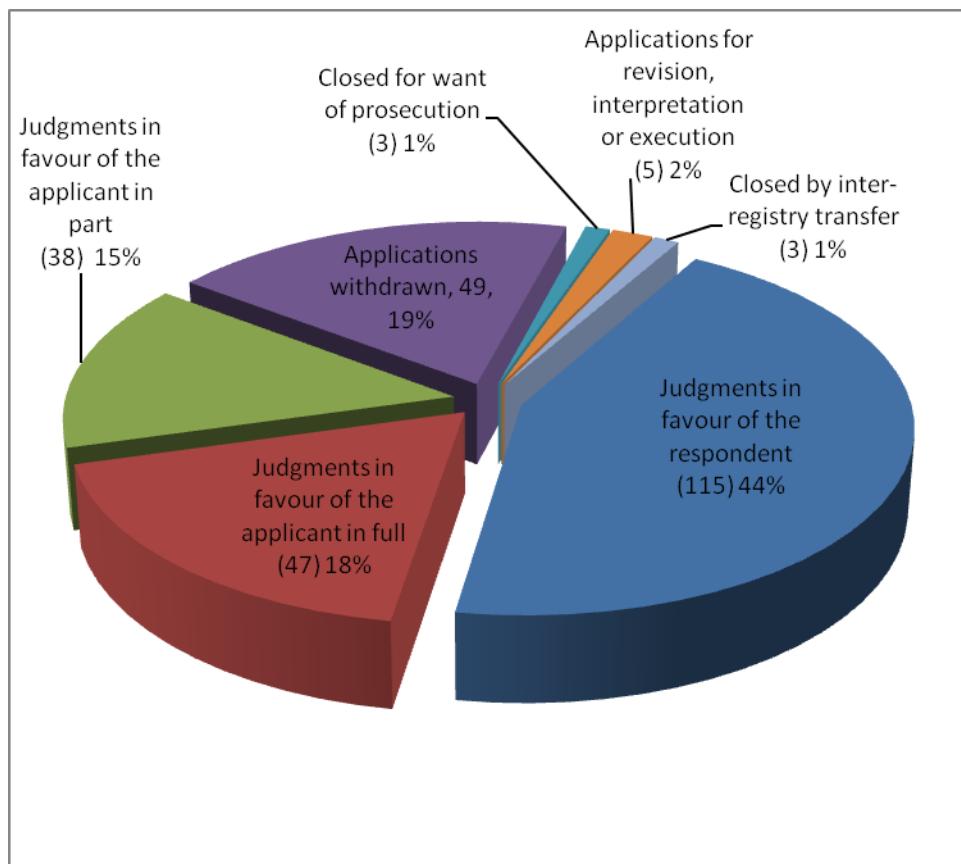


³ OSLA's figure with respect to legal representation before the UNDT, set out in Table 4 below, is different than that provided by the UNDT Registries for several reasons. In some instances cases were filed with the UNDT in 2011 but registered in the OSLA database in 2012. In other instances cases were settled and shown as withdrawn in the OSLA database. In yet other instances, OSLA withdrew its representation of the staff member.

10. Outcome of closed cases

26. Of the 260 cases disposed of by the UNDT in 2012, 115 were decided in favour of the respondent (i.e., application rejected in full), 47 were decided in favour of the applicant in full and 38 were decided in favour of the applicant in part (i.e., some claims on liability granted). A total of 49 applications were withdrawn, including cases successfully mediated or settled including as a result of the efforts of the judges; three cases were closed for want of prosecution; five involved applications for revision, interpretation or execution; and three were closed by inter-registry transfer. This is illustrated in Chart 4 below.

Chart 4 Outcome of closed cases (combined data for the three Registries)



11. Relief

27. During the reporting period, 85 cases were decided in favour of the applicant either in full or in part. In 32 of the cases, the relief consisted solely of financial compensation. In 14 cases, the relief consisted of both financial compensation and specific performance. In 20 cases, the relief consisted solely of specific performance. In two cases no compensation was ordered. Suspension of action was granted in 15 cases. In two cases, compensation was settled between the parties following a judgment on liability.

12. Information on staff who filed applications in 2012 by level, nationality, and employment entity

28. The level of staff who filed appeals during the reporting period was as follows: D: 14; P 152; GS: 45; FS: 19; L: 4; Other: 20; N/A: 4.

29. A breakdown of the nationalities of applicants is set out in Appendix III. A breakdown of the departments or offices where applicants were serving at the time of the contested decision is set out in Appendix IV.

13. Jurisprudence

30. Highlights of the jurisprudence of the UNDT in 2012 are set out in Appendix I.

IV. Activities of the United Nations Appeals Tribunal

A. Composition of the Appeals Tribunal

1. Judges of the Appeals Tribunal

31. On 23 February 2012, the General Assembly held elections to fill vacancies in UNAT and elected the following judges:

- (a) Mr. Jean Courtial (France) for a second term of office beginning on 1 July 2012 and ending on 30 June 2019;
- (b) Mr. Richard Lussick (Samoa), for a term of office beginning on 1 July 2012 and ending on 30 June 2019;
- (c) Ms. Rosalyn Chapman (United States of America), for a term of office beginning on 1 July 2012 and ending on 30 June 2019.

32. At the time of the preparation of this report, the composition of UNAT was as follows:

- (a) Judge Luis María Simón (Uruguay);
- (b) Judge Inés Weinberg de Roca (Argentina);
- (c) Judge Mary Faherty (Ireland);
- (d) Judge Sophia Adinyira (Ghana);
- (e) Judge Jean Courtial (France);
- (f) Judge Richard Lussick (Samoa);
- (g) Judge Rosalyn Chapman (United States).

2. Election of the President and Vice-Presidents

33. On 29 June 2012, UNAT elected its Bureau for the term of 1 July 2012 to 30 June 2013, with Judge Simón to serve as President; Judge Weinberg de Roca as First Vice-President; and Judge Faherty as Second Vice-President.

B. Judicial statistics

1. General activity of the Appeals Tribunal

34. UNAT held three sessions in 2012: a spring session (5 to 16 March 2012), a summer session (18 to 29 June 2012) and a fall session (22 October to 2 November 2012). At these sessions, UNAT heard and passed judgment on appeals filed against judgments rendered by the Dispute Tribunal (see article 2.1 of the UNAT Statute); against decisions of the Standing Committee acting on behalf of the United Nations Joint Staff Pension Board (UNJSPB or Pension Board), alleging non-observance of the Regulations of the United Nations Joint Staff Pension Fund (UNJSPF) (see article 2.9 of the UNAT Statute); and on appeals against decisions from entities that concluded special agreements with the Secretary-General of the United Nations (see article 2.10 of the UNAT Statute) including the International Civil Aviation Organization (ICAO), the International Maritime Organization (IMO) and the UNRWA Dispute Tribunal. The Appeals Tribunal held eight oral hearings.

35. During the reporting period, UNAT received 142 new appeals, rendered 91 judgments and disposed of 103 appeals. In addition, UNAT issued 45 orders. As at 31 December 2012, UNAT had 108 appeals pending. Those pending appeals amounted to approximately one year of work.

36. Table 3a below shows the number of cases received, disposed of and pending for 2011 and 2012. There was a 48 per cent increase in appeals received in 2012, as compared with 2011.

Table 3a

<i>Entity</i>	<i>Cases received</i>			<i>Disposition of cases and requests</i>			<i>Pending cases</i>	
	2011	2012	Total	2011	2012	Total	2011	2012
UNAT	96	142	424	102	103	316	93	108

37. The ratio of appeals filed by staff members versus those filed on behalf of the Secretary-General remained relatively consistent from 2011 to 2012. In 2011, 65 per cent of the appeals were filed by staff members and 35 per cent of the appeals were filed on behalf of the Secretary-General. In 2012, 63 per cent of the appeals were filed by staff members and 37 per cent of the appeals were filed on behalf of the Secretary-General.

38. The 142 new appeals filed in 2012 included 109 appeals against judgments of the UNDT (69 brought by staff members and 40 brought on behalf of the Secretary-General); 20 appeals against judgments rendered by the UNRWA Dispute Tribunal (19 brought by staff members and one brought on behalf of the Commissioner-General); and two appeals of decisions by the UNRWA Commissioner-General. They also included three appeals of decisions of the Standing Committee acting on behalf of the UNJSPB, six requests for revision of UNAT judgments filed by staff members and two requests for interpretation of UNAT judgments (one by the Secretary-General and one by a staff member).

39. Overall, from 1 July 2009 to 31 December 2012, UNAT received a total of 424 appeals and disposed of 316 appeals. Table 3b reflects the total number of judgments, orders and hearings for UNAT for the period 2009 to 2012.

Table 3b

Entity	Judgments					Orders					Hearings				
	2009	2010	2011	2012	Total	2009	2010	2011	2012	Total	2009	2010	2011	2012	Total
UNAT	N/A	102	88	91	281	N/A	30	44	45	119	N/A	2	5	8	15

2. Outcome of disposed cases

40. Of the 91 judgments rendered by UNAT in 2012, 82 related to Dispute Tribunal judgments, four to UNRWA Dispute Tribunal judgments, two to decisions of the UNRWA Commissioner-General, one to a decision of the Standing Committee of the UNJSPB, one to a decision of the Secretary General of ICAO and one to a decision of the Secretary-General of IMO.

41. Of the appeals related to UNDT judgments, 58 were brought by staff members and 34 were brought on behalf of the Secretary-General.⁴ Of the 58 appeals filed by staff members, 48 were rejected and 10 were granted in full or in part. Of the 34 appeals filed on behalf of the Secretary-General, 10 were rejected, 23 were granted in full or in part and one case was remanded to the UNDT.

42. UNAT rendered six judgments on appeals filed by UNRWA staff members (two of decisions by the UNRWA Commissioner-General and four against the judgments of the Dispute Tribunal of UNRWA). The Appeals Tribunal rejected all six appeals.

43. UNAT joined three appeals of a decision taken by the Standing Committee, acting on behalf of the Pension Board. UNAT rejected all three appeals and upheld the contested decision.

44. UNAT rendered one judgment granting an appeal filed by a former ICAO staff member.

45. UNAT rendered one judgment rejecting an appeal filed by an IMO staff member.

3. Relief

Appeals against UNDT judgments

46. In five judgments, UNAT overturned an award of compensation granted by the UNDT and in two judgments awarded compensation where none was awarded by the UNDT. In five judgments, UNAT reduced the compensation awarded by the UNDT and in two judgments it increased the compensation awarded.

47. In one judgment, UNAT vacated a judgment of the UNDT rescinding the impugned decision and award of financial compensation. In two judgments, UNAT reduced compensation as an alternative to rescinding a decision to terminate the staff member's appointment.

48. In three judgments, UNAT vacated an order of the UNDT with respect to costs against the staff member or former staff member.

Appeal against a decision from the ICAO Secretary General

49. UNAT ordered the rescission of a termination decision or in the alternative payment of nine months' net base salary.

⁴ The total number of appeals filed by staff members and the Secretary-General does not correspond to the number of appellate judgments addressing Dispute Tribunal judgments because these numbers include consolidated appeals. Four cross-appeals were filed by staff members and four cross-appeals were filed on behalf of the Secretary-General, however, cross-appeals do not result in separate judgments.

4. Legal representation of staff members (as appellants or respondents) before UNAT

50. With respect to the 142⁵ new cases received during the reporting period, OSLA provided legal assistance in 27 cases and UNRWA OSLA in 7 cases. Sixty staff members were self-represented and 48 were represented by private or voluntary counsel.

5. Jurisprudence

51. Highlights of the jurisprudence of UNAT in 2012 are set out in Appendix II.

V. Activities of the Office of Staff Legal Assistance

A. General activity

52. During the reporting period, OSLA continued to provide legal assistance to staff in disciplinary, employment (including from non-appointment to termination), discrimination/harassment, pension benefits and an assortment of other matters.

53. During the reporting period, OSLA's intake forms were translated into French. OSLA also worked on developing an electronic intake form that is designed to improve both the ability of staff members to communicate their requests for assistance to the Office and the collection of statistics. The e-intake form is expected to be launched in mid- 2013.

B. Outreach and training activities

54. OSLA was invited to participate in missions to MONUSCO, UNAMI/UNAMA Headquarters in Kuwait, UNOCI, UNMISS, UNIFIL, UNMIL and MINUSTAH, where they held town hall and individual meetings and met with staff and management. The missions were well-received by staff serving in the peacekeeping missions and helped raise awareness of OSLA's mandate and activities and the value of and developments in the system of administration of justice.

55. OSLA was also invited to participate in regular outreach and training activities organized by OHRM for newly-recruited UN staff members in New York and Geneva as well as other duty stations.

56. Outreach with members of UN staff associations both in the Secretariat and Funds and Programmes took place in Headquarters and field-based OSLA duty stations including Geneva, Beirut, Addis Ababa and Nairobi.

57. OSLA participated in training for UN staff working with the ICTR in Arusha, and in conjunction with colleagues from the Office of the Ombudsman, Management Evaluation Unit, Administrative Law Unit and Office of Legal Affairs, participated in briefings of senior UN managers and human resource experts in Entebbe and New York.

C. Statistics/Activities

58. OSLA provides a range of legal assistance to staff, including summary legal advice; advice and representation during informal dispute resolution; assistance with the management evaluation process; and representation of staff before the internal Tribunals and other recourse bodies. Each of these activities is tracked as an OSLA "case."

⁵ OSLA's figure with respect to legal representation before the UNAT, set out in Table 4 below, is different than that provided by the UNAT Registry for several reasons. In some instances cases were filed with the UNAT but registered in the OSLA database in different years. In another instance, OSLA withdrew its representation of the staff member.

1. Number of cases received

59. During the reporting period, OSLA received 1,103 new cases and closed or resolved 272 cases. As at 31 December 2012, there were 509 pending cases.

60. Table 4 provides the comparable figures of cases received for 2009, 2010 and 2011. Table 4 illustrates that there was a 23 per cent increase in the number of cases OSLA received from 2010 to 2011 and a 57 per cent increase from 2011 to 2012.

2. Breakdown of the cases

61. Chart 5 below provides a breakdown of the 1,103 new cases. Table 4 provides the same breakdown with comparative figures for 2009, 2010 and 2011.

62. Although “summary legal advice” cases vary significantly, they often involve identifying strengths and weaknesses of a case and advising staff members on options for seeking redress and likely outcomes and implications. They do not involve an application to a formal body such as the Management Evaluation Unit or the UNDT or UNAT. “Management Evaluation” cases are those cases where OSLA held consultations and provided legal advice to staff member clients, drafted management evaluation requests on their behalf, held discussions with the Management Evaluation Unit or equivalent entity within the Funds and Programmes and negotiated settlements. “Disciplinary Cases” are those cases where OSLA provided assistance to staff members in responding to allegations of misconduct under the staff rules.

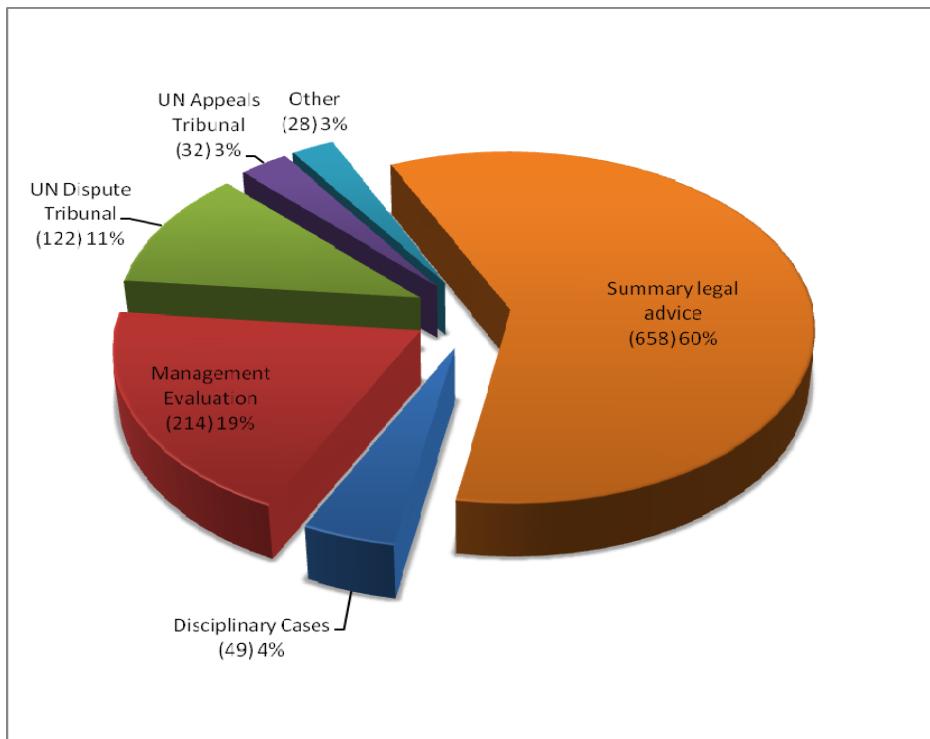
63. In cases before the UNDT and UNAT, OSLA held consultations and provided legal advice to staff member clients, drafted submissions on their behalf, provided legal representation in oral hearings, held discussions with opposing counsel and negotiated settlements. OSLA similarly provided advice and assistance in submissions and processes before other formal bodies.

Table 4

Types of services	Number of cases received			
	2009	2010	2011	2012
Summary legal advice	114	265	395	658
Management evaluation matters	60	87	109	214
Representation before the UNDT	189	81	112	122
Representation before the UNAT ¹	21	33	26	32
Disciplinary cases	173	67	51	49
Other	65	39	9	28
Total	622	572	702	1103

¹ Includes United Nations Administrative Tribunal cases received in 2009 and transferred to UNAT

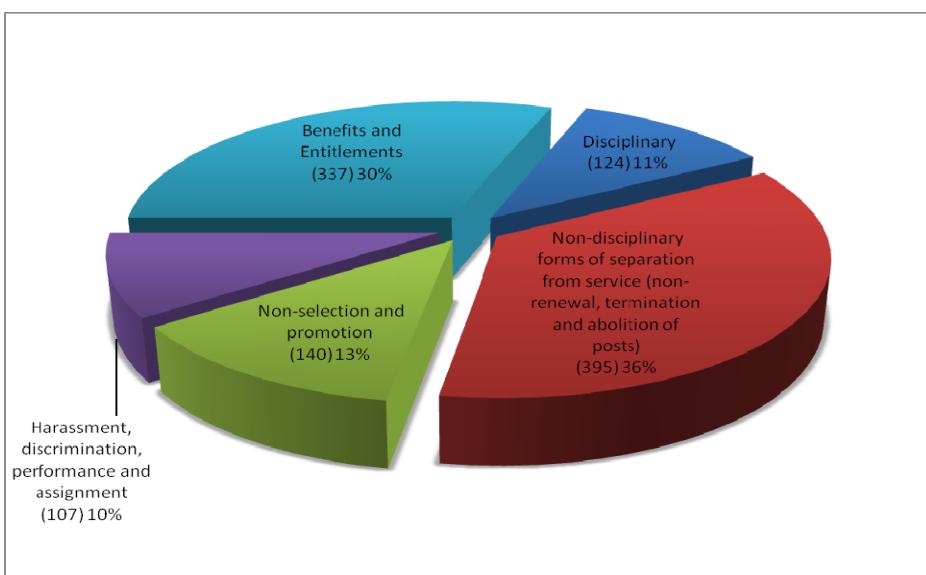
Chart 5



3. Cases by subject-matter

64. Chart 6 below provides a breakdown of the 1103 cases by subject matter.

Chart 6 New cases by subject matter



4. Cases by client (Department, Agency, Fund or Programme)

65. Chart 7 provides a breakdown of cases by the UN entity at which the client is employed, namely, the Secretariat departments or UN agency, peacekeeping and political missions, and Funds or Programmes during the reporting period. Chart 8 provides a breakdown of cases by duty station of the client.

Chart 7 Cases by UN entity of the client

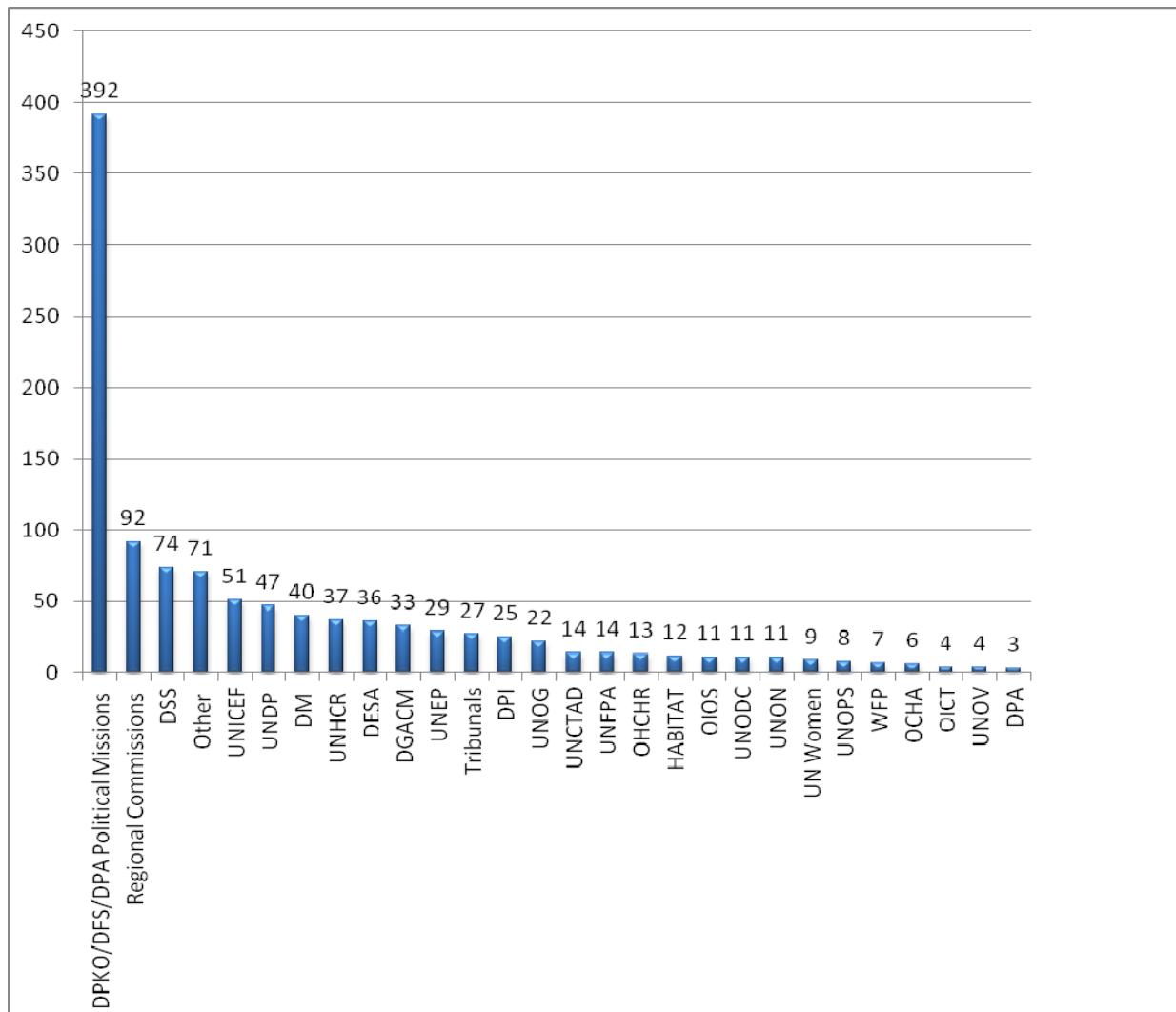
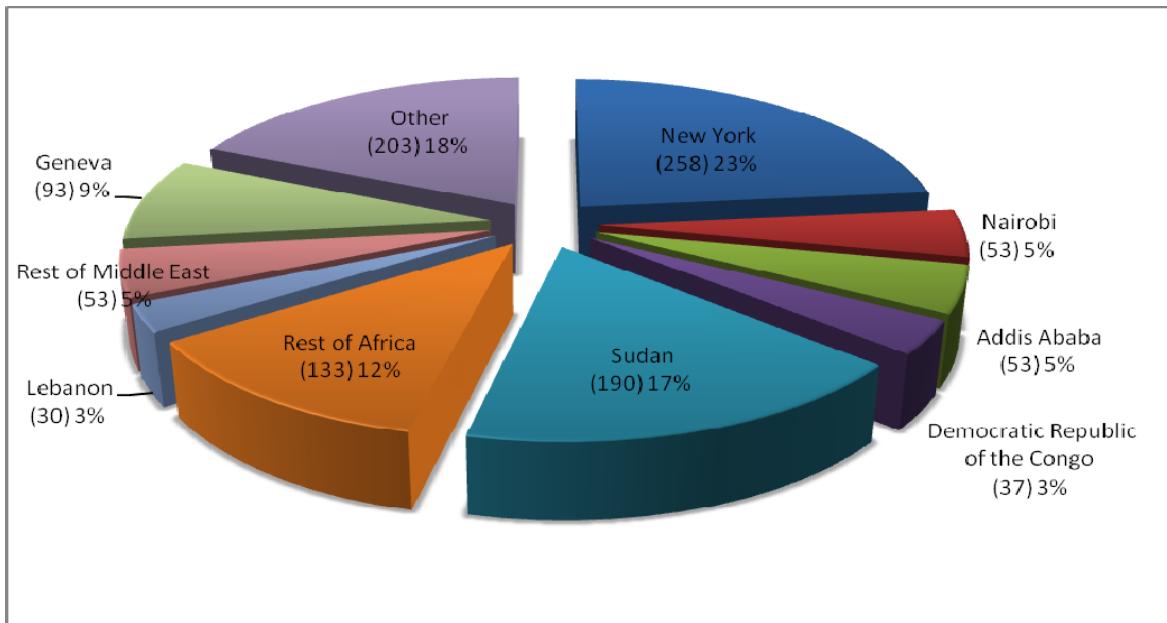


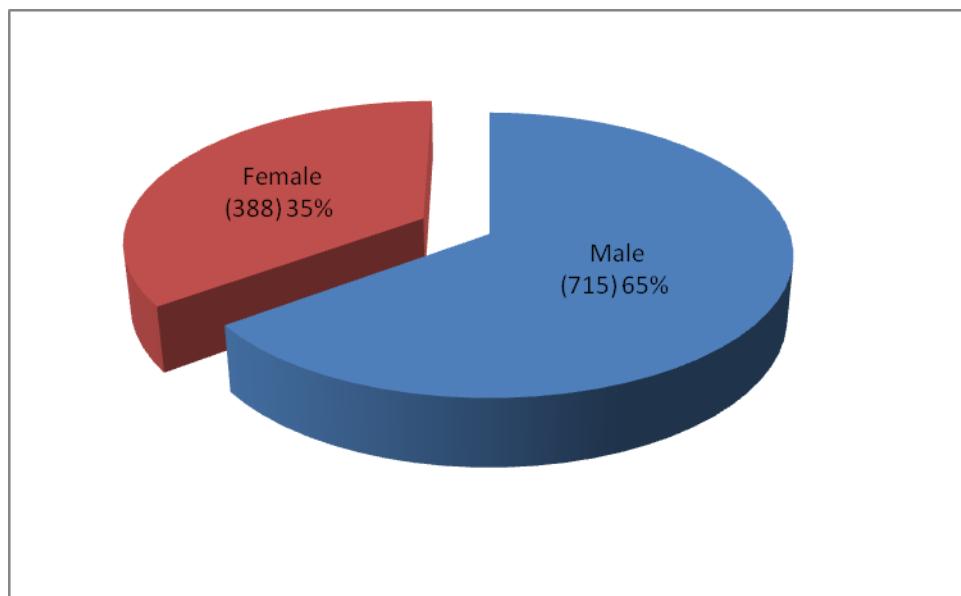
Chart 8 Cases by duty station of the client (arranged according to jurisdiction)



5. Cases by gender

66. Chart 9 provides a breakdown of cases by gender of the client.

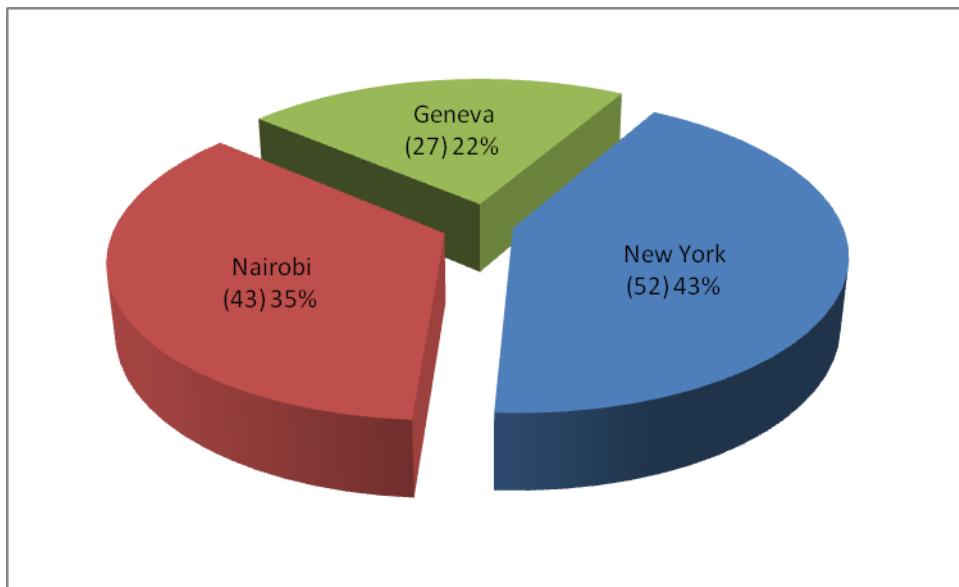
Chart 9 Cases by gender of the client



6. Representation before the Dispute Tribunal

67. Chart 10 below provides a breakdown of cases before the UNDT by location.

Chart 10 OSLA cases before UN Dispute Tribunal



APPENDIX I: PRONOUNCEMENTS OF THE UNDT

Introduction

1. A summary of major legal pronouncements made by the UNDT in judgments rendered from 1 January to 31 December 2012 is provided below. The judgments summarized are provided for illustrative purposes only and are not intended to be authoritative, representative or exhaustive. A complete set of UNDT judgments issued during the period covered by this report is available on the OAJ website (<http://un.org/en/oaj/dispute>). Further, certain UNDT judgments summarized may be appealed to UNAT by either party. Accordingly, the UNAT website should be consulted for the final determination made in the cases under appeal.

Appointment and promotion

2. In UNDT/2012/056 *Fagundes*, a former staff member applied for a post as an external candidate and following the selection process was advised she was selected for the post. However, the hiring entity changed its mind and did not forward her an offer of appointment or a letter of appointment. The Applicant claimed that there was a formal, legally binding employment contract between herself and the Organization based on the initial representations of the hiring entity.

3. The Tribunal noted that pursuant to staff regulation 4.1, upon appointment each staff member shall receive a letter of appointment in accordance with the provisions of Annex II to the staff regulations (Letters of appointment). However, this does not mean that the only document capable of creating legally binding obligations between the Organization and staff has to be called a “letter of appointment”.

4. The Tribunal stated that the questions to be considered in this case are whether there was an intention on both sides to enter into a contract and whether the essential terms of the agreement were sufficiently certain. Whether a binding contract has been concluded is established by making an objective assessment of what the parties said and did at the time of the transaction. An offer of employment is an expression of willingness to enter into a contract on specified terms, made with the intention that it is to become binding as soon as it is accepted by the person to whom it is addressed. An acceptance is a final and unqualified expression of assent to the terms of an offer.

5. In determining whether the essential terms of the agreement were sufficiently certain, the Tribunal reviewed former staff rule 104.1, in effect at the time, and the list of terms to be included in a standard letter of appointment set out in Annex II to the staff regulations. The Tribunal held that the components of a binding contract of employment included, as standard essential terms, the date of commencement of work, its duration, and remuneration for the work performed. The Tribunal found that no agreement was made on these essential terms and, accordingly, there was no binding contract of employment between the applicant and the Organization. Since the Applicant was not a staff member at the time the decision was made not to select her for the vacancy, the Tribunal did not have jurisdiction over the case.

6. In UNDT/2012/141 *Cranfield*, the Tribunal observed that the October 2011 letter of appointment, which retroactively converted the Applicant’s appointment from a fixed-term appointment into an indefinite appointment, conferred rights on the Applicant. The Tribunal found that if the decision to grant the Applicant an indefinite appointment was unlawful, it was indisputable that this unlawfulness was entirely the responsibility of the Administration and that the Applicant’s good faith was not being challenged. It noted that there was no provision in the staff regulations and rules which provided for the revocation of unlawful decisions by the Administration, but that such possibility was implicitly recognized by staff rule 11.2 within the framework of the management evaluation process. Assuming that the October 2011 decision to grant the Applicant an indefinite appointment was unlawful, and extending the application of the time limits foreseen in staff rule 11.2(c) and 11.2(d), the Tribunal

found that the Administration could not withdraw its October 2011 decision beyond the 90-day time limit, and it consequently decided to rescind the January 2012 decision. It also awarded moral damages in the amount of 1000 Euros.

7. In UNDT/2012/135 *Manco*, the Applicant, serving in Nairobi on a fixed-term appointment for less than one year, contested a policy which would have required him to either renounce his permanent residence status in New Zealand or apply for citizenship there, as a prerequisite for a two-year appointment. The UNDT found that the policy or practice had no legal basis in any of the norms of the Organization and was thus unlawful. According to the Tribunal, reports of the Fifth Committee do not carry the same legal force as General Assembly resolutions and the Secretary-General is not mandated, in the absence of an express statutory provision, to incorporate into a staff member's terms of employment any policy or recommendation from a Committee. Terms of employment must reflect the content of the staff regulations and staff rules, and more generally the hierarchy of norms laid down in *Villamoran*. The Tribunal ordered the rescission of the policy in relation to the Applicant and awarded moral damages in the amount of three months' net base salary.

Non-selection

8. In UNDT/2012/118 *Adundo et al.*, the Tribunal found that there are no rules in the Organization on selections for S-1 and S-2 level positions. No administrative instruction has been promulgated regarding the selection of staff up to the S-2 level despite earlier indications that such legislation would be adopted.

9. In UNDT/2012/123 *Neault*, the Tribunal held that the Administration erred in deciding not to select the Applicant for a post solely on the basis of the appearance of a conflict of interest since such criterion was not mentioned in the vacancy announcement. The Applicant was awarded 2000 Euros as compensation for moral damage.

10. In UNDT/2012/178 *Korotina*, the Tribunal held that a decision to disregard part of the Applicant's work experience because it was obtained prior to her Master's degree or that it was at the general service level was unlawful since it did not accord with the language of the temporary vacancy announcement or OHRM's own guidelines and was not based on any properly promulgated administrative issuances. The Tribunal also found that, through representations made to the Applicant prior to and during the selection process, the Respondent created an expectation, in line with the standard selection procedures, that the Applicant was cleared and selected for the post.

11. In finding the application to be receivable, the Tribunal held that administrative decisions that result in terminating a staff member's participation in a selection process cannot be described as merely preparatory. Even if the vacancy was never filled, it would not necessarily mean that such staff member would lack standing to claim that her or his rights were violated. It may very well be that the selection process was never finalized as a result of the very decision that the staff member may seek to challenge.

12. The Tribunal reiterated that at the top of the hierarchy of the Organization's internal legislation is the Charter of the United Nations, followed by resolutions of the General Assembly, staff regulations, staff rules, Secretary-General's bulletins, and administrative instructions. Information circulars, office guidelines, manuals, and memoranda are at the very bottom of this hierarchy and lack the legal authority vested in properly promulgated administrative issuances. Circulars, guidelines, manuals, and other similar documents may, in appropriate situations, set standards and procedures for the guidance of both management and staff, but only as long as they are consistent with the instruments of higher authority and other general obligations that apply in an employment relationship. Just as a staff rule may not conflict with the staff regulation under which it is made, so a practice or a statement of practice must not conflict with the rule or other properly promulgated administrative issuance which it

elaborates. A distinction must be made between matters that may be dealt with by way of guidelines, manuals, and other similar documents, and legal provisions that must be introduced by properly promulgated administrative issuances.

13. Finally, the Tribunal noted that ST/AI/2006/3 envisages that a selection process goes through separate stages, of which the review of eligibility is one of the first. Specifically, sec. 7.5 states that interviews or written tests are to be conducted after the candidates have been “identified as meeting all or most of the requirements of the post”. Therefore, in the circumstances of the case, and on the assurances given to the Applicant regarding her eligibility with respect to the temporary P-3 vacancy, it was improper for the Administration to revisit issues of eligibility after going through the entire selection process.

14. In UNDT/2012/200 *Finniss*, the Applicant challenged the decision not to select him for a post, asserting that the decision was tainted with bias and that there was irregularity in the interview, selection and evaluation process. The Tribunal found that there was bias against the Applicant, that the evaluation of the Applicant was not objective and that the selection exercise was unlawful. Since the Organization did not meet the minimal standard required to prove that the selection decision was made in accordance with the rules and regulations, the presumption that official acts had been regularly performed (the “presumption of regularity”) was rebutted.

Compensation

15. In UNDT/2012/062 *Shanks*, the Tribunal, having previously found that the Applicant’s appointment was wrongfully terminated following a disability finding by the United Nations Staff Pensions Committee, elaborated in this judgment on compensation how it calculated awards of pecuniary and non-pecuniary damages. To calculate pecuniary damages, the Tribunal held that it is necessary to consider the Applicant’s fitness to return to work; the likely duration of the contract she could reasonably have expected to have been given had the Applicant not been improperly terminated; and the amount of work she would likely have been able to perform in view of her disability during the hypothetical contract period. On the facts of this case, the Tribunal found that it is more likely than not that the Applicant would have been offered a contractual extension for at least the same time period as her most recent contract extension before the accident had her employment not been improperly terminated (18 months) and that she would have been able to work 75 per cent on this time. Accordingly, the award for non-pecuniary damages was 75 per cent of the full-time net base salary she would have obtained had her contract been extended for an additional 18 month period.

16. The Tribunal reiterated that the duty of an aggrieved party to mitigate her or his losses by requiring the demonstration of reasonable efforts to obtain other employment to limit her or his income loss during the relevant time period has its foundation in internationally recognised legal principles and has been affirmed in the jurisprudence of the Dispute and Appeal Tribunals. In this respect, the Tribunal must offset the actual income which the Applicant obtained during the relevant compensation period. In this case, having considered the limited nature of the Applicant’s actual paid employment, the Tribunal found that any offset would be so minimal that it should not be taken into account.

17. With respect to an award of non-pecuniary damages, the Tribunal held that a person seeking such award must present evidence of the adverse effects on him or her of the legal wrong. Such damages are awarded in light of the particular circumstances of the case and of the specific harm caused by the legal wrong to the aggrieved party. The harm suffered by the Applicant in this case arose from the failure of the Organization to give her a chance to resume her work after suffering serious injuries. On the evidence of the Applicant, the Tribunal found that she suffered considerable frustration and anxiety by being declared incapacitated. She also suffered from the shock of learning of the decision to terminate her

employment. Finally, she suffered the stress and anxiety of pursuing the claim against the decision that she was incapacitated while at the same time demonstrating her increasing capacity for work.

18. The Tribunal held that since the non-pecuniary injuries which the Applicant sustained as a result of her wrongful termination did not relate to either her employment category or level, it was appropriate to calculate this as a lump sum rather than base it on the aggrieved individual's salary. The Tribunal awarded USD50,000 for non-pecuniary harm.

19. The Tribunal further held that in the event that the total compensation awarded in this case exceeded the two years' net base salary cap as stipulated by art. 10.5 of the UNDT Statute, the compensation was to be limited to two years' net base salary since the Applicant did not show exceptional circumstances that would justify a higher award.

20. Finally, the Tribunal noted that pursuant to art. 10.7 of the UNDT Statute, exemplary or punitive damages may not be awarded; therefore, in principle, the subjective motives of the officials responsible for infringing an aggrieved individual's employment contract are not a factor in calculating an award of compensation.

Other

Implementation of an agreement reached through mediation

21. In UNDT/2012/027 *Servas*, the Tribunal found that the terms of the agreement required ITC to retroactively put the Applicant in the administrative situation in which she would have been had she been appointed at the P-2 level, including to modify her performance evaluation report to reflect her title as P-2 associate adviser. It ordered ITC to modify the Applicant's performance evaluation report accordingly.

Retrenchment, restructuring

22. In *Adundo et al. (supra)*, the Tribunal found in favour of the Applicants, a group of 25 Security Officers in New York contesting the decision requiring them, as a condition for further employment or selection for retrenchment or renewal, to undergo an ad hoc competitive process that included a mandatory competency test. The Tribunal found that in cases of *bona fide* retrenchment exercises, the Respondent has a wide, but not unfettered, discretion in its implementation, in which the Tribunal would not readily intervene. However, while the Administration has to take into account operational requirements and the need for the efficient operation of the Organization, it must also establish fair and reasonable procedures, including fair and objective criteria, and its decisions must be supported by the established facts and this includes a full and meaningful consultation process to ensure that staff members have a say in the process, that they receive proper notice, and that their interests are taken into consideration.

Break in service

23. In UNDT/2012/033 *Rockcliffe*, the Tribunal found that the contested the decisions to subject the Applicant to a retroactive seven-day break in service from 29 May to 4 June 2009 and to give her an appointment of limited duration from 5 to 30 June 2009, prior to her appointment under a fixed-term contract effective 1 July 2009 was unlawful. The UNDT found that there was no legal requirement for the Applicant to take a break in service between appointments and to be placed on appointment of limited duration between 5 and 30 June 2009.

Requests for exceptions

24. In *Rockcliffe (supra)*, the Tribunal found that the Administration should not be excessively formalistic and require that for a request for an exception to be considered as such, it must necessarily

be addressed directly to the Secretary-General. However, such a request must be formulated by the staff member in sufficiently clear terms to be regarded by the Administration as a request for an exception to the Staff Rules or subordinate instruments under former staff rule 112.2(b).

Counting of years of experience, disregarding work experience prior to Master's degree

25. In *Korotina (supra)*, the Tribunal stated that not having specified that the five years of work experience had to be completed after the master's degree, in the absence of properly promulgated issuances stating otherwise the Respondent is bound by the terms of the vacancy announcement, which did not include any such requirement. It is a contractual right of every staff member to receive full and fair consideration for job openings to which they apply. Even if OHRM's internal guidelines contained a provision that only experience obtained after a master's degree should be counted, the lawfulness of such provision would be questionable, as it would appear to be manifestly unreasonable and imposing unwarranted limitations on qualification requirements. The adopted unwritten practice of not counting the experience obtained prior to the master's degree is not supported by any rules or regulations forming part of the staff member's contract and lends itself to being arbitrary and manifestly unreasonable. Such a provision may constitute an unfair restriction on eligibility of a group of staff members for appointment and promotion without any basis in any of the properly promulgated administrative issuances.

Counting of years of experience, relevant professional experience

26. In *Korotina (supra)*, the Tribunal found that it follows from OHRM's own guidelines that "relevant professional experience" is generally any work experience after the first university degree that contributes to professional competencies/skills and prepares a candidate to perform the functions of the post, and that such experience should be counted towards the requirement of five years. The expression "in most cases" also indicates that there is no absolute or hard and fast proscription or bar, and that there is room for discretion. Not having included in the vacancy announcement the requirement that the candidates' prior work experience had to be at a certain professional level, and having solicited applications on that basis, in the absence of any properly promulgated issuances to the contrary, the Respondent was bound by the terms of the vacancy announcement, which did not include any such requirement.

Reinstatement in service

27. In UNDT/2012/208 *Egglesfield*, the Tribunal found that the decision to deny the reinstatement of a staff member was based on improperly imposed conditions not stipulated under staff rule 4.18 on reinstatement and was, as a result, arbitrary and manifestly unreasonable. The Tribunal found that a plain reading of staff rule 4.18 is that the only stipulated qualifying criteria for a staff member's reinstatement is that he should have held a fixed-term or continuing appointment, and that he was re-employed under a fixed-term or a continuing appointment within twelve months of his separation. No further conditions for reinstatement have been established by the Secretary-General under staff rule 4.18.

Sexual harassment

28. In UNDT/2012/034 *Perelli*, in respect of the appeal against the decision of the Secretary-General to uphold the Applicant's summary dismissal on the grounds that she had engaged in sexual harassment of her staff, the Tribunal emphasized that sexual harassment is a very serious offence and the Organization has a responsibility to investigate claims of sexual harassment promptly and effectively. Culpability justifying summary dismissal for sexual harassment requires evidence of actual or constructive knowledge by the perpetrator that the offending behaviours were unwelcome by the recipients or other staff members in the workplace. A finding of actual knowledge requires evidence of continuing sexual behaviour in spite of the recipients making it clear to the harasser that it is unwelcome. Constructive

knowledge by a harasser is an alternative to the requirement for actual knowledge and as such is a necessary component of liability for sexual harassment in the workplace. It takes account of the dynamics of power, authority and hierarchy that can inhibit staff members from confronting a harasser. It ensures accountability for sexual harassment that is conducted out of thoughtlessness or irresponsibility but nevertheless creates problems for affected staff members.

Contempt

29. In UNDT/2012/114 *Applicant*, the Tribunal held that its inherent jurisdiction confers on it the power to deal with contemptuous conduct, which is necessary to safeguard its judicial functions. In view of the fact that management refused to obey the orders of the Tribunal and continued to adopt every means to alter the status quo ante, the Tribunal referred the case to the Secretary-General under art. 10(8) of the Statute of the Tribunal.

Renouncement of permanent residency as a condition for joining the Organization

30. In UNDT/2012/004 *Valimaki-Erk*, the Applicant, a national of Finland and a permanent resident of Australia, contested the decision to require her to relinquish her permanent residency as a condition of employment as an international staff member. The Tribunal found that, in this case, there was no written rule prescribing a requirement to relinquish her permanent resident status in order to obtain an appointment with the Organization. The Tribunal found that the Secretary-General exceeded his authority in requiring the Applicant to relinquish her permanent resident status without any written rule supporting this decision.

APPENDIX II: PRONOUNCEMENTS OF THE UNAT

Introduction

1. A summary of the major legal pronouncements made by the Appeals Tribunal in judgments rendered during its 2012 sessions is provided below. The judgments summarized are provided for illustrative purposes only and are not intended to be authoritative, representative or exhaustive. A complete set of UNAT judgments issued during the period covered by this report is available on the OAJ website (<http://un.org/en/oaj/appeals>).

Non-renewal of fixed-term appointment

2. In *Obdeijn* (2012-UNAT-201), the Appeals Tribunal held that the Administration “cannot legally refuse to state the reasons for a decision that creates adverse effects on the staff member, such as a decision not to renew [a fixed-term appointment], where the staff member requests it or, *a fortiori*, the Tribunal orders it”; that the refusal to disclose the reasons for a contested decision shifts the burden of proof so that it is for the Administration to establish that its decision was neither arbitrary nor tainted by improper motives; and, that the Tribunal is entitled to draw an adverse inference from the refusal.

UNAT's jurisdiction over entities and agencies other than UNRWA

3. In *Ortiz* (2012-UNAT-231), the Appeals Tribunal noted that, in considering an appeal filed by a former ICAO staff member, it was reviewing a decision taken by an executive authority of ICAO on the basis of the conclusions and recommendations of the ICAO Advisory Joint Appeals Board, and not a judgment delivered by a professional, independent court of first instance, i.e., the Dispute Tribunal. The Appeals Tribunal held that to that extent, “the Appeals Tribunal's Statute is only applicable to such an appeal insofar as, and on condition that, its provisions are compatible with the judgment of an appeal directed against a decision taken by an executive authority.”

Staff member's income tax liability and foreign tax credits

4. In *Johnson* (2012-UNAT-240), the Appeals Tribunal recalled that the United States grants foreign tax credits in respect of income tax paid by one of its nationals or permanent residents to another State in order to relieve the effects of double taxation. The tax credits amount to a payment method for discharging future tax liability. The Appeals Tribunal agreed with the Dispute Tribunal that since the Appellant had used her foreign tax credits to meet her income tax liability on her United Nations earnings, she must be regarded as both having been subject to the United States taxation on income received from the Organization, and as having discharged that tax obligation. The exclusion of such credits as payment would “not only contravene the principle of equality of treatment among staff members if staff members from the United States were deprived of the benefit of reimbursement for using such tax credits ..., but also the principle of equity among Member States irrespective of whether they choose to grant, or not to grant, an income tax exemption to their nationals, as these two principles form the basis for the staff assessment system in respect of taxation”.

Interlocutory appeals

5. The Appeals Tribunal confirmed that appeals against decisions taken during proceedings are receivable only in exceptional circumstances where the UNDT has manifestly exceeded its jurisdiction. In *Khambatta* (2012-UNAT-252) and *Kananura* (2012-UNAT-258), the Secretary-General appealed the UNDT's suspension of action orders on the basis that the UNDT had failed to accord him the right to be heard. The Appeals Tribunal rejected both appeals, finding that even though the UNDT may have committed a procedural error, it had not exceeded its jurisdiction.

6. In *Benchebbak* (2012-UNAT-256), the Appeals Tribunal granted the Secretary-General's appeals against three UNDT orders on the basis that the UNDT had exceeded its jurisdiction by ordering the suspension of the contested decision beyond the completion of management evaluation in a matter concerning an appointment. In *Hersh* (2012-UNAT-243) and *Bali* (2012-UNAT-244), the Appeals Tribunal granted the Secretary-General's appeals on the basis that the UNDT exceeded its jurisdictional powers by placing an application for suspension of action on the general cause list.

7. In *Benchebbak (supra)*, the Appeals Tribunal held that any orders rendered by the UNDT require execution even in cases where the order is being appealed. Article 8(6) of the Rules of Procedure of the Appeals Tribunal, which provides that “[t]he filing of an appeal shall suspend the execution of the judgment contested,” does not apply to interlocutory appeals. It falls to the Appeals Tribunal to decide whether the UNDT exceeded its jurisdiction and the Administration cannot refrain from executing an order by filing an appeal against it on the basis that the UNDT exceeded its jurisdiction.

Renouncement of permanent residency as a condition for joining the Organization

8. In *Valimaki-Erk* (2012-UNAT-276), the Appeals Tribunal found that the contested policy of requiring an individual to renounce his or her permanent resident status in a country not of his or her nationality before he or she could enter into service with the Organization at the professional or higher level was not “reflected in any administrative issuance”. It held that as the Secretary-General had not fully complied with the requirements set by the Fifth Committee for its implementation and he has no discretion to impose unwritten regulations and rules that are prejudicial to staff members, the contested policy had no legal basis.

Representation by OSLA

9. In *Worsley* (2012-UNAT-199), the Appeals Tribunal affirmed the UNDT judgment that the right to receive assistance by OSLA does not amount to a right to representation by OSLA. OSLA has the discretionary power not to represent a person.

APPENDIX III: UNDT CASES 2012 - COUNTRY OF NATIONALITY

Country	Number	Country	Number
Albania	1	Mauritania	2
Argentina	6	Moldova, Republic of	1
Australia	9	Montenegro, Republic of	1
Austria	10	Morocco	1
Bangladesh	4	Mozambique	1
Belarus	1	Netherlands	3
Belgium	2	New Zealand	2
Benin	1	Nigeria	2
Bosnia and Herzegovina	2	Norway	1
Bulgaria	1	Pakistan	4
Burundi	2	Peru	2
Cameroon	4	Philippines	2
Canada	20	Portugal	1
China	3	Qatar	1
Congo, The Democratic Republic	3	Romania	3
Croatia	1	Russian Federation	2
Denmark	1	Rwanda	1
Dominica	1	Senegal	6
Egypt	6	Serbia, Republic of	2
France	6	Seychelles	1
Germany	7	Somalia	2
Ghana	3	Spain	3
Guyana	2	Sudan	6
Haiti	2	Sweden	4
Honduras	1	Syrian Arab Republic	3
India	4	Tanzania, United Republic of	6
Iraq	1	Thailand	3
Ireland	3	Togo	1
Italy	2	Trinidad and Tobago	1
Jamaica	1	Tunisia	2
Jordan	4	Turkey	3
Kenya	6	Uganda	3
Kyrgyzstan	2	United Kingdom	5
Lebanon	4	United States	33
Liberia	3	Venezuela	1
Macedonia, Republic of	4	Zimbabwe	3
Malawi	1	Other	4
Mali	2	Total	258

APPENDIX IV: UNDT CASES 2012 - EMPLOYMENT ENTITY

Agencies/Funds/Programmes/Other UN entities	ITC	4
	UNCCD	2
	UNCTAD	2
	UNDP	5
	UNEP	8
	UNFCCC	1
	UNFPA	2
	UNHCR	24
	UNICEF	5
	UNITAR	1
	UNODC	3
	UNOPS	6
	Other	2
	Total	65
Peacekeeping missions	MINURSO	1
	MINUSTAH	7
	MONUSCO (former MONUC)	4
	UNAMID	1
	UNIFIL	1
	UNLB	1
	UNMIK	4
	UNMIS	3
	UNMISS	2
	UNMIT	1
	Other	3
	Total	28
Regional Commissions	ECA	7
	ECE	1
	ESCAP	1
	ESCWA	5
	Total	14
Special political missions	BINUB	2
	BINUCA	1

	UNAMA	5
	UNAMI	2
	UNOCI	1
	Other	2
	Total	13
Tribunals	ICTR	11
	ICTY	20
	Total	31
UN Secretariat (Headquarters)	DESA	9
	DFS	8
	DGACM	12
	DM	12
	DPI	4
	DPKO	2
	DSS	9
	OCHA	2
	OIOS	3
	OLA	1
	UNODA	1
	Other	11
	Total	74
UN Secretariat Offices Away from Headquarters	UNEP	2
	UN-Habitat	1
	UNICRI	1
	UNODC	4
	UNOG	7
	UNON	5
	UNOV	5
	Other	5
	Total	30
Other	Other	3
	Total	3
Total		258