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Administration of justice at the United Nations

Outcome of the work of the Joint Appeals Board during 2007 and 2008 and between January and June 2009 and statistics on the disposition of cases and work of the Panel of Counsel

Report of the Secretary-General

Summary

The present report is submitted in response to the request of the General Assembly to the Secretary-General, in its resolution 55/258 (sect. XI, para. 5), to report to the Assembly on an annual basis on the outcome of the work of the Joint Appeals Board. In response to that request, the report of the Secretary-General on the administration of justice in the Secretariat (A/63/211) provided information concerning the outcome of the work of the Joint Appeals Board for the period 2006-2007. The present report provides information on the work of all Joint Appeals Boards of the Secretariat (New York, Geneva, Vienna and Nairobi) in 2008. The report also compares 2008 and 2007 data. Pursuant to the decision of the Assembly in its resolution 63/253 to abolish, as of 1 July 2009, the Joint Appeals Boards and the Joint Disciplinary Committees, the report also provides information for the period from 1 January to 30 June 2009. In response to the request of the Assembly in its resolution 57/307, the report also provides statistics on the disposition of cases and information on the work of the Panel of Counsel for 2007. As the Panel of Counsel will also be abolished as of 1 July 2009, the present report also provides information relating to the Panel of Counsel for the period from 1 January 2008 to 30 June 2009.

* A/64/150.



I. Introduction

1. In its resolution 55/258 (sect. XI, para. 5), the General Assembly requested the Secretary-General to report to it on an annual basis on the outcome of the work of the Joint Appeals Board. In response to that request, the report of the Secretary-General on the administration of justice in the Secretariat (A/63/211) provided information on the work of all Joint Appeals Boards of the Secretariat (New York, Geneva, Vienna and Nairobi) for the period 2006-2007. The present report provides information and statistical data on the work of the Joint Appeals Boards in 2008.

2. In its resolution 63/253 (para. 38), the General Assembly decided to abolish, as of 1 July 2009, the Joint Appeals Boards and the Joint Disciplinary Committees. As the present report will be the final opportunity for the Secretary-General to report on the outcome of the work of the Joint Appeals Board, it also provides information on the work of the Joint Appeals Boards (New York, Geneva, Vienna and Nairobi) for the period from 1 January to 30 June 2009.

3. In its resolution 57/307 (para. 21), the General Assembly requested the Secretary-General to include statistics on the disposition of cases and information on the work of the Panel of Counsel in his annual report on the administration of justice in the Secretariat. In response to that request, the above-mentioned report of the Secretary-General on the administration of justice (A/63/211) provided information on the disposition of cases and work of the Panel of Counsel for 2007. In its resolution 62/228, the General Assembly decided to establish the Office of Staff Legal Assistance to succeed the Panel of Counsel. As the Panel of Counsel was also abolished on 30 June 2009 pursuant to resolution 63/253 of the General Assembly, the present report provides information on the disposition of cases and work of the Panel of Counsel for the period from 1 January 2008 to 30 June 2009.

II. Outcome of the work of the Joint Appeals Board

A. 1 January to 31 December 2008

4. Table 1 and figure I below set out information, in both numerical and graphic form, on the work of the Joint Appeals Boards in New York, Geneva, Vienna and Nairobi for 2007 and 2008 by providing the number of appeals and suspension of action cases filed and disposed of¹ during those years.

5. As can be seen from the information presented in table 1, there was a small increase in the number of appeals filed with the Joint Appeals Boards during 2008. Despite the overall increase in 2008, the New York Joint Appeals Board received 13 fewer appeals that year than in 2007, a decrease of 10 per cent. As for the corresponding figures for the other Joint Appeals Boards, the Geneva Board received 18 more appeals as compared with 2007, an increase of 47 per cent. In 2008, 7 cases were filed with the Vienna Board, which included 4 cases transferred from the New York Board. Taking these transferred cases into account, the Vienna

¹ The term "disposed of" refers to appeals with respect to which the Joint Appeals Board has completed its involvement. The figures may include appeals which, though filed during a previous year, were disposed of in subsequent years owing to an existing backlog. This explains why, at times, the number of appeals disposed of is higher than the number of appeals filed.

Board received 3 more appeals in 2008 than in 2007, an increase of 75 per cent. The Nairobi Board received 20 appeals, which is 9 more appeals than in 2007 and represents an increase of 82 per cent, but includes 7 cases transferred from the New York Board.

6. The number of cases disposed of by the four Joint Appeals Boards in 2008 was slightly higher than in 2007. The New York Board disposed of 122 appeals in 2008, an increase of 6 cases or 5 per cent. These numbers include the transfer of 11 cases from the New York Board, 4 to the Vienna Board and 7 to the Nairobi Board. Excluding these 11 cases, the total number of cases disposed of by the four Boards in 2008 is less than in 2007. The Geneva Board disposed of 45 appeals cases in 2008, an increase of 2 per cent. The Vienna Board disposed of 15 cases, an increase of 200 per cent compared with 2007. The Nairobi Board disposed of 7 cases in 2008, a decrease of 59 per cent.

7. At the end of the reporting period, the Vienna Joint Appeals Board had no pending appeals compared with 8 at the end of 2007. The Nairobi Board had 16 pending appeals at the end of 2008 compared with 3 at the end of 2007. The Geneva Board had 39 pending appeals at the end of 2008 compared with 28 at the end of 2007. The New York Board had 90 pending appeals at the end of 2008 compared with 101 at the end of 2007.

8. Disciplinary cases were handled by the same secretariats as those supporting the Joint Appeals Boards. At the beginning of 2008, the New York Joint Disciplinary Committee had 28 pending disciplinary cases. During 2008, 102 cases were referred to the New York Committee, which disposed of 71 cases. The New York Committee had 59 pending disciplinary cases at the end of 2008. It should be noted that during 2008, there was a more than threefold increase in the number of disciplinary cases referred to the New York Committee (32 in 2007 and 102 in 2008). The Geneva Committee, starting with 3 cases at the beginning of 2008, received 6 new disciplinary cases during 2008, disposed of 9 disciplinary cases during 2008 and had no pending cases at the end of the year. The Nairobi Committee, which had no pending cases at the beginning of 2008, did not receive any disciplinary cases in 2008 and, therefore, did not have any pending cases at the end of 2008. No cases were submitted to the Vienna Committee in 2008 and Vienna had no pending disciplinary cases at the end of 2008.

Table 1
Number of appeals and suspension of action cases filed and disposed of by all Joint Appeals Boards in 2007 and 2008

<i>Standing Joint Appeals Board</i>	<i>2007</i>	<i>2008</i>	<i>Percentage of variance</i>
New York: appeals filed	124	111	-10
New York: appeals disposed of	116	122 ^a	+5
Geneva: appeals filed	38	56	+47
Geneva: appeals disposed of	43	45	+2
Vienna: appeals filed	4	7 ^b	+75
Vienna: appeals disposed of	5	15	+200

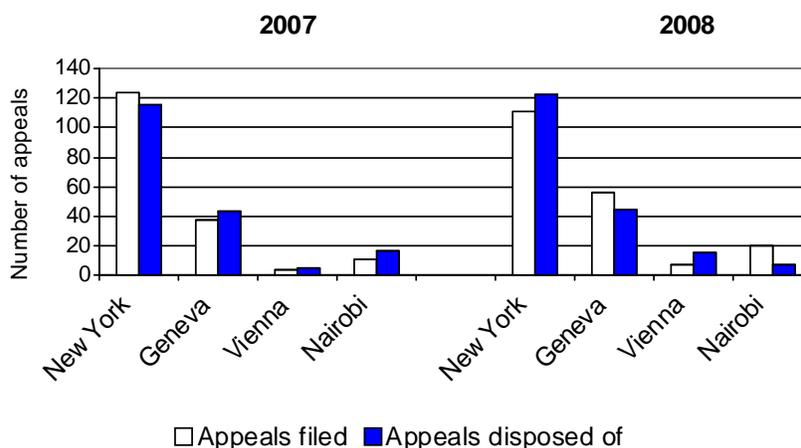
<i>Standing Joint Appeals Board</i>	<i>2007</i>	<i>2008</i>	<i>Percentage of variance</i>
Nairobi: appeals filed	11	20 ^c	+82
Nairobi: appeals disposed of	17	7	-59

^a Includes 11 cases transferred from the New York Joint Appeals Board to the Vienna Joint Appeals Board (4 cases) and Nairobi Joint Appeals Board (7 cases) in order to assist in clearing the backlog of cases.

^b Includes 4 cases transferred from the New York Joint Appeals Board to the Vienna Joint Appeals Board in order to assist in clearing the backlog of cases.

^c Includes 7 cases transferred from the New York Joint Appeals Board to the Nairobi Joint Appeals Board in order to assist in clearing the backlog of cases.

Figure I
Number of appeals and suspension of action cases filed and disposed of by all Joint Appeals Boards in 2007 and 2008



9. Table 2 and figure II below provide, in both numerical and graphic forms, information on the decisions taken by the Secretary-General on reports of the Joint Appeals Board for 2007.

Table 2
Breakdown of decisions by the Secretary-General on unanimous recommendations of the Joint Appeals Board on appeals and requests for suspension of action in 2007

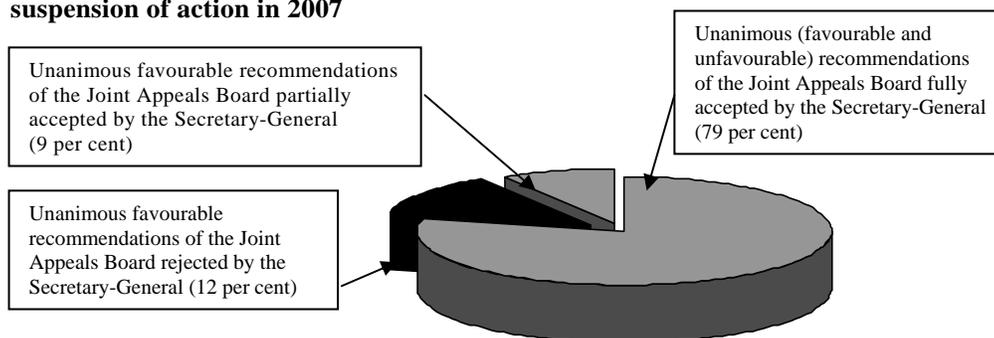
<i>Location of Joint Appeals Board</i>	<i>Decisions on reports of the Board</i>	<i>Unanimous recommendations of the Board</i>	<i>Unanimous recommendations of the Board fully accepted by the Secretary-General</i>	<i>Unanimous recommendations of the Board partially accepted by the Secretary-General</i>	<i>Unanimous favourable recommendations of the Board rejected by the Secretary-General^b</i>	<i>Unanimous unfavourable recommendations of the Board</i>
New York	107	100 ^a	78 (78%)	11 (11%)	10 (10%)	57 (57%)
Geneva	43	43	37 (86%)	2 (5%)	4 (9%)	29 (67%)
Vienna	5	5	3 (60%)	—	2 (40%)	3 (60%)

<i>Location of Joint Appeals Board</i>	<i>Decisions on reports of the Board</i>	<i>Unanimous recommendations of the Board</i>	<i>Unanimous recommendations of the Board fully accepted by the Secretary-General</i>	<i>Unanimous recommendations of the Board partially accepted by the Secretary-General</i>	<i>Unanimous favourable recommendations of the Board rejected by the Secretary-General^a</i>	<i>Unanimous unfavourable recommendations of the Board</i>
Nairobi	18	16	11 (69%)	1 (6%)	4 (25%)	8 (50%)
Total	173	164	129 (79%)	14 (9%)	20 (12%)	97 (59%)

88% (full and partial acceptances)

^a There was one unanimous unfavourable recommendation of the New York Joint Appeals Board rejected by the Secretary-General, which represents less than 1 per cent of the 164 unanimous recommendations. This one case is not included in the percentages relating to the total number of unanimous recommendations, which total 100 per cent due to rounding. However, this case explains why the percentages for New York do not add up to 100 per cent.

Figure II
Breakdown of decisions by the Secretary-General on unanimous recommendations of the Joint Appeals Board on appeals and requests for suspension of action in 2007



Note: The chart does not include one unanimous unfavourable recommendation of the New York Joint Appeals Board rejected by the Secretary-General, which represents less than 1 per cent of the 164 unanimous recommendations. Percentages total 100 per cent as a result of rounding.

Table 3
Breakdown of decisions by the Secretary-General on unanimous recommendations of the Joint Appeals Board on appeals and requests for suspension of action in 2008

<i>Location of Joint Appeals Board</i>	<i>Decisions on reports of the Board</i>	<i>Unanimous recommendations of the Board</i>	<i>Unanimous recommendations of the Board fully accepted by the Secretary-General</i>	<i>Unanimous recommendations of the Board partially accepted by the Secretary-General</i>	<i>Unanimous favourable recommendations of the Board rejected by the Secretary-General^a</i>	<i>Unanimous unfavourable recommendations of the Board</i>
New York	85	82	59 (72%)	7 (8%)	16 (20%)	41 (50%)
Geneva ^b	37	35	29 (83%)	3 (9%)	3 (9%)	22 (63%)
Vienna ^b	11	11	5 (45%)	2 (18%)	4 (36%)	2 (18%)

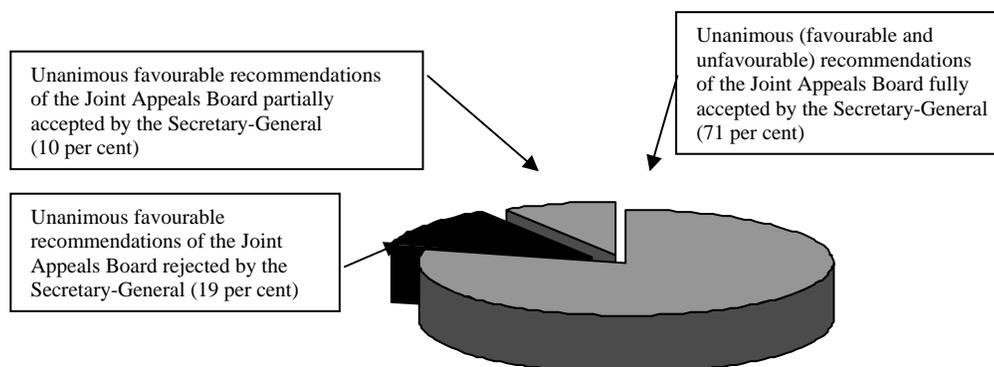
<i>Location of Joint Appeals Board</i>	<i>Decisions on reports of the Board</i>	<i>Unanimous recommendations of the Board</i>	<i>Unanimous recommendations of the Board fully accepted by the Secretary-General</i>	<i>Unanimous recommendations of the Board partially accepted by the Secretary-General</i>	<i>Unanimous favourable recommendations of the Board rejected by the Secretary-General^a</i>	<i>Unanimous unfavourable recommendations of the Board</i>
Nairobi	6	6	3 (50%)	1 (17%)	2 (33%)	2 (33%)
Total	139	134	96 (71%)	13 (10%)	25 (19%)	67 (50%)

81% (full and partial acceptances)

^a There were two unanimous unfavourable recommendations of the Joint Appeals Board rejected by the Secretary-General, one by the Geneva Joint Appeals Board and one by the Nairobi Joint Appeals Board. Such cases, although relatively rare, have been included in this column as they do not represent recommendations by the Joint Appeals Board that were fully or partially accepted by the Secretary-General.

^b Percentages for Geneva and Vienna do not equal 100 per cent because of rounding.

Figure III
Breakdown of decisions by the Secretary-General on unanimous recommendations of the Joint Appeals Board on appeals and requests for suspension of action in 2008



10. As can be seen from tables 2 and 3 and figures II and III above for 2007 and 2008, the percentage of full and partial acceptances by the Secretary-General of unanimous recommendations of the Joint Appeals Board decreased in 2008 in comparison with the previous year (88 per cent for 2007 and 81 per cent for 2008). The percentage of rejections by the Secretary-General of unanimous recommendations of the Board that were favourable to the appellants was relatively low in both periods, namely 12 per cent in 2007 and 19 per cent in 2008, although the number of rejections was higher in 2008. The 25 cases in 2008 represented by the figure of 19 per cent included 2 cases where the Secretary-General rejected unanimous recommendations by Joint Appeals Boards that were unfavourable to the appellants. If these two cases, which are relatively rare, had not been included, then the percentage of rejections by the Secretary-General of unanimous recommendations of the Board that were favourable to the appellants would have been 17 per cent.

11. The stated policy of the Secretary-General was normally to accept unanimous recommendations unless there was a compelling reason of law or policy not to do so. In all such instances, the decisions of the Secretary-General provided detailed reasons for such rejection, which in most cases were attributable to a determination

that the Joint Appeals Board might have incorrectly applied law or policy or might have made findings of fact not supported by the available evidence. The Secretary-General, however, maintained the discretionary authority to reject unanimous recommendations of the Joint Appeals Board in cases where he found that it was in the interests of the Organization to do so.

12. During the reporting period for 2008, in addition to the regular functions required of them, the various secretariats of the Joint Appeals Boards were involved in the following activities to differing extents:²

(a) Providing advice and assistance on issues relating to various aspects of the reform of the informal and formal parts of the internal justice system, including assisting in the preparatory work for the establishment of the United Nations Dispute Tribunal and the Management Evaluation Unit;

(b) Providing updates on the status of work of the Joint Appeals Boards to various oversight bodies at their request;

(c) Drafting and adopting new rules for the Joint Appeals Boards and Joint Disciplinary Committees;

(d) Preparing plenary meetings for the Joint Appeals Boards and Joint Disciplinary Committees;

(e) Preparation of training materials and modules and holding training presentations for participants in the internal justice system of the Secretariat and other United Nations organizations and, in Vienna, for new staff;

(f) Maintaining and improving websites, case management systems and databases.

B. 1 January to 30 June 2009

13. For the secretariats of the Joint Appeals Boards and Joint Disciplinary Committees in New York, Geneva, Vienna and Nairobi, much of the period between 1 January and 30 June 2009, especially the latter months, represented a transitional period between the old system of administration of justice, which ended on 30 June 2009, and the new system of administration of justice, which commenced on 1 July 2009. During this period, resources of the secretariats were devoted both to clearing the backlog of cases before the Boards and the Committees and to planning for the transition to the new system of administration of justice. The changes to the justice system also resulted in staff movements and not all posts being fully occupied during the reporting period.

14. Table 4 and figure IV below set out information, in both numerical and graphic form, on the work of the Joint Appeals Boards in New York, Geneva, Vienna and Nairobi for the period 1 January to 30 June 2009 by providing the numbers of appeals and suspension of action cases filed and disposed of during this period. Since the period in question is less than 12 months, table 4 and figure IV do not provide information for 2008 by way of comparison.

² Some of these activities were also carried out to differing extents during the period 1 January to 30 June 2009.

15. At the beginning of 2009, the New York Joint Appeals Board had 90 pending cases. During the period from 1 January to 30 June 2009, the New York Board received 51 new appeals cases and disposed of 66 cases, leaving 75 pending cases at the end of June 2009. For the same period, the Geneva Joint Appeals Board, which had 39 pending appeals at the beginning of 2009, received 11 appeals cases and disposed of 19 cases, with 31 cases pending at the end of June 2009. From January to June 2009, the Vienna Board, which had no pending appeals at the beginning of 2009, received 2 cases and disposed of no cases, leaving 2 cases at the end of June 2009. The Nairobi Board had 16 pending appeals at the beginning of 2009, received 6 new cases during the first six months of 2009 and disposed of 8 cases during the same period. At the end of June 2009, the Nairobi Board had 14 pending cases.

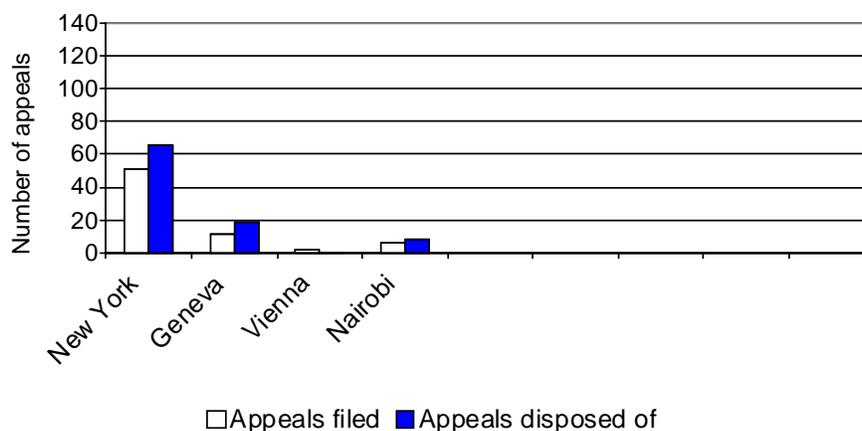
16. With respect to the number of disciplinary cases handled during the period from 1 January to 30 June 2009, the New York Joint Disciplinary Committee had 59 pending disciplinary cases at the beginning of the period. During the first six months of 2009, 24³ cases were referred to the New York Committee and 53 cases were disposed of. The New York Committee had 30 pending disciplinary cases at the end of June 2009. The Geneva Committee, starting with no cases at the beginning of 2009, received 3 new disciplinary cases during the first six months of 2009, disposed of 3 disciplinary cases and had no pending cases at the end of June 2009. The Nairobi Committee, which had no pending cases at the beginning of 2009, did not receive any disciplinary cases during the first six months of 2009 and, therefore, did not have any pending cases at the end of the reporting period. No cases were submitted to the Vienna Committee during the reporting period and Vienna had no pending disciplinary cases at the end of June 2009.

Table 4
Number of appeals and suspension of action cases filed and disposed of by all Joint Appeals Boards between 1 January and 30 June 2009

<i>Standing Joint Appeals Board</i>	<i>1 January-30 June 2009</i>
New York: appeals filed	51
New York: appeals disposed of	66
Geneva: appeals filed	11
Geneva: appeals disposed of	19
Vienna: appeals filed	2
Vienna: appeals disposed of	—
Nairobi: appeals filed	6
Nairobi: appeals disposed of	8

³ This figure includes a statistical adjustment of seven cases.

Figure IV
Number of appeals and suspension of action cases filed and disposed of by all Joint Appeals Boards between 1 January and 30 June 2009



17. Table 5 and figure V below provide, in both numerical and graphic forms, information on the decisions taken by the Secretary-General on reports of the Joint Appeals Board for the period from 1 January to 30 June 2009.

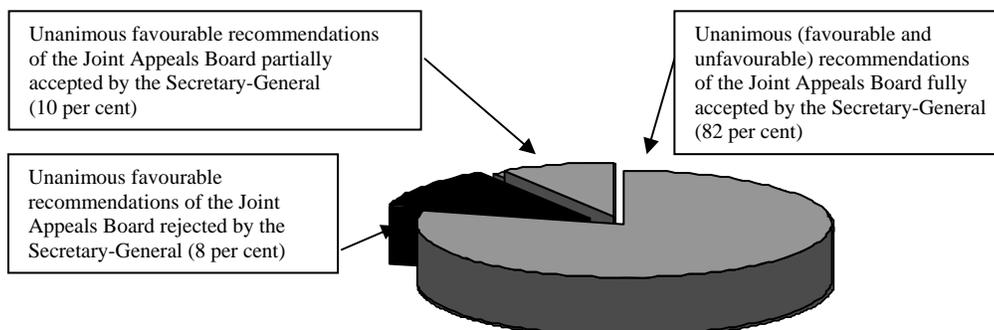
Table 5

Breakdown of decisions by the Secretary-General on unanimous recommendations of the Joint Appeals Board on appeals and requests for suspension of action during the period from 1 January to 30 June 2009

<i>Location of Joint Appeals Board</i>	<i>Decisions on reports of the Board</i>	<i>Unanimous recommendations of the Board</i>	<i>Unanimous recommendations of the Board fully accepted by the Secretary-General</i>	<i>Unanimous recommendations of the Board partially accepted by the Secretary-General</i>	<i>Unanimous favourable recommendations of the Board rejected by the Secretary-General</i>	<i>Unanimous unfavourable recommendations of the Board</i>
New York	58	55	44 (80%)	5 (9%)	6 (11%)	36 (65%)
Geneva	27	27	22 (81%)	4 (15%)	1 (4%)	13 (59%)
Vienna	5	4	4 (100%)	—	—	3 (75%)
Nairobi	7	7	7 (100%)	—	—	1 (14%)
Total	97	93	77 (82%)	9 (10%)	7 (8%)	53 (57%)

92% (full and partial acceptances)

Figure V
Breakdown of decisions by the Secretary-General on unanimous recommendations of the Joint Appeals Board on appeals and requests for suspension of action during the period from 1 January to 30 June 2009



18. As can be seen from table 5 and figure V above, the percentage of full and partial acceptances by the Secretary-General of unanimous recommendations of the Joint Appeals Board was 92 per cent for the period 1 January to 30 June 2009, which represents an increase in comparison with 81 per cent for 2008. However, in comparing these figures, it should be recalled that the period in 2009 is only half of that for the full year of 2008.

III. Disposition of cases and work of the Panel of Counsel

19. Pursuant to General Assembly resolution 63/253, the Panel of Counsel was abolished on 30 June 2009. On 1 July 2009, the Office of Staff Legal Assistance was established. The Office of Staff Legal Assistance, which is staffed by full-time legal officers at Headquarters and in Geneva, Nairobi, Addis Ababa and Beirut, assumed the mandate of the Panel of Counsel.

20. During the reporting period, the staff of the Panel of Counsel worked with the newly established Office of the Administration of Justice in order to facilitate a smooth transition. All cases handled by the Panel of Counsel were transferred to the Office of Staff Legal Assistance. All staff members who had a case with the Panel of Counsel have been assisted by the Office of Staff Legal Assistance since 1 July 2009.

21. For the full reporting period from 1 January 2008 through 30 June 2009, the Panel of Counsel handled a total of 612 new cases. In order to compare data with previous calendar years, statistics for calendar year 2008 are analysed below.

22. In 2008, there was a total of 384 new cases brought to the Panel of Counsel in New York, compared with 339 new cases in 2007, an increase of 13.27 per cent. Of the 384 cases brought to the Panel of Counsel in 2008, 286 went through the formal appeals process and 98 were dealt with informally. In 2007 there were 240 formal cases and 99 informal cases. The increase in formal cases from 2007 to 2008 was 19.17 per cent, while the informal cases decreased by 1 per cent. For the full reporting period from 1 January 2008 through 30 June 2009, there was a total of 458 formal cases and 154 informal cases. Figures VI and VII below contain statistics for the calendar year 2008.

Figure VI
Distribution of informal and formal cases

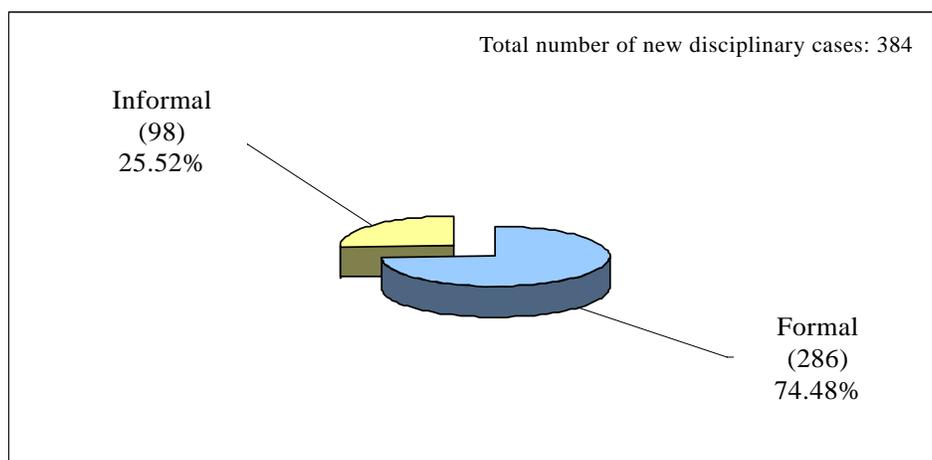
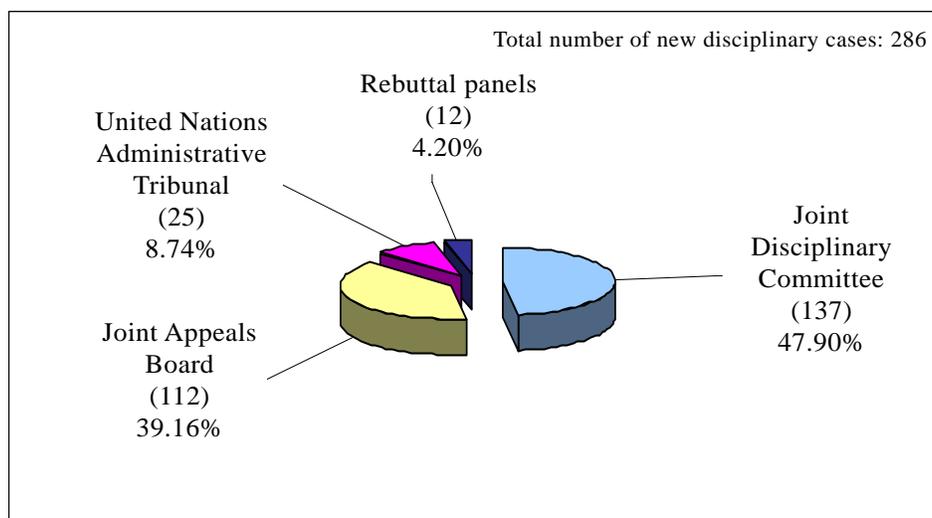


Figure VII
Distribution of cases by recourse body

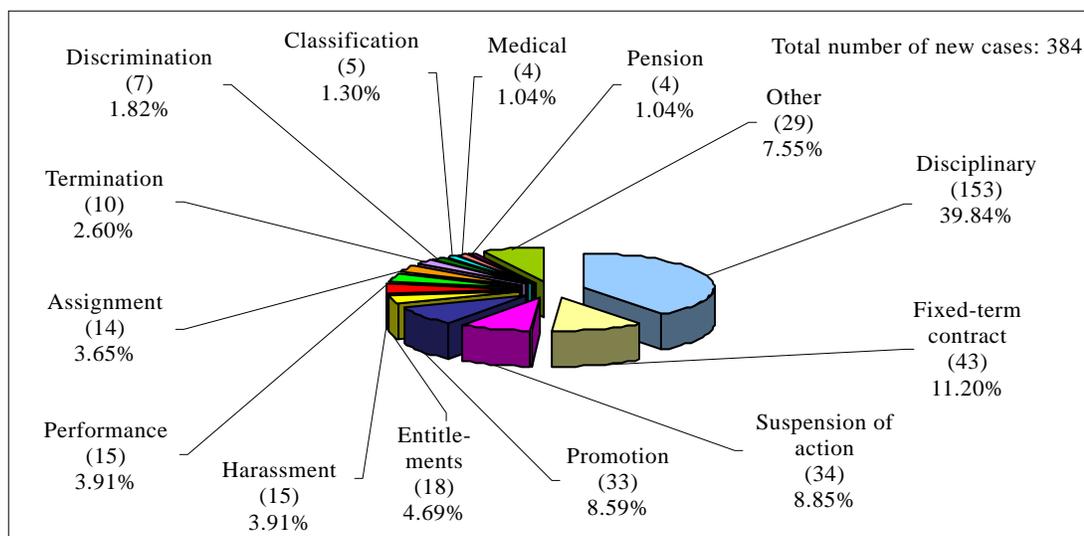


23. The distribution of the 286 formal cases by recourse body is depicted in figure VII above. Compared with 2007, in 2008 there was an 11.81 per cent decrease in cases taken to the Joint Appeals Board and a 26.47 per cent decrease in cases taken to the United Nations Administrative Tribunal. Joint Disciplinary Committee cases increased by 104.48 per cent from the previous period, i.e., from 67 cases in 2007 to 137 cases in 2008. An increase in disciplinary cases is particularly significant as these matters are generally more complex than other types of cases

and are often much more labour-intensive.⁴ For the full reporting period, i.e., 1 January 2008 through 30 June 2009, there was a total of 241 Joint Disciplinary Committee cases, 149 Joint Appeals Board cases, 47 United Nations Administrative Tribunal cases and 21 other cases (such as rebuttal of a performance appraisal).

24. The subject matters of the cases for calendar year 2008 together with the corresponding numbers of cases are shown in figure VIII below.

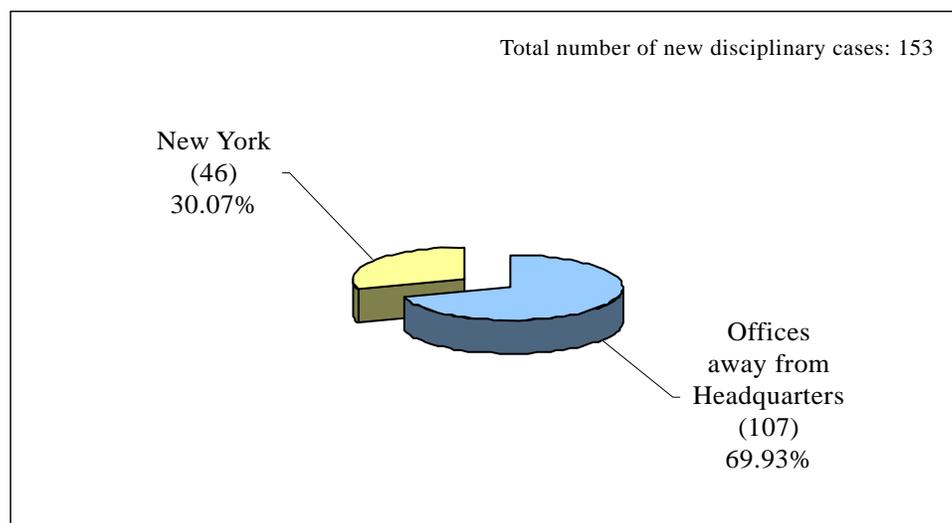
Figure VIII
Distribution of cases by subject matter



25. As seen in figure IX below, a substantial majority, i.e., 69.93 per cent, of disciplinary cases with representation by a member of the Panel of Counsel involved clients who serve in offices away from Headquarters, who thus are not able to have consultations with counsel in person or be physically present at their own disciplinary hearings.

⁴ The 153 disciplinary cases in figure VIII comprise all cases of a disciplinary nature, including cases in investigative stages and those that seek recourse to the United Nations Administrative Tribunal. The 137 Joint Disciplinary Committee cases in figure VII are those of a disciplinary nature that involve formal hearings before a Joint Disciplinary Committee.

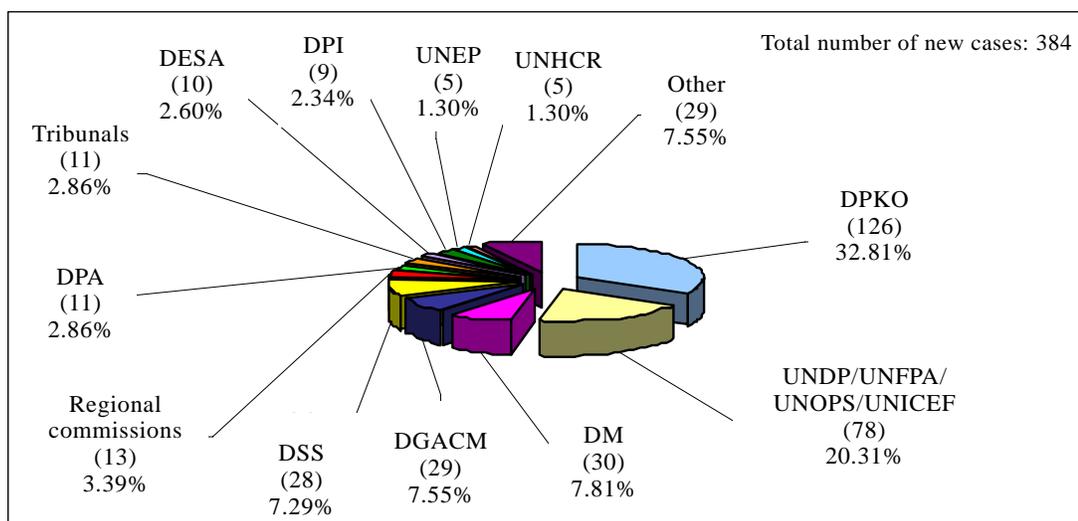
Figure IX
Distribution of disciplinary cases by duty station



26. Figure X below shows the departments or entities where most cases originated during calendar year 2008. The Panel of Counsel represented staff members from United Nations entities, peacekeeping missions and the Secretariat, both at Headquarters and in offices away from Headquarters.

27. As can be seen in figure X, many of the requests for assistance were from staff members located in field-oriented departments, programmes and entities, especially the Department of Peacekeeping Operations, the United Nations Development Programme (UNDP), the United Nations Population Fund (UNFPA), the United Nations Office for Project Services (UNOPS) and the United Nations Children's Fund (UNICEF).

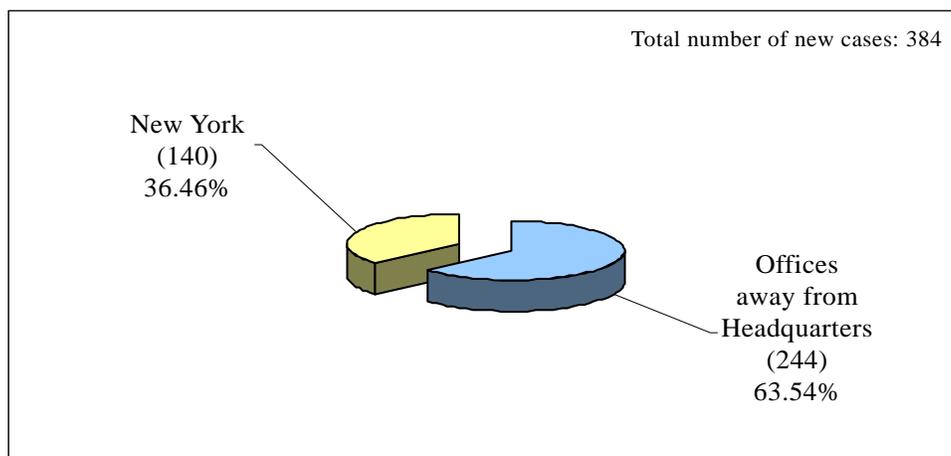
Figure X
Distribution of cases by office



Abbreviations: DESA, Department of Economic and Social Affairs; DGACM, Department for General Assembly and Conference Management; DM, Department of Management; DPA, Department of Political Affairs; DPI, Department of Public Information; DPKO, Department of Peacekeeping Operations; DSS, Department of Safety and Security; Tribunals, International Tribunal for the Former Yugoslavia and International Criminal Tribunal for Rwanda; UNDP, United Nations Development Programme; UNEP, United Nations Environment Programme; UNFPA, United Nations Population Fund; UNHCR, Office of the United Nations High Commissioner for Human Rights; UNICEF, United Nations Children’s Fund; UNOPS, United Nations Office for Project Services.

28. The distribution of cases between New York and offices away from Headquarters is depicted in figure XI below.

Figure XI
Distribution of cases by duty station



29. The General Assembly may wish to take note of the present report.