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Human resources management

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Report of the Advisory Committee on Administrative and Budgetary Questions

I. Introduction

1. The Advisory Committee on Administrative and Budgetary Questions has considered the following reports of the Secretary-General:

(a) Practice of the Secretary-General in disciplinary matters and cases of possible criminal behaviour, 1 July to 31 December 2017 ([A/73/71](#));

(b) Activities of the Ethics Office ([A/73/89](#)).

2. 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 28 June 2018.

II. Practice of the Secretary-General in disciplinary matters and possible criminal behaviour

3. The report on the practice of the Secretary-General in disciplinary matters and cases of possible criminal behaviour, covering the six-month period from 1 July to 31 December 2017, was submitted in response to General Assembly resolution [59/287](#), in which the Assembly requested the Secretary-General to inform Member States on an annual basis about all actions taken in cases of established misconduct and/or criminal behaviour and the disciplinary action and, where appropriate, any legal action taken in accordance with the established procedures and regulations. The report provides an overview of the administrative process in disciplinary matters; a summary of cases in which the Secretary-General imposed one or more disciplinary measures during the reporting period; comparative data on the disposition of cases, appeals of disciplinary measures and cases received by the Office of Human Resources Management; and information on the practice of the Secretary-General in cases of possible criminal behaviour. As reflected in paragraph 2 of the report, going forward the report will cover a 12-month period, the calendar year.

* [A/73/50](#).



4. The Advisory Committee has previously welcomed the provision of information contained in the case summaries as a means of providing enhanced understanding of the practice of the Secretary-General in disciplinary matters. In its consideration of the case summaries contained in section III of the latest report of the Secretary-General, the Committee sought further information relating to the three cases involving security officers. The Committee was informed, upon enquiry, that the cases in paragraphs 29, 38 and 39 of the report represent 6.0 per cent of the cases completed during the six-month period and that in the previous reporting period, the six cases noted as involving security personnel represented 4.5 per cent of the cases completed. The Committee was also informed that the Department of Safety and Security has 2,100 posts, that additional security personnel are present in peacekeeping missions and that security-related personnel form a substantial proportion (5.5 per cent) of the approximately 38,000 staff members of the Organization. The Committee was informed that unlike the functions of staff members in other offices, missions and departments, the security function is often considered an aggravating factor, and has therefore been highlighted in current and past reports. **The Committee concurs with the importance of the continued monitoring of this category of staff owing to the specific nature of the security function.**

5. The Secretary-General also states in his report that during the six-month period ending 31 December 2017, 52 cases were received by the Office of Human Resources Management (see [A/73/71](#), table 4). The Advisory Committee was informed, upon enquiry, that while 52 cases represent less than the average number received during the previous five years (66 cases), the number remains broadly in line with previously reported information, and that the situation regarding matters of conduct referred for possible disciplinary action has not changed in any significant respect during the past five years.

6. In section IV of his report, the Secretary-General includes data on the totality of 50 cases completed during the reporting period (*ibid.*, table 1). The Advisory Committee was informed, upon enquiry, that while 50 cases represent less than the average number closed for a six-month period during the previous five years (65 cases on average), the number remains broadly in line with previously reported information. The Secretary-General also indicates the disposition of the cases, including that in the period ended 31 December 2017, 8 of the 50 cases handled were not pursued as a disciplinary matter. The Committee was further informed, upon enquiry, that with regard to the disposition of the cases completed, the number of cases closed owing to the separation of the staff member (21 cases) is around half of the comparable number from the previous reporting period (40 cases), while the number of cases not pursued in the current reporting period (8 cases) is exactly half of the comparable number from the previous reporting period (16 cases) (see [A/72/209](#)). Although the number of cases in which disciplinary measures were imposed (17 cases) is less than the comparable number from the previous reporting period (27 cases) (*ibid.*), the Secretary-General does not consider this as indicative of a trend of fewer sanctions imposed. The Committee notes that, as informed by the Secretariat, the number of cases received and closed remains broadly in line with previously reported information.

7. The Secretary-General indicates in his report that the new administrative instruction on unsatisfactory conduct, investigations and the disciplinary process ([ST/AI/2017/1](#)) was promulgated on 26 October 2017 (see [A/73/71](#), para. 11). In accordance with the transitional arrangements, investigations and disciplinary processes initiated before 26 October 2017 shall continue to be governed by the provisions of administrative instruction [ST/AI/371](#), as amended by [ST/AI/371/Amend.1](#), while the new administrative instruction will govern all subsequent allegations of unsatisfactory conduct.

8. In terms of disciplinary measures, the various measures that may be applied by the Secretary-General are indicated in his report (see [A/73/71](#), para. 19). Upon enquiry, the Advisory Committee was informed that hacking a United Nations website would be considered as misuse of information and communications technology (ICT) resources and would be a breach of Secretary-General's bulletin [ST/SGB/2004/15](#), among the other obligations placed on a staff member, and that misuse of ICT resources has led to a wide range of sanctions since 2007. The Committee was also provided with a flow chart indicating the phases in the investigation and disciplinary process (see annex).

III. Activities of the Ethics Office

9. The Advisory Committee considered an advance version of the twelfth report of the Secretary-General on the activities of the Ethics Office submitted pursuant to General Assembly resolution [60/254](#), which provides an overview and assessment of the work programme of the Office during the period from 1 August 2016 to 31 December 2017. The report covers the 17-month transitional period in order to adjust the reporting cycle to that of the calendar year. It is indicated in the report that the figures therein reflect, where relevant, data relating to the calendar year 2017 for the purposes of comparison with the 12-month cycle of preceding reporting periods. The Secretary-General also indicates that the change in the current reporting cycle harmonizes it with that of other reports on human resources management and the reports of other members of the Ethics Panel of the United Nations (see [A/73/89](#), para. 2).

10. During the calendar year 2017, the Ethics Office received 1,490 requests for its services, representing an increase of 366 requests, or 32.6 per cent, compared with the previous 12-month reporting period from August 2015 to July 2016. The report indicates that the performance measures of the Office for the biennium 2016–2017 were largely achieved and that the Office conducted 173 outreach and briefing sessions, resolved 804 enquiries, attained a compliance rate of 99.9 per cent for financial disclosure submissions, and conducted a preliminary review of protection against retaliation matters in 26 days as well as a self-evaluation of the effectiveness of the services that the Office provides to peacekeeping operations (*ibid.*, para. 6). The progression in the annual quantity of requests for the Office's services since 2012 is shown in figure I of the report of the Secretary-General. A breakdown of requests for services by location and entity is provided in figure II of the report, and, as depicted in figure III of the report, ethics advice continues to account for the majority of requests for services received by the Office, representing 54 per cent of the total requests for services. Figure IV of the report shows that, similar to the previous period, the highest number of requests for advice received relates to outside activities.

11. In terms of the activities and outputs of the Ethics Office, the Advisory Committee was informed, upon enquiry, that the applicable baseline information is reflected in the proposed programme budget for each biennium, as well as in the budget for the support account for peacekeeping operations. The Committee was also informed of the increasing trend in the number and type of activities and outputs of the Office and that, in 2017, an assessment of the value and impact of the services provided by the Office, with special reference to peacekeeping missions, was conducted by an external consultant engaged by the Office. **The Committee notes the need for greater clarity relating to the information provided regarding baseline performance indicators and performance information in relation to predetermined ethics standards.**

12. In figure V of the report of the Secretary-General, it is indicated that 96 cases of pre-appointment vetting were carried out by the Ethics Office following the introduction of the vetting process in July 2016. The Advisory Committee was informed, upon enquiry, that the pre-appointment vetting of senior officials at the Under-Secretary-General and Assistant Secretary-General levels was first introduced at the initiative of the Office. As a result of the changes to the leadership of the Organization starting from January 2017, with the appointment of the current Secretary-General and the subsequent appointments at the Under-Secretary-General and Assistant Secretary-General levels, a high demand for pre-appointment reviews was seen in 2017. The Committee was informed that this proactive vetting process has allowed the Secretary-General to ensure that his senior officials enter the service of the United Nations in full compliance with their status as international civil servants, responsible only to the Organization. **The Committee welcomes the steps taken by the Secretary-General and the Ethics Office to implement a regular vetting process and ensure that conflicts of interest are managed and mitigated at the senior management levels in the interests of the Organization. The Committee trusts that the vetting of senior officials by the Organization prior to their appointment will continue to take place.**

13. In his report, the Secretary-General indicates that the Ethics Office continued to provide independent advice to the Procurement Division on corporate compliance programmes for the reinstatement of vendors. Between August and December 2016, the Office responded to 12 requests related to procurement ethics, and in 2017 it responded to queries about 23 vendors (*ibid.*, para. 21). Upon enquiry, the Advisory Committee was informed that the majority of requests for advice arise in connection with the process through which a company seeks reinstatement to the United Nations Global Marketplace following suspension or debarment for reasons involving corrupt or unethical business activities as defined in the United Nations Procurement Manual. The Committee was informed of the process through which a vendor may seek reinstatement, and that the company is required to implement an integrity, anti-corruption and compliance programme that meets the expectations of the Organization. The Committee was further informed that the Ethics Office assists the Procurement Division with two stages of the process, namely, providing independent advice on: (a) the suitability of the external ethics and compliance expert or experts proposed by the company; and (b) whether the company's integrity initiatives, as verified by the expert, provide sufficient assurance that the company has met the Organization's requirements for reinstatement as a vendor. The final determination on vendor status and registration is made by the Organization.

14. Information on the implementation of the financial disclosure programme administered by the Ethics Office is contained in section III.B of the report of the Secretary-General. The Secretary-General indicates that the number of staff covered by the programme continues to expand; 5,811 filers participated during the 2017 annual filing cycle compared with 5,504 filers during the 2016 cycle. As at the closing of the 2017 filing cycle, the programme had achieved a compliance rate of 99.9 per cent (*ibid.*, para. 26). According to the report, the programme's external reviewers identified 152 filers (2.8 per cent of the filer population) in 2016 and 127 filers (2.2 per cent of the filer population) in 2017 as requiring review for the management of potential conflicts of interest. The data are broadly comparable to previous filing cycles (*ibid.*, paras. 30 and 31). It is also indicated that the new platform for supporting the financial disclosure programme was launched on 1 March 2018 (*ibid.*, para. 35).

15. With regard to the protection of staff against retaliation from reporting misconduct and for cooperating with duly authorized audits or investigations, it is indicated in the report of the Secretary-General that from 1 August 2016 to 19 January

2017, the applicable bulletin was [ST/SGB/2005/21](#); from 20 January to 27 November 2017, it was [ST/SGB/2017/2](#); and from 28 November 2017 onwards it has been [ST/SGB/2017/2/Rev.1](#) (ibid., para. 41). It is indicated that the major changes in [ST/SGB/2017/2/Rev.1](#) included: (a) protection against retaliation being extended to individual contractors and consultants; (b) one of the possible remedial actions being to move the retaliator (with due consideration to due process rights); and (c) the protection against retaliation policy being reviewed annually. In terms of the period from 1 August 2016 to 31 December 2017, the Ethics Office received 112 inquiries relating to the Organization's policy, of which 54 were requests for advice about the policy rather than claims for protection, 10 were outside the Office's jurisdiction and 3 were abandoned by the staff member during preliminary review. The Office completed 36 preliminary reviews in the period, and dealt with seven requests for preventive action in 2017 (ibid., para. 45). Upon enquiry, the Advisory Committee was provided with information relating to the participation by the Office in the 2017 global staff engagement survey conducted by the Office of Human Resources Management relating to the ethical climate in the Organization. The Committee notes that only 45 per cent of staff responded favourably to the question "I am confident that United Nations staff members will be protected from retaliation for reporting misconduct or cooperating with an authorized audit or investigation".

16. With regard to gifts received by Secretariat officials, the Secretary-General indicates that in September 2016, a global gift registry was launched on a pilot basis in follow-up to the administrative instruction on reporting, retaining and disposing of honours, decorations, favours, gifts or remuneration from governmental and non-governmental sources ([ST/AI/2010/1](#)). The pilot registry centralizes and automates the gift disclosure and approval process. Its introduction generated a 43 per cent surge in related enquiries compared with the previous reporting cycle (see [A/73/89](#), para. 19). Upon enquiry, the Advisory Committee was informed that the management of gifts in the global Secretariat is currently decentralized to departments, offices or missions, as prescribed in paragraph 4.1 of [ST/AI/2010/1](#). Within the framework of the provisions indicated in the administrative instruction, the global gift registry is being piloted in New York, and all New York-based Secretariat staff may log in to the registry to disclose any honour, decoration, favour, gift or remuneration. Effectiveness of the online registry is being monitored by the Department of Management, and the full-scale roll-out of the registry across the global Secretariat is subject to the success of the pilot programme and the availability of the necessary funding. The Committee was further informed that while the Ethics Office provides advice on gifts, honours, decorations, favours or remuneration offered to United Nations staff members, the Department of Management manages the gift registry. **The Committee is of the view that, given the current two-year life span of the pilot global gift registry, an analysis of the benefits, lessons learned and developmental requirements of the pilot registry is needed to evaluate further development and roll-out across the global Secretariat. The Committee also reiterates the importance of collecting information, monitoring trends and providing periodic reports thereon to the General Assembly.**

17. In paragraph 94 of his report, the Secretary-General proposes a number of measures for strengthening the independence of the Ethics Office. The proposals include: (a) direct annual reporting by the Ethics Office on its activities to the General Assembly; (b) adding a reporting line to the Independent Audit Advisory Committee for guidance with respect to the Office's workplans and the performance evaluation of the Head of the Ethics Office, and for guidance in situations in which the Secretary-General may not be in a position to receive advice from the Office on matters owing to a conflict of interest; (c) raising the rank of the Head of the Ethics Office from the Director (D-2) level to the level of Assistant Secretary-General; (d) introducing term limits for the Head of the Office to one five-year term, with the possibility of renewal

for one additional term, in line with the term limit established by the Assembly for the United Nations Ombudsman; (e) ensuring security of tenure for the Head of the Office for greater operational independence by allowing termination of appointment only for cases of serious misconduct or unsatisfactory performance; and (f) restricting re-employment for the Head of the Office, with no possibility of other employment within the Secretariat, in line with the restrictions applicable to the United Nations Ombudsman.

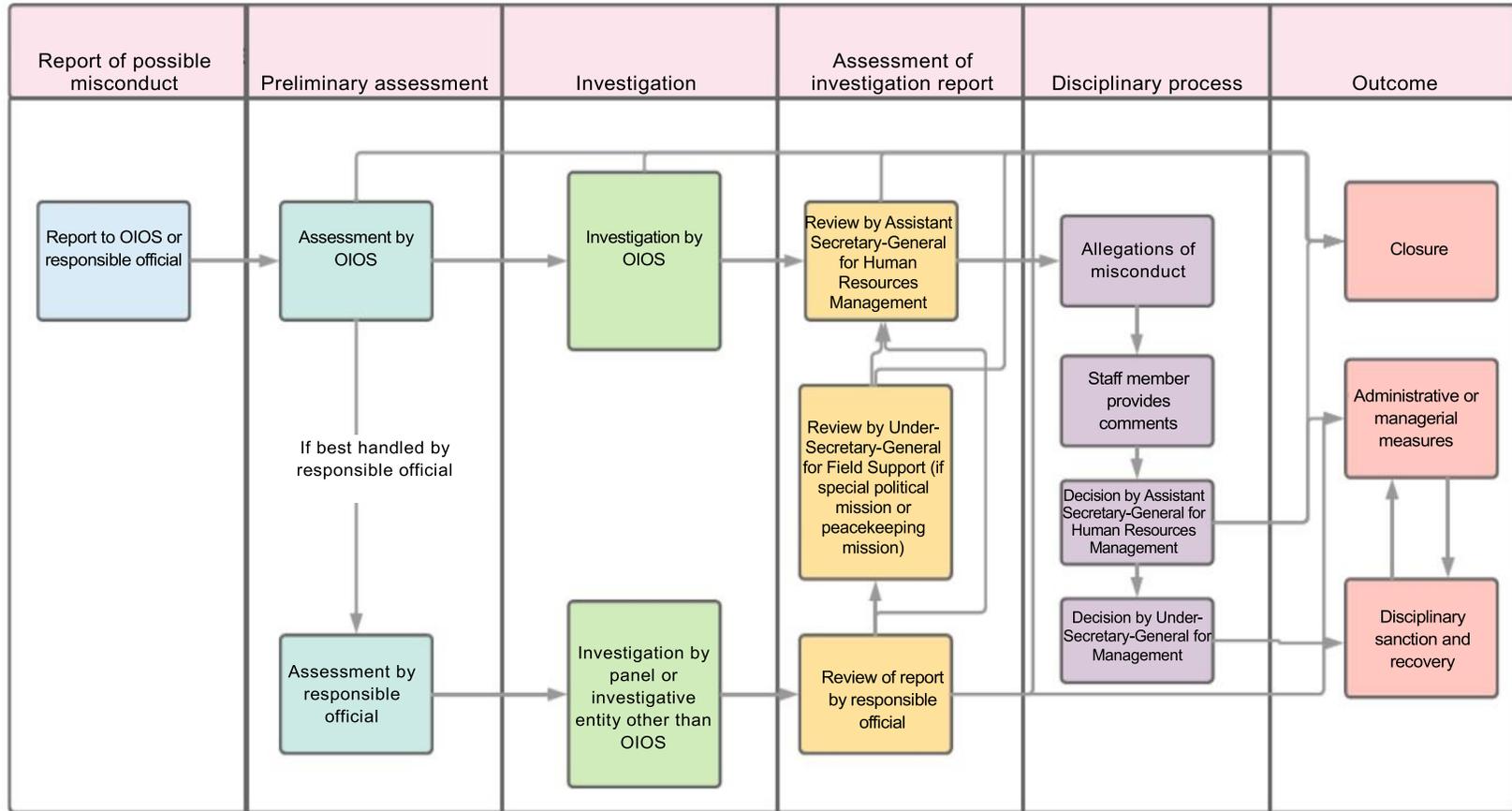
18. The Advisory Committee recalls that, in his previous report on the activities of the Ethics Office, the Secretary-General indicated that there was a need for the Ethics Office to strengthen its independence (see [A/71/334](#), para. 79). The Committee also recalls its recommendation regarding the need for concrete proposals concerning the independence of the Ethics Office (see [A/71/557](#), para. 147), and that in its resolution [71/263](#), the General Assembly recalled the report of the Committee and requested the Secretary-General to develop in his next report a proposal concerning the independence of the Ethics Office for the consideration of the Assembly at its seventy-second session.

19. With regard to the Secretary-General's proposals in paragraph 94 of his report, the Advisory Committee requested clarification regarding a number of matters. These included the linkages between the proposals and the preceding paragraphs of the report; the identifying characteristics of the Ethics Office in the future; the nature of the direct annual reporting of the Ethics Office to the General Assembly; the nature of the additional reporting line to the Independent Audit Advisory Committee; the rationale for raising the rank of the Head of the Ethics Office from Director (D-2) level to the level of Assistant Secretary-General; and the introduction of term limits for the Head of the Office. **The Committee is of the view that the proposals are not substantiated in the report and that any revisions to the stature, reporting line and governance structure of the Ethics Office would have significant consequences for the Secretariat and for the Organization as a whole. The Committee is of the view that the experience of the Office of Internal Oversight Services in reporting directly to the General Assembly is very relevant in this regard, as is the reporting line to the Independent Audit Advisory Committee, given that both of these elements are at the core of the Secretary-General's proposals. The Committee is also of the view that greater clarity and consistency are necessary in terms of the linkages between the Secretary-General's management reform proposals and the proposals regarding the future of the Ethics Office. The Committee further considers that should the Secretary-General wish to make a fully justified proposal concerning the independence of the Ethics Office, a detailed report would need to include such matters as the workload, structure and functions of the Office. The implications for other offices in the Secretariat, including oversight bodies and other oversight entities, as well as wider implications for United Nations funds and programmes, would also need detailed consideration. The Committee is therefore of the view that a comprehensive analysis of all related and interconnected aspects of the proposal, as well as other applicable experiences, is required.**

20. The Advisory Committee recommends that, subject to its comments and recommendations above, the General Assembly take note of the report of the Secretary-General on the activities of the Ethics Office.

Annex

Investigation and disciplinary process



Abbreviation: OIOS, Office of Internal Oversight Services.