

**Sixty-eighth session**

Agenda items 134, 143 and 147

Proposed programme budget for the biennium 2014-2015**Administration of justice at the United Nations****Administrative and budgetary aspects of the financing of
the United Nations peacekeeping operations****Administration of justice at the United Nations and
activities of the Office of the United Nations Ombudsman
and Mediation Services****Report of the Advisory Committee on Administrative and
Budgetary Questions****I. Introduction**

1. The Advisory Committee on Administrative and Budgetary Questions has considered the reports of the Secretary-General on the administration of justice at the United Nations ([A/68/346](#)) and the activities of the Office of the United Nations Ombudsman and Mediation Services ([A/68/158](#)). The Advisory Committee also had before it the report of the Internal Justice Council on the administration of justice at the United Nations ([A/68/306](#)). During its consideration of the reports, the Advisory Committee met with representatives of the Secretary-General, who provided additional information and clarification, concluding with written responses received on 30 September 2013.

2. The reports of the Secretary-General are submitted pursuant to General Assembly resolution [67/241](#), in which the General Assembly requested that the Secretary-General report on several issues relating to the administration of justice at its sixty-eighth session. The first part of the report ([A/68/346](#)) provides statistics on the functioning of the system of administration of justice for 2012, and the second part responds to the General Assembly's requests in resolution [67/241](#).



II. Administration of justice at the United Nations

General observations

3. Paragraphs 8 to 22 of the report on the administration of justice set out the Secretary-General's observations on the operation of the formal system of administration of justice, on the basis of statistics for the year 2012 and since its inception. The Secretary-General notes that there was a decrease in the number of new requests for management evaluation received by the Management Evaluation Unit of the Department of Management, and in the number of new cases filed with the Dispute Tribunal, compared with 2011. However, there was an increase during the same period in requests for management evaluation in the funds and programmes, and in the caseloads of the Appeals Tribunal, the Office of Staff Legal Assistance, the Administrative Law Section and the Office of Legal Affairs. Issues relating to appointments (primarily non-selection and non-promotion) continued to form the bulk of the cases. More detailed statistics on the functioning of the different parts of the system of administration of justice are highlighted in paragraphs 5 to 9 below.

4. **The Advisory Committee notes that since its inception, the number of new cases received across the different parts of the system of administration of justice has increased from year to year. However, the statistics for 2012 may demonstrate a partial shift in this trend, with a decrease in new cases received by the Management Evaluation Unit and the Dispute Tribunal. As more information and further functioning of the system is required for a more definitive analysis, the Committee trusts that the Secretary-General will continue to track the data on the number of cases in order to identify any emerging trends, and that he will include his observations on those statistics in future reports.**

A. Review of the formal system of justice

Management Evaluation Unit

5. The report states that in 2012, the Management Evaluation Unit received 837 requests for management evaluation (as compared to 952 in 2011), of which 327 were non-receivable requests, 241 were upheld decisions, 106 were moot requests, and 84 requests were carried forward (see [A/68/346](#), paras. 24 and 30 and table 1). By 30 June 2013, 87 per cent of the cases considered by the Dispute Tribunal upon staff member applications following management evaluation confirmed, confirmed on different grounds, or partly confirmed the recommendation of the Management Evaluation Unit (see [A/68/346](#), para. 29). Upon enquiry, the Advisory Committee was informed that a request is declared moot by the Management Evaluation Unit if the claim of the staff member is met by the Organization or if it otherwise loses its substance, and staff members rarely challenge such a decision by the Unit. The Committee was also informed that a case is closed as not receivable if the staff member has filed it after the statutory time limit or if the staff member is not successful in demonstrating that she/he is challenging an actual administrative decision, rather than another official act of the Organization.

Dispute Tribunal

6. The report indicates that the Dispute Tribunal received 258 new cases in 2012, as compared to 281 in 2011. In 2012, the Tribunal disposed of 260 cases (as compared to 272 in 2011) and referred 10 cases to Mediation Services in the Office of the United Nations Ombudsman and Mediation Services, for mediation (see [A/68/346](#), paras. 37 and 42 and table 2). Upon enquiry, the Committee was informed that compared to 2011, the average length of time taken by the Tribunal to dispose of a case is slightly shorter, approximately 12 months instead of 12 to 14 months. The Committee was further informed that the pace of work is also faster than under the former system, in which it took five years on average to dispose of a case.

United Nations Appeals Tribunal

7. The United Nations Appeals Tribunal received 142 new cases in 2012 (as compared to 96 in 2011), including 109 appeals against judgements of Dispute Tribunal. Ninety-one judgements were rendered by the Appeals Tribunal in 2012 (as compared to 88 in 2011), with 82 relating to judgements of the Dispute Tribunal (58 brought by staff members and 34 brought on behalf of the Secretary-General; the total number of appeals filed by staff members and the Secretary-General does not correspond to the total number of appellate judgements addressing judgements of the Dispute Tribunal because these numbers include both cross-appeals and consolidated appeals). 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, 8 were rejected, 26 were granted in full or in part, and one case was remanded to the Dispute Tribunal (see [A/68/346](#), paras. 54 and 58-60 and tables 4 and 5). **The Advisory Committee notes the disparity between appeals granted in full or in part in cases filed on behalf of the Secretary-General as compared to cases filed by staff members. The Committee requests that the Secretary-General analyse the reasons for this disparity and report thereon to the General Assembly at its sixty-ninth session.**

Office of Staff Legal Assistance

8. The report states that the Office of Staff Legal Assistance received 1,049 new cases in 2012, representing a 60 per cent increase from 2011 (see [A/68/346](#), para. 70 and table 6). Among the different types of assistance rendered by the Office in 2012, table 7 of the report indicates that there were 648 cases of summary advice, representing an increase from 345 in 2011, which also accounted for the majority of the overall increase in the workload of the Office during the reporting period. Upon enquiry, the Committee was informed that the Office provides summary advice when staff members consult it about a legal question, or when the Office rejects a staff member's request to be assisted by it in representation in a formal dispute, which usually entails advice to the staff member about his duties, benefits or entitlements. The Committee was informed that the increase could be explained by a number of factors, including a large number of de facto class action cases, better record-keeping within the Office and increased awareness among staff of the Office's existence and role.

9. The Secretary-General notes that the General Assembly decided in its resolution [67/241](#) that the overall level of resources for the Office of Staff Legal Assistance shall be maintained at its current level until the Assembly takes a

decision regarding a staff-funded scheme (see [A/68/346](#), para. 81). The Committee's observations on the staff-funded scheme are set out in paragraphs 23-28 below.

B. Responses to requests from the General Assembly in resolution 67/241

1. Institutionalization of good management practices

10. The General Assembly requested the Secretary-General to report on his efforts to institutionalize good management practices in order to address the underlying factors that give rise to disputes in the workplace (see resolution [67/241](#), para. 13).

11. The report of the Secretary-General indicates that the Management Evaluation Unit compiles lessons-learned guides and guidance notes for managers, including on termination/non-renewal of contract, selection of staff and disciplinary measures, which also incorporate a review of the jurisprudence of the Dispute Tribunal and the United Nations Appeals Tribunal (see [A/68/346](#), para. 113). Some underlying factors giving rise to workplace disputes have been identified: a lack of timely and open dialogue in performance evaluation issues between managers and staff members; a lack of full understanding by managers of the internal laws and procedures of the Organization; a lack of clarity of some elements of the laws; and managerial challenges in making and communicating administrative decisions (see [A/68/346](#), para. 114).

12. Upon enquiry as to action taken in this regard in 2012, the Advisory Committee was informed that the Management Evaluation Unit recommended nine settlements, relating to managers not applying rules correctly, which resulted in the staff members receiving payments of what they would have been entitled to had the managers applied the rules correctly. The managers and their superiors were informed of the errors in writing and acknowledged receipt of the settlement and related lessons learned. **The Advisory Committee affirms the importance of lessons-learned guides on the Tribunals' jurisprudence for managers, and expects that the lessons learned will produce concrete results in managerial actions.**

2. Interim independent assessment of the formal system of administration of justice

13. In paragraphs 19 and 20 of its resolution [67/241](#), the General Assembly requested the Secretary-General to present for its consideration at its sixty-eighth session a proposal for conducting an interim independent assessment of the formal system of administration of justice, which should be conducted in a cost-efficient manner and within existing resources.

14. Annex II to the report of the Secretary-General report sets out the details of the proposal. The proposed terms of reference provide that the assessment would examine all operational aspects of the formal system and evaluate whether the aims and objectives of the system are in fact being achieved. The assessment would entail a review of relevant documents and consultation with staff and management, including consideration of the following issues: (a) caseloads of entities that comprise the formal system and relevant trends; (b) lessons learned from the jurisprudence on good management practices; (c) identification of the causes of recourse to the formal system and means of addressing such causes; (d) proactive

measures for the early and informal resolution of disputes; (e) opportunities for efficiencies; (f) effective access to the formal system for staff members at all duty stations; and (g) resource requirements and cost effectiveness of the formal system. The draft report containing findings and recommendations would be circulated to relevant stakeholders for comments and those comments would be appended to the final report, which would be prepared for consideration by the General Assembly at its sixty-ninth session (see [A/68/346](#), annex II, paras. 5 to 7). Upon enquiry as to the proactive measures for the early and informal resolution of disputes, the Advisory Committee was informed that this refers to the identification of measures to expeditiously resolve disputes that are already within the formal system of administration of justice, and might include, inter alia, measures to enhance the referral of cases to the Office of the Ombudsman and Mediation Services, although it is not intended that the Office would be subject to the interim independent assessment.

15. The Committee was informed upon enquiry that the proposed terms of reference for the interim assessment do not include a review of the jurisprudence, as this would be best undertaken by a panel of eminent and experienced jurists. Upon further enquiry as to whether the proposed terms of reference would include benchmarking performance against the best examples and practices of other comparable internal justice systems, the Committee was informed that the General Assembly may wish to expand the proposed terms in this regard.

16. With respect to the entity proposed to conduct the assessment, the report states that the Secretary-General took into account two considerations: the entity has to be independent and the assessment must be conducted within existing resources. The option for an external review by a panel similar to the former Redesign Panel was not pursued as it was not deemed possible under existing resources. As for internal independent entities, the report states that as the mandate of the Board of Auditors is to audit the financial statements of the Organization, the Joint Inspection Unit was considered the most appropriate entity given some inspectors' legal backgrounds and experience, and the fact that the review could be carried out within existing resources (see [A/68/346](#), annex II, paras. 8 to 15).

17. Upon enquiry, the Committee was informed that the Board was also considered to be less suitable because its mandate focuses on financial matters and its members do not have any formal legal expertise, while some members of the Joint Inspection Unit have some legal expertise, as well as resources to bring in additional relevant expertise as necessary. As for the estimated cost of an external option, the Committee was informed that the cost of the Redesign Panel in 2006 was \$500,000 and that an external option for this assessment would cost a similar amount.

18. The Advisory Committee is of the view that an interim independent assessment of the formal system of administration of justice is desirable at this juncture to evaluate the functioning of the system to date and to ensure it is meeting its objectives as a mechanism to effectively resolve labour disputes within the Organization. As the Tribunals form an integral part of the formal system, the Committee considers that any substantive evaluation of the direction in which the formal system is heading should include within its terms of reference a review of the evolution and application of the jurisprudence of the Tribunals and a benchmarking of the development of jurisprudence against the best examples and practices of other comparable internal justice systems.

In order to assess the efficiency and effectiveness of the system, the assessment should also include an analysis of the organization and conduct of the Tribunals' work at different duty stations, such as the number of legal experts and judges required on a case, the number of hours judges spend on a case, and the number and duration of meetings.

19. In weighing the options for an appropriate body to conduct the assessment as indicated above, the Committee noted the intention of the General Assembly that the assessment should be conducted within existing resources, which precludes the option of an external body. With respect to the internal bodies considered, the Board of Auditors and the Joint Inspection Unit, the Committee notes that the Joint Inspection Unit already has a significant workload which may entail a review of its budgetary requirements (see [A/68/7](#), para. X.21). In these circumstances, it may be difficult for the Unit to absorb this assessment within its current workplan and resources. Regarding the Board of Auditors, the Committee also notes that the mandate of the Board may not be broad enough to cover all relevant aspects of the assessment.

20. The Committee has taken into account the substantive nature of this assessment, which seeks to assess the functioning of the formal system of administration of justice, as well as evaluate whether the formal system is achieving its main objective as an independent, transparent, professionalized, adequately resourced and decentralized system of administration of justice consistent with the relevant rules of international law and the principles of the rule of law and due process to ensure respect for the rights and obligations of staff members and the accountability of both managers and staff members, as decided by the General Assembly in its resolutions [61/261](#), [62/228](#) and [63/253](#). With this in mind, the Committee is of the view that the exercise would benefit from the expertise of experienced and independent legal experts familiar with internal labour dispute mechanisms. An assessment of the formal system that includes legal experts would also be perceived as being more credible and authoritative. The Committee acknowledges that an assessment of this nature would have financial implications. The General Assembly may wish to reconsider the resource requirements of the assessment.

3. Code of conduct for external legal representatives

21. In its resolution [67/241](#), paragraph 44, the General Assembly requested the Secretary-General, in consultation with the Internal Justice Council and other relevant bodies, to prepare a code of conduct for legal representatives who are external individuals and not staff members, and report thereon at the main part of its sixty-eighth session.

22. The Secretary-General states that preparation of the code of conduct for external legal representatives is under way and will be ready for presentation at the sixty-ninth session of the General Assembly (see [A/68/346](#), para. 119).

4. Financing of the Office of Staff Legal Assistance

23. The General Assembly requested the Secretary-General to submit a single preferred proposal for joint financing of the Office of Staff Legal Assistance to the General Assembly, at the main part of its sixty-eighth session, in consultation with

all relevant stakeholders, including the Internal Justice Council and staff representatives (see [A/RES/67/241](#), para. 48).

24. The report indicates that the Secretary-General is of the view that it would be in the best interests of the Organization for it to continue to fund the entire cost of the Office of Staff Legal Assistance, including the additional resources that it requires, as it provides benefits to both staff members and the Organization and also in the light of the fact that professional legal assistance is critical to the effective and appropriate utilization of the available mechanisms within the system of administration of justice (see [A/68/346](#), paras. 121 to 123). The additional resources requested consist of two P-4 Legal Officers, four General Service Administrative Assistants and \$52,000 for non-post resources, at a cost of approximately \$895,000 per year at 2012 pay levels (see [A/68/346](#), footnote 12).

25. Paragraph 132 of the report states that in the event that the General Assembly wishes to proceed with a scheme for a staff contribution to the additional resources of the Office of Staff Legal Assistance, and it is necessary to choose one option, the Secretary-General proposes an automatic monthly payroll deduction from net base salary unless a staff member expressly opted out of such deduction. Footnote 11 of the report states that the options considered by the Secretary-General were based on the assumption that the Organization would continue to fund the Office at current levels and that a contribution from staff would be used to fund the additional resources requested. Annex III of the report indicates that, in order to generate \$895,000 for the additional resources requested, if no staff members opt out, the payroll deduction ranges from \$0.16 per month for a Local 3, step 3 staff member in Dili, to \$4.32 per month for a D-1 step 5 staff member in Vienna. Assuming an opt-out rate of 40 per cent, the payroll deduction would range from \$0.26 per month for a Local 3, step 3 staff member in Dili, to \$7.20 per month for a D-1 step 5 staff member in Vienna (see [A/68/346](#), annex III, paras. 2 to 4).

26. According to paragraphs 128 to 131 of the report, other options were considered and deemed by the Secretary-General to have significant drawbacks. In his view, a mandatory payroll deduction option could generate the revenue required to provide for additional resources for the Office of Staff Legal Assistance but the Secretary-General indicates that there is a risk of legal challenges by staff members; a user-pay option would finance the additional resources through those staff members that rely on the Office for legal assistance, but the amount that could be generated is uncertain and the amounts required for legal services would be beyond the financial ability of many staff members, giving rise to serious concerns about access to justice; the option of mandatory payments from staff associations and unions was also not considered to be feasible for the reasons set out in annex II of the Secretary-General's previous report on administration of justice ([A/67/265](#) and Corr.1).

27. Upon enquiry as to the option of an insurance scheme, as requested by the Advisory Committee in its previous report (see [A/67/547](#), para. 44), the Committee was informed that the Secretary-General is unaware of any currently available commercial insurance scheme which offers legal representation to a staff member wishing to challenge an administrative decision before the Tribunals of the United Nations. The Committee was also informed that a user-pay option was not considered as the Office of Staff Legal Assistance would require additional administrative support to keep track of and account for the services and amount of

time expended on each case and bill it to the staff member at an hourly rate, which may give rise to disputes about the reasonableness of the number of hours expended or the hourly rate charged. Moreover, according to the response provided by the Secretary-General upon enquiry, there would be difficulty in providing a continuous and reliable revenue stream to generate the resources required to fund the additional resources needed by the Office.

28. Having considered the various options for the financing of the Office of Staff Legal Assistance, the Advisory Committee is of the view that the automatic monthly payroll deduction with an opt-out clause is the most viable option, since it takes into account staff contributions for legal representation, while allowing staff members the opportunity to opt out of participation if they wish (with the possibility of subsequently opting back in). The Committee considers that staff contributions should cover all costs related to representation by the Office, while assessed contributions should cover the cost of other services provided by the Office. The Committee also notes that this scheme could allow for the financing of the requirements of the Office at a manageable rate per month for staff members on the basis of current assumptions, while recognizing that the actual rate of payroll deduction to be levied would have to be adjusted, based on, inter alia, the opt-out rate, the caseload and the amount of resource requirements for representation by the Office to be funded by a staff contribution, which could be affected by the rate of payroll deduction. The Committee stresses that as staff members would be contributing towards the cost of legal services, they should therefore receive adequate and professional legal assistance and representation.

5. Accountability of individuals where violations of the rules and procedures of the Organization have led to financial loss

29. The General Assembly, in paragraph 55 of its resolution [67/241](#), requested the Secretary-General to submit to the General Assembly at the main part of its sixty-eighth session proposals with reference to the accountability of individuals where violations of the rules and procedures of the Organization have led to financial loss.

30. Paragraphs 154 to 159 of the Secretary-General's report address the accountability of managers and measures the Secretary-General may take to realize accountability. **The Advisory Committee notes that the report does not fully address the General Assembly's request regarding the accountability of individuals other than managers, and recommends that the Secretary-General be requested to provide this information at the sixty-ninth session.**

6. Revised terms of reference for the Office of the United Nations Ombudsman and Mediation Services

31. In paragraph 27 of its resolution [67/241](#), the General Assembly reiterated its request to the Secretary-General to report to it on the revised terms of reference for the Office of the United Nations Ombudsman and Mediation Services, and requested the Secretary-General to ensure that the terms of reference and guidelines for the Office are promulgated as soon as possible.

32. The report of the Secretary-General indicates that consultations are being completed and the revised terms of reference will be promulgated in the latter part of 2013 (see [A/68/346](#), paras. 173 and 174). **The Advisory Committee notes with**

concern that the General Assembly has made a similar request of the Secretary-General four times previously, as indicated in paragraph 67 (a) of resolution [62/228](#), paragraph 21 of resolution [63/253](#), paragraph 17 of resolution [65/251](#) and paragraph 19 of resolution [66/237](#). The Committee urges the Secretary-General to ensure that the revised terms of reference will be promulgated as soon as possible.

7. Observation of the Convention on the Rights of Persons with Disabilities

33. The Committee recalls its request to the Secretary-General to take all necessary corrective action to ensure that the relevant provisions of the Convention on the Rights of Persons with Disabilities are observed in the workplace (see [A/67/547](#), para. 59). In annex VI of the report it is stated that the Secretariat has prepared a draft Secretary-General's bulletin on accessibility for persons with disabilities at the United Nations, which will establish an overarching framework for the creation of an inclusive and accessible working environment for persons with disabilities at the United Nations Secretariat, as well as ensure reasonable accommodation for staff members with disabilities. In addition, the administrative instruction on medical clearances ([ST/AI/2011/3](#)) addresses accommodation for staff members with disabilities during the medical clearance process (see [A/68/346](#), annex VI). Paragraphs 8.1 and 8.3 of the administrative instruction provide that, based on the results of medical evaluation, the United Nations Medical Director or medical officer duly authorized by the Medical Director shall provide the recruiting office with the candidate's or staff member's medical clearance and/or any observations which may be appropriate, including specified restrictions or disabilities which need to be reasonably accommodated. Where the Medical Director has observed specified restrictions or disabilities which need to be reasonably accommodated, the final employment/deployment decisions will be made by the Office for Human Resources Management (as with other employment decisions).

34. The Advisory Committee commends the steps taken by the Secretary-General to ensure that the relevant provisions of the Convention on the Rights of Persons with Disabilities are observed in the workplace, and looks forward to the issuance of the Secretary-General's bulletin.

8. Pilot project on the feasibility of decentralizing elements of disciplinary matters relating to the field

35. In its resolution [66/237](#), the General Assembly endorsed the conclusions and recommendations contained in the report of the Advisory Committee on Administrative and Budgetary Questions ([A/66/7/Add.6](#)), including the suggestion that the results of the implementation of the pilot project to test the feasibility of decentralizing elements of the system of administration of justice and the other short-term measures proposed by the Secretary-General should be submitted for consideration to the General Assembly at its sixty-eighth session.

36. Annex VII of the Secretary-General's report highlights a number of other initiatives, which also have the goal and effect of strengthening the Organization's performance and efficiency in handling certain aspects of the pre-disciplinary process, the combined effects of which are having a positive impact on how cases are being handled, and how efficiently they are moving through the pre-disciplinary

and disciplinary phases. The Secretary-General considers that it is prudent to allow for a period of time to consider whether the cumulative effect of the ongoing initiatives may be achieving the overarching strategic goals conceived within the pilot project, to avoid duplication and to ensure the most targeted use of existing resources. Therefore, it is recommended that the implementation of the pilot project be postponed by two years (see [A/68/346](#), annex VII, paras. 11 to 13).

37. In the light of the ongoing initiatives which may result in similar objectives as those intended for the pilot project, the Committee concurs with the proposed postponement of the pilot project for two years.

38. Regarding the delegation of authority, on a pilot basis, from the Assistant Secretary-General for Human Resources Management to the Under-Secretary-General for Field Support, to place staff members on administrative leave with pay pending investigation and the disciplinary process, the Committee was informed upon enquiry that the delegation went into effect in January 2013. Six requests had been considered and processed as of 1 September 2013, with a further five under review as of 19 September 2013. In this early stage of implementation, the Department of Field Support, working closely with the Office of Human Resources Management, has focused on providing policy and operational guidance to field missions and has organized videoconferences with chiefs of Conduct and Discipline Teams and focal points. The Committee was further informed that the Department and the Office are closely monitoring implementation and capturing lessons learned, in order to provide additional guidance for field missions.

C. Judges of the United Nations Tribunals

Salary level of the judges of the Dispute Tribunal

39. Paragraph 184 of the report states that the conditions of service for the judges of the Dispute Tribunal set out in the annex to [A/63/314](#) and approved by the General Assembly in resolution [63/253](#), provide that the salary and allowances of the judges of the Tribunal would be “equivalent to those payable to United Nations staff members at the D-2 level, step IV”. Owing to an administrative error, four judges in the United Nations Offices at Nairobi and Geneva were granted salary increments to the D-2 level, step V, effective 1 July 2011. The four judges concerned were informed in March 2013 that the overpayment owing to the error would be recovered. The position of the judges is provided in annex IX to the report. In the light of the views expressed by the judges, the Secretary-General decided that recovery action would be deferred in order to allow the General Assembly an opportunity to clarify whether the salary and allowances of the judges include salary increments, or whether the salary and allowances are at a fixed level equivalent to those paid to United Nations staff members at the D-2 level, step IV (see [A/68/346](#), paras. 185-187 and annex IX).

40. The Committee was informed upon enquiry that clarification is being sought from the General Assembly given the difference of opinion between the Secretariat and the judges, the fact that the judges are not staff members of the United Nations and are not subject to the staff regulations and rules, and given that the General Assembly appoints the judges and sets their conditions of service. Upon enquiry as to how the error occurred, the Committee was informed that offices administering the conditions of service of the judges in Geneva and Nairobi did not turn off the

automated step increment in the Integrated Management Information System (IMIS) at the time of their arrival, resulting in these judges erroneously receiving an increment to the step V level after two years of service.

41. **The Advisory Committee considers this to be a routine administrative matter for the Secretariat to resolve, which should recover the overpayment as it normally would with other recoveries of overpayment, and regrets that it was deemed necessary to submit the matter to the General Assembly. The Committee is also concerned that such an overpayment could have occurred and remained undetected for nearly two years. The Committee therefore considers that the Secretary-General should investigate how this administrative error remained undetected for almost two years, and institute measures to ensure that such a situation does not occur again.**

Status of judges of the Dispute Tribunal and the United Nations Appeals Tribunal

42. The Advisory Committee had before it for information the first report of the second Internal Justice Council (A/68/306). The Committee notes that in its report, the Council recommends that judges of both Tribunals, whether full-time or part-time, be accorded the privileges and immunities of section 19 of the Convention on the Privileges and Immunities of the United Nations. The Council further recommends that the appropriate rank for judges of the United Nations Appeals Tribunal should be that of Under-Secretary-General and for judges of the Dispute Tribunal, that of Assistant Secretary-General, while recognizing that this is a policy decision for the General Assembly (A/68/306, paras. 63 to 65). **As a decision on the status and rank of the judges would have administrative and budgetary implications, the Advisory Committee considered both matters. With respect to the privileges and immunities of the judges, the Advisory Committee sees merit in according the judges the privileges and immunities of section 19 of the Convention on the Privileges and Immunities of the United Nations in order to ensure the effective performance of their duties. Regarding the rank of the judges, the Committee has taken into account the decision of the General Assembly in its resolution 63/253 on the conditions of service of the judges and does not see any reason to recommend changes to the rank of the judges.**

III. Activities of the Office of the United Nations Ombudsman and Mediation Services

43. During the year 2012, the Office of the United Nations Ombudsman and Mediation Services opened a total of 2,039 cases, of which 1,496 originated from the Secretariat, 383 from the funds and programmes (the United Nations Development Programme, the United Nations Children's Fund, the United Nations Population Fund, the United Nations Office for Project Services and the United Nations Entity for Gender Equality and the Empowerment of Women), and 160 from the Office of the United Nations High Commissioner for Refugees. The report indicates that since the establishment of the new system of administration of justice in 2009, the total number of cases handled by the Office increased from 1,287 in 2009 to 2,039 in 2012, representing an increase of 58 per cent; whereas in the five-year period from 2008 to 2012, the average annual increase was 9 per cent. As for the categories of issues handled by the Office, jobs and careers continued to form

the bulk of cases (31%), with evaluative relationships second (23%) and compensation and benefits third (13%) (see [A/68/158](#), paras. 18 to 23).

44. Upon enquiry, the Advisory Committee was informed that of the 1,496 Secretariat cases mentioned above, 61 were from non-staff personnel, which includes interns, consultants and individual contractors. Although these were cases involving non-staff personnel, the issues that were raised had an impact on staff members and were therefore handled by the Office. **The Committee recommends that information on the number and nature of cases from non-staff personnel be clearly set out in future reports.**

45. According to the report, the Mediation Service opened 36 cases in 2012, including 30 cases emanating from the Secretariat and 6 cases from the funds and programmes, representing an increase of 24 per cent compared with 2011. Since its establishment in 2009, the Mediation Service has seen an average annualized growth rate of 13 per cent in the number of cases opened. Among referrals, 42 per cent of the cases were self referrals; 27 per cent were referred by the Dispute Tribunal; and 25 per cent originated from ombudsman cases (see [A/68/158](#), paras. 25 to 27).

46. Parts IV, V and VI of the report provide information on the Office's outreach efforts (including developing conflict competence aimed at the timely and effective management of workplace concerns; building greater awareness about the services offered by the Office; and establishing working partnerships with stakeholders), the root causes of conflict and incentives for informal resolution of conflict.

47. Upon enquiry as to the distribution of resources across the three pillars of the Office, namely, conflict resolution, systemic issues and conflict competence, the Committee was informed that all staff are continually engaged in all three areas. **The Advisory Committee recommends that data on the distribution of workload among these three pillars be clearly identified and set out in future reports.**

48. With respect to a cost-benefit analysis of conflict resolution, the Committee was informed upon enquiry that the Office promotes awareness about the financial and non-financial costs of conflict through its outreach efforts and in discussions with management. **The Advisory Committee requests that the Secretary-General provide more information on this issue in future reports.**

49. Upon enquiry, the Committee was informed that the staff of the Office have different backgrounds, including legal, political and administrative, and are required to have knowledge and experience of conflict resolution systems. The Committee was further informed that in addition to periodic reviews by external panels of experts, the Office has recently initiated a series of surveys among users of its services in order to measure the quality and effectiveness of the services rendered by the Office. **The Committee underscores the importance of having qualified professionals performing the functions of the Office of the Ombudsman.**

50. **The Committee continues to consider the informal process to be an important part of dispute resolution in the Organization and remains of the view that stronger efforts are required to encourage informal dispute resolution.**

IV. Conclusion

51. The actions to be taken by the General Assembly are indicated in paragraph 190 of the report of the Secretary-General ([A/68/346](#)). **The Advisory Committee recommends that the General Assembly take note of the report of the Secretary-General, subject to its comments and recommendations in the relevant paragraphs above.**
