

Sixty-seventh session

Items 130, 141 and 146 of the provisional agenda*

Programme budget for the biennium 2012-2013

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/67/265) and the report of the Secretary-General on amendments to the rules of procedure of the United Nations Dispute Tribunal and the United Nations Appeals Tribunal (A/67/349)

Distinguished Members of the Fifth Committee,

I am pleased to present the report of the Secretary-General on the system of administration of justice at the United Nations, together with the report of the Secretary-General on amendments to the rules of procedure of the United Nations Dispute Tribunal and the United Nations Appeals Tribunal.

A. Report of the Secretary-General on Administration of Justice at the United Nations

As in past years, the report of the Secretary-General is the result of close cooperation 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, the Management Evaluation Unit, the Offices away from Headquarters, the Regional Commissions and the participating Funds and Programmes, including UNDP, UNICEF, UNHCR, UNOPS and UNFPA, and the Office of the Ombudsman and Mediation Services. Representatives of these offices, departments and entities are present today.

The report is divided in five sections: (1) an overview; (2) a review of the formal system of justice; (3) consolidated responses to requests relating to administration of justice made by the General Assembly in resolution 66/237; (4) resource requirements; and (5) conclusions and recommendation for action to be taken by the General Assembly.

The review of the formal system in Section II covers the Management Evaluation Unit (MEU), the UN Dispute Tribunal (UNDT) and UN Appeals Tribunal (UNAT), the

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Office of Staff Legal Assistance (OSLA), the Office of the Executive Director, and the Legal Offices representing the Secretary-General as Respondent. The section sets out the activities and accomplishments of these various entities during the reporting period 1 January to 31 December 2011, and contains statistics on the functioning of the formal system of administration of justice for calendar year 2011. As noted by the ACABQ, most parts of the formal system of administration of justice experienced continued growth in 2011. Continued progress was made in resolving those cases carried over from the old system, with only 13 such cases remaining as of October 2012.

Section II also outlines efforts made within the formal system to resolve disputes through direct negotiations between concerned parties or by referral of disputes to the Office of the Ombudsman for mediation.

The Secretary-General indicates a need to strengthen certain parts of the system by: extending the sitting *ad litem* judges of the UNDT and their current staffing complement for a further period of one year in order to handle the current caseload of the UNDT; continuing the P-3 Legal Officer post in OSLA funded from the budget for the support account for peacekeeping operations; and adding one P-3 Legal Officer post in the MEU to be funded from the budget for the support account for peacekeeping operations.

Section III provides detailed responses to specific questions asked by the General Assembly, including: efforts made to institutionalize good management practices to address underlying factors that give rise to workplace disputes; information on the concrete measures taken to enforce accountability in cases where contested decisions have resulted in compensation awards; a report on the status of the revised terms of reference for the Office of the United Nations Ombudsman and Mediation Services; a report on ways to bring about more coherent representation and efficient use of resources, taking into account the specificities of representation of the Secretary-General at the Tribunals; an overview of the status of the work undertaken on the practice of tribunals in other international organizations and in Member States on awards for exemplary or punitive damages; and the status of a cost-sharing arrangement for the totality of the internal justice system. The balance of the information requested is set out in Annexes I through VIII of the report.

In sections IV and V, the Secretary-General identifies areas in the formal justice system that require strengthening in order to fulfill the mandate of the new system, and makes recommendations for action to be taken by the General Assembly in that regard.

The report has nine annexes. Eight of the annexes contain responses to questions raised by the General Assembly in resolution 66/237. Annex I provides views of the Secretary-General on the recommendations of the Office of the United Nations Ombudsman and Mediation Services on measures addressing systemic human resources issues; Annex II provides options for representation of staff members, including a mandatory staff-funded mechanism to support the Office of Staff Legal Assistance; Annex III sets out the practice of tribunals in other international organizations and in

Member States regarding the awarding of exemplary or punitive damages, including their practice with regard to awards for moral damages, emotional distress, procedural irregularities and violations of due process; Annex IV provides a proposal for expedited arbitration procedures for consultants and individual contractors; Annex V provides an analysis of the policy and financial implications in the event that individual contractors and consultants covered by the proposed expedited arbitration procedures were to be permitted access to mediation under the informal system; Annex VI provides a report on access to the system of administration of justice for non-staff personnel not covered under the dispute resolution mechanism and other measures available to them for addressing disputes; Annex VII provides proposals for and analysis of mechanisms for addressing possible misconduct of judges; Annex VIII provides recommendations and analysis regarding proposal of the Internal Justice Council on a code of conduct for legal representation. The last annex, Annex IX, provides detailed information on the compensation awarded by the MEU, UNDT and UNAT.

B. Report of the Secretary-General on Amendments to the Rules of Procedure of the United Nations Dispute Tribunal and the United Nations Appeals Tribunal

This report sets out amendments that the UNDT and the UNAT have made to their respective rules of procedure, which apply provisionally until approved by the General Assembly (see resolution 64/119 article 37, paragraph 2 (UNDT); and article 32, paragraph 2 (UNAT)). Amendments to the Tribunals' rules of procedure normally fall within the remit of the Sixth Committee; however, two of the proposed amendments have resource implications for the 2014-2015 biennium, which have been set out in paragraph 11 of the report. It must be emphasized that the figures provided are an indication only. The actual resource requirements will be reflected in the programme budget for the biennium 2014-15, since there will be no budgetary impact for the programme budget for the biennium 2012-2013.

C. Report of the Internal Justice Council

Finally, I would like to draw the Committee's attention to a report prepared by the Internal Justice Council (A/67/265) pursuant to its mandate elaborated by the General Assembly in resolution 62/228, which includes the Council's views on the functioning of the new system of administration of justice and highlights certain issues that the Council believes should be considered by the General Assembly as a matter of priority. For the first time, the report conveys the views of the Judges of the UNAT and UNDT, which are set out in Annexes I and II thereto, in accordance with paragraph 45 of resolution 66/237.