



# General Assembly

Distr.: General  
17 October 2022

Original: English

Seventy-seventh session

Agenda item 145

United Nations common system

## Review of the jurisdictional set-up of the United Nations common system

### Report of the Advisory Committee on Administrative and Budgetary Questions

#### I. Introduction

1. The Advisory Committee on Administrative and Budgetary Questions has considered the report of the Secretary-General on the review of the jurisdictional set-up of the United Nations common system ([A/77/222](#)). During its consideration of the report, the Committee met with representatives of the Secretary-General, who provided additional information and clarification, concluding with written responses dated 27 September 2022.

2. Pursuant to General Assembly resolution [74/255](#) B, the Secretary-General conducted an initial review of the jurisdictional set-up of the United Nations common system which, inter alia, provided options to address the issue of inconsistency in the implementation of the decisions and recommendations of the International Civil Service Commission (ICSC) in the context of two independent tribunal systems ([A/75/690](#)).

3. The most recent report of the Secretary-General is submitted pursuant to resolution [75/245](#) B, in which the General Assembly requested the Secretary-General to develop detailed proposals concerning some of the options contained in his previous report, including: (a) changes to the adjudication of cases involving ICSC matters before the United Nations Tribunals and the International Labour Organization (ILO) Administrative Tribunal; (b) the review of Tribunal judgments and issuance of guidance by the Commission; and (c) increased exchanges between the Tribunals.

#### II. Background and challenges

##### *Background*

4. In its resolution [74/255](#) B, the General Assembly noted with concern that the organizations of the United Nations common system face the challenge of having two independent administrative tribunal systems, namely the ILO Administrative Tribunal



and the United Nations Tribunals (United Nations Dispute Tribunal and United Nations Appeals Tribunal) with concurrent jurisdiction among the organizations of the common system.

5. In his initial review of the jurisdictional set-up of the United Nations common system, the Secretary-General indicates that concerns regarding the divergence in the jurisprudence of the two tribunal systems on matters relating to ICSC that could undermine the coherence of the common system began to emerge soon after the establishment of the Commission in 1975 and gave rise to extensive discussions and proposals over time (see [A/75/690](#), sect. II).

#### *Role of the International Civil Service Commission*

6. Upon enquiry, the Advisory Committee was informed that the post adjustment had been initially calculated on the basis of three elements: (a) the salary, applicable to the grade level and step, of the staff member; (b) the regressive factor applicable to the grade level and step of the staff member, expressed in a post-adjustment scale; and (c) the post-adjustment multiplier, applicable to the duty station at which the staff member was based. In its resolutions [44/198](#) and [45/259](#), the General Assembly had decided to move away from a system of determining post adjustments on the basis of the post-adjustment scales, which had been recommended by ICSC and approved by the General Assembly, and had requested the establishment of a post-adjustment multiplier and a post-adjustment index for each duty station.

7. The Advisory Committee was also informed that, under the current system in place since 1990, the salary was based on a salary scale recommended by ICSC, pursuant to its authority under article 10 (b) of its statute, to make recommendations on the scales of salaries and post adjustments for staff in the Professional and higher categories for the approval of the General Assembly. The post-adjustment multipliers were assigned to duty stations by ICSC pursuant to its authority under article 11 (c) of its statute to establish the classification of duty stations for the purpose of applying post adjustments. The post-adjustment multipliers for each duty station were issued in post-adjustment classification memorandums that were not approved by the General Assembly.

#### *Divergent jurisprudence*

8. The Secretary-General indicates that, as a result of its 2016 cost-of-living survey for various duty stations, ICSC established a new post adjustment multiplier for the Geneva duty station. Beginning in 2017, the new lower post adjustment multiplier was implemented by the United Nations common system organizations with staff in Geneva, reducing the remuneration of those staff members in the Professional and higher categories ([A/77/222](#), para. 40).

9. Following the filing of complaints by staff members from five Geneva-based United Nations common system organizations that had accepted its jurisdiction, the ILO Administrative Tribunal set aside the impugned decisions upholding the implementation of the new post adjustment multiplier and concluded that ICSC did not have the power to establish the new post adjustment multiplier but that it could only make recommendations to that effect to the General Assembly, which had the

authority to approve them. The Tribunal consequently ordered the five organizations not to apply the new post adjustment multiplier<sup>1</sup> (ibid., para. 41).

10. According to the Secretary-General, the United Nations Dispute Tribunal dismissed the applications filed by staff members serving in several United Nations organizations in Geneva who had contested the implementation of the new post adjustment multiplier. The Tribunal held that ICSC had the statutory authority to establish the post adjustment multiplier and that it had been correctly implemented by the Secretary-General.<sup>2</sup> The United Nations Appeals Tribunal affirmed the United Nations Dispute Tribunal judgments. It held that the Dispute Tribunal had been correct in finding that the Secretary-General had acted in accordance with the ICSC decision, which was subsequently endorsed by the General Assembly in its resolution [72/255](#) and concluded that the General Assembly resolution served to legitimize any errors about previous de facto decisions of ICSC and thus corroborated the practice<sup>3</sup> (ibid., paras. 42 and 43).

11. With regard to the consequences of the divergent jurisprudence, the Advisory Committee was informed upon enquiry that, since August 2017, staff members in Geneva had received different amounts of post-adjustment, depending on whether they worked for an organization that was under the jurisdiction of the ILO Administrative Tribunal or the United Nations Tribunals (see also [A/75/797](#), para. 8). The Committee was also informed that, following the 2021 round of baseline cost-of-living surveys in Headquarters duty stations and Washington, D.C., ICSC had established new post-adjustment multipliers for those duty stations, including Geneva, effective August 2022, which were applicable to all organizations of the United Nations common system. However, the ILO had placed information before its Governing Body, indicating that it had not implemented the new post-adjustment multipliers as it remained bound by the ILO Administrative Tribunal judgments on the matter.

12. The Advisory Committee notes that ICSC is a subsidiary organ of the General Assembly and recalls that, in paragraphs 6 and 8 of its resolution [76/240](#), the General Assembly reaffirmed the authority of ICSC to continue to establish post adjustment multipliers for duty stations in the United Nations common system under article 11 (c) of the statute of the Commission, expressed concern at the continued application of two concurrent post adjustment multipliers in the United Nations common system at the Geneva duty station and urged the member organizations of the United Nations common system to cooperate fully with the Commission in line with its statute and to apply a single multiplier per duty station after the cost-of-living surveys are completed in 2022 (see also [A/75/797](#), para. 9).

<sup>1</sup> ILO Administrative Tribunal judgments Nos. 4134, 4135, 4136, 4137 and 4138. The organizations party to the litigation before the Tribunal (the International Labour Organization (ILO), the International Organization for Migration, the International Telecommunication Union, the World Health Organization and the World Intellectual Property Organization) executed the judgments. Other organizations under the jurisdiction of the Tribunal (the Food and Agriculture Organization of the United Nations, the International Atomic Energy Agency, the Joint United Nations Programme on HIV/AIDS, the United Nations Educational, Scientific and Cultural Organization, the Universal Postal Union, the World Food Programme and the World Tourism Organization) also decided to follow the judgments of the Tribunal (see [A/75/797](#), para. 8).

<sup>2</sup> United Nations Dispute Tribunal judgments Nos. UNDT/2020/106, UNDT/2020/107, UNDT/2020/114, UNDT/2020/115, UNDT/2020/117, UNDT/2020/118, UNDT/2020/122, UNDT/2020/129, UNDT/2020/130, UNDT/2020/131, UNDT/2020/132, UNDT/2020/133, UNDT/2020/148, UNDT/2020/149, UNDT/2020/150, UNDT/2020/151, UNDT/2020/152, UNDT/2020/153 and UNDT/2020/154. These judgments relate to cases brought by staff members of the United Nations Secretariat, funds and programmes against the Secretary-General.

<sup>3</sup> United Nations Appeals Tribunal judgments Nos. 2021-UNAT-1107, 2021-UNAT-1108, 2021-UNAT-1109, 2021-UNAT-1110, 2021-UNAT-1111, 2021-UNAT-1112 and 2021-UNAT-1113.

13. The Advisory Committee stresses again the importance of preserving a single, unified and coherent United Nations common system and recalls the respective roles of the General Assembly and ICSC in approving, regulating and coordinating conditions of service and entitlements for all staff serving in the organizations of the United Nations common system, as reaffirmed in paragraphs 3 and 4 of its resolution [74/255 B](#). The Committee considers therefore that issues which may undermine the unity and coherence of the common system must be addressed appropriately, also taking into account that the collaboration among the organizations of the common system has increased over time (see also [A/75/797](#), para. 13).

*Draft resolution before the Governing Body of the International Labour Organization*

14. Upon enquiry, the Advisory Committee was informed that the International Labour Office had placed a draft resolution before the ILO Governing Body, it which, inter alia, it called upon Member States to take the action necessary in coordination with their representations in New York to resolve the ongoing deadlock with respect to the implementation of ICSC decisions by organizations subject to the jurisdiction of the ILO Administrative Tribunal, including through an amendment to articles 10 and 11 of the ICSC statute. The draft resolution would be considered by the ILO Governing Body at its forthcoming session, in October to November 2022. **The Advisory Committee notes that the General Assembly did not request the revision of the ICSC statute and trusts that further clarification on the draft resolution will be provided to the General Assembly at the time of its consideration of the present report.**

### **III. Options for promoting consistency in the implementation of ICSC recommendations and decisions**

#### **A. Proposals of the Secretary-General**

15. Information on the methodology used to develop proposals, including the contribution of the Working Group of the United Nations Legal Advisers Network, the consultations with stakeholders and the preparation of the report of the Secretary-General in close consultation with the International Labour Office is contained in paragraphs 3 to 33 of the report ([A/77/222](#)).

*Proposal 1*

16. The first proposal of the Secretary-General is to facilitate ICSC submissions to the Tribunals during litigation arising out of the Commission's recommendations or decisions. The proposal aims to streamline the current process and seeks greater consistency by introducing steps, to be implemented by the legal offices of the respondent organizations and the ICSC secretariat as a matter of best practice. The Secretary-General considers that the proposal would not require any change of the existing statutory provisions (see [A/77/222](#), paras. 53 and 56).

17. The Secretary-General indicates that the ILO Administrative Tribunal rules of procedure allow ICSC to submit observations, either directly upon the invitation or at the request of the Tribunal, or indirectly as part of a submission by the respondent organization. Similarly, the statutes and rules of procedure of the United Nations Tribunals allow ICSC to submit observations, either at the request of the respective Tribunal or as part of a submission by the respondent organization. The practice of soliciting observations from ICSC has been accepted by the two tribunal systems (*ibid.*, paras. 48 to 51).

18. The Secretary-General also indicates that most stakeholders recognized that a streamlined process, which ensures that ICSC is made aware of relevant litigation and allows ICSC to state its position, would contribute to the fair and efficient disposal of cases before the Tribunals. ICSC itself noted the fundamental importance of its ability to explain its position before the Tribunals. The ILO Administrative Tribunal judges expressed their support to the idea that the views of ICSC should be made known to the Tribunal but through the submissions of the defendant organization, while the United Nations Dispute Tribunal judges agreed with the proposal that upholding the consistency of the common system requires undertaking mitigating actions including facilitating ICSC input in litigation (*ibid.*, para. 55 and annexes II and III).

19. Upon enquiry, the Advisory Committee was informed that the Secretary-General did not expect that the implementation of proposal 1 by the organizations of the common system and the Commission, would entail any additional costs.

**20. The Advisory Committee notes proposal 1 and recalls that, in paragraph 10 of its resolution 76/240, the General Assembly requested the Secretary-General, in consultation with the Commission, to review the legal expertise available to the Commission and to report thereon at the seventy-seventh session of the General Assembly (see also A/75/797, para. 23).**

#### *Proposal 2*

21. The second proposal of the Secretary-General is to facilitate ICSC guidance following Tribunal judgments in cases involving the Commission's recommendations or decisions. The Secretary-General indicates that, in cases in which a Tribunal determines that the implementation of an ICSC recommendation or decision is unlawful, it will typically order the respondent organization to undertake specific actions. In several instances, the Commission subsequently discussed the impact of relevant judgments in its regular meetings and provided guidance on actions to be taken in response (A/77/222, para. 61).

22. The proposal aims at promoting greater consistency in the practice and predictability regarding the roles of relevant actors when a Tribunal issues a judgment concerning an ICSC recommendation or decision. Some actions are proposed to be taken by the legal office of the respondent organization and the Commission which could lead to the issuance of ICSC guidance to organizations of the United Nations common system indicating any adjustments to be made with respect to ICSC decision or recommendation considered by the Tribunal or any action on the part of the Commission as a consequence of the judgement (*ibid.*, para. 62).

23. The Secretary-General indicates that most stakeholders supported this proposal, which builds on existing practice. Some stressed that consideration of a judgment by ICSC cannot affect the legal authority of the judgment or an organization's obligation to implement it. ICSC stated that, when considering a judgment, it would respect the nature of the judgment as a judicial decision taken by an independent tribunal and focus only on its consequences for the future. The ILO Administrative Tribunal judges and United Nations Dispute Tribunal judges agreed with the proposal (*ibid.*, para. 64 and annexes II and III).

24. Upon enquiry, the Advisory Committee was informed that the Secretary-General did not expect that the implementation of proposal 2 by the organizations of the common system and the Commission would entail any additional costs.

**25. The Advisory Committee notes the views of stakeholders and recalls that, in paragraph 5 of its resolution 74/255 A, the General Assembly reiterated its request that the executive heads of organizations of the United Nations common**

**system consult with ICSC in cases involving its recommendations and decisions before the Tribunals in the United Nations system (see also [A/75/797](#), para. 22). The Committee trusts that clarification on the implementation of the request of the General Assembly will be included in the report of the Secretary-General.**

### *Proposal 3*

26. The third proposal of the Secretary-General is to establish a joint chamber of the ILO Administrative Tribunal and the United Nations Appeals Tribunal to issue interpretative, preliminary and/or appellate rulings in cases involving ICSC recommendations or decisions.

27. The Secretary-General indicates that the establishment of the joint chamber would require parallel amendments to the statutes and rules of procedure of the United Nations Tribunals and the ILO Administrative Tribunal. The statutes of the United Nations Tribunals may be amended by the General Assembly while the respective rules of procedure may be amended by the United Nations Tribunals, subject to approval by the Assembly. The ILO Administrative Tribunal statute is amended by the International Labour Conference, after consultation with the Tribunal and the organizations that have recognized the jurisdiction of the Tribunal. The rules of procedure of the ILO Administrative Tribunal may be amended by the Tribunal ([A/77/222](#), para. 81).

28. The Secretary-General further indicates that there was a wide divergence of views among stakeholders on the concept of the joint chamber. Some stakeholders considered that the effort required to establish the joint chamber would be disproportionate to the actual need for such a body. A majority supported the idea in principle, subject to further elaboration of the scope of the joint chamber's powers (including types of rulings and the legal authority of such rulings), procedural matters and costs, while stressing the need for proper consultation with the executive bodies of the organizations once the concept of the joint chamber was sufficiently refined.<sup>4</sup> According to the ILO Administrative Tribunal judges, the proposal is fundamentally unsound. The United Nations Dispute Tribunal judges are of the view that the only option worth considering further is the one of the joint chamber with the competence to issue binding preliminary rulings on the lawfulness of regulatory acts issued or recommended by ICSC (*ibid.*, para. 97 and annexes II and III). **The Advisory Committee trusts that further clarification on the legal authority of the proposed types of rulings will be provided to the General Assembly at the time of its consideration of the present report.**

29. The Secretary-General assessed that the workload and costs of the joint chamber would not be significant (*ibid.*, para. 82). Upon enquiry, the Advisory Committee was informed that, as at 27 September 2022, it was not possible to provide the precise costs of the establishment and operation of the joint chamber, in the light of the different possibilities concerning the set-up and jurisdiction of the joint chamber.

### *Interpretative ruling*

30. The purpose of an interpretative ruling is to identify and resolve any legal issues pre-emptively before an ICSC recommendation or decision is finalized or implemented, thus diminishing the risk for litigation. The Commission, the Secretary-General and the executive heads of United Nations common system organizations would be able to request interpretative rulings. The Secretary-General offers different

<sup>4</sup> Information on the proposed competence of the joint chamber and options regarding its decision-making process is contained in paragraphs 70 to 76 and annex IV of the Secretary-General's report ([A/77/222](#)).



options regarding the legal authority of the rulings vis-à-vis the Tribunals, ICSC, the Secretary-General and the executive heads of the organizations of the United Nations common system. With respect to the Tribunals, the options are to make the ruling binding, to characterize it as advisory or to require the Tribunals to give due consideration to it, providing a reasoned justification in case of departure from the ruling (*ibid.*, paras. 86 to 88).

31. The comments of the main stakeholders can be summarized as follows: ICSC considers that the interpretative rulings of a joint chamber before ICSC makes a decision or recommendation would blur the separation between the policy-making function (of the Commission and the General Assembly) and the jurisdictional function (of the Tribunals) and that they should not be introduced. According to the ILO Administrative Tribunal judges, an interpretative ruling could not be binding because that would subvert their judicial independence. The United Nations Dispute Tribunal judges are of the view that the option of interpretative rulings is not fit for purpose because, depending on the legal authority of the interpretative rulings, the joint chamber would become an advisory body and potentially compromise the adjudicating function of the Tribunal; or, if vested with the power to issue binding interpretative rulings, it would exercise the functions of a constitutional court.

32. Upon enquiry, the Advisory Committee was informed that the interpretative ruling would constitute an exception to the principle that the Tribunals review administrative decisions, owing to the nature of the interpretative ruling, which seeks to pre-empt or resolve any legal issues before a recommendation or decision is made by ICSC or implemented by the organizations. **Taking into consideration the opinions of the different stakeholders, the Advisory Committee trusts that further clarifications on the interpretative ruling will be provided to the General Assembly during its consideration of the present report.**

#### *Preliminary ruling*

33. The purpose of a preliminary ruling is to enable a Tribunal to seek a ruling from the joint chamber on a legal question that is relevant to the Tribunal's review of an application/complaint challenging the implementation of an ICSC recommendation or decision ([A/77/222](#), para. 89).

34. The Secretary-General indicates that if such an application/complaint were filed with a Tribunal, the President of that Tribunal would have the authority to consider whether the preliminary ruling by the joint chamber on a legal question related to the ICSC recommendation or decision would be in the interest of ensuring consistency across the United Nations common system. In such a case, the President of the Tribunal could decide to refer the legal question to the joint chamber, irrespective of whether the President of another Tribunal considering the same legal question had decided otherwise (*ibid.*, para. 90).

35. The Secretary-General also indicates that, pending the outcome of the joint chamber ruling, proceedings in the Tribunal that referred the legal question to the joint chamber and in other Tribunal examining the same legal question would be stayed. With respect to the legal authority of the preliminary rulings vis-à-vis the Tribunals, the same options set out for the interpretative ruling apply to the preliminary ruling (see para. 28 above and [A/77/222](#), para. 93).

36. The observations of the Tribunals can be summarized as follows: the ILO Administrative Tribunal judges note that the preliminary ruling process hinges on a discretionary decision of the President of either Tribunal to refer, upon request, a legal question to the joint chamber. They consider that the process will delay the resolution of the individual complaint or application and add costs to the litigation owing to the preparation of submissions before the joint chamber. The United Nations Dispute

Tribunal judges found that the option of preliminary ruling is more viable than the interpretative ruling option. In their opinion, the preliminary ruling would need to be a declaratory judgment in the matter of the lawfulness of a regulatory act, which gave rise to a dispute before the Tribunal of original jurisdiction. It would need to be binding on both Tribunals in all related cases. The United Nations Dispute Tribunal judges also consider that the request for a preliminary ruling would need to be made by the Tribunal seized of a case because such a request belongs to the matter of adjudication and not to a matter of judicial administration ([A/72/777](#), annexes II and III).

#### *Appellate ruling*

37. The purpose of an appellate ruling is to resolve divergence in cases in which the United Nations Appeals Tribunal and the ILO Administrative Tribunal reach inconsistent conclusions on a legal question relevant to an ICSC recommendation or decision. In such a case, the Tribunal issuing the later judgment would automatically request the joint chamber to issue an appellate ruling on the legal question ([A/77/222](#), para. 94).

38. In their comments, the ILO Administrative Tribunal judges stated that the proposal for an appellate ruling is entirely inconsistent with the entrenched principle in the ILO Administrative Tribunal of *res judicata*. The United Nations Dispute Tribunal judges considered that the option of laying out an appellate review does not seem well-conceived, as it is inconsistent with the concept of appellate review and the concept of judicial autonomy (*ibid.*, annexes II and III). Upon enquiry, the Advisory Committee was informed that the option of an appellate ruling had been developed in response to the General Assembly's request in its resolution [75/245 B](#). However, it had become clear during the review that the structural, legal and practical difficulties associated with the proposal would militate against pursuing it further.

**39. The Advisory Committee recommends that the General Assembly request the Secretary-General to provide in the next report detailed cost estimates of the three proposals, as appropriate.**

## **B. Other options**

#### *Increased exchanges between the Tribunals*

40. In its resolution [75/245 B](#), the General Assembly requested the Secretary-General to develop detailed proposals concerning increased exchanges between the Tribunals. Upon enquiry, the Advisory Committee was informed that this proposal had not been developed, given that no substantive response had been received from the ILO Administrative Tribunal in response to a questionnaire seeking to ascertain interest in pursuing increased exchanges, as well as the frequency and modalities of such exchanges. However, in their comments on the proposals as presented in the report of the Secretary-General, the ILO Administrative Tribunal judges had expressed their preparedness to engage in periodic informal dialogues with United Nations Appeals Tribunal judges to see what could be done to maintain or create consistency and cohesion within the common system, without compromising the judges' duties deriving from the acceptance of appointment to an independent international judicial tribunal (*ibid.*, annex II).

**41. The Advisory Committee reiterates its view that, in general, greater exchanges between the Tribunals, as appropriate, would be beneficial (see also [A/75/797](#), para. 24).**



### *Single jurisdiction*

42. In its comments on the report of the Secretary-General, ICSC stated that the ideal solution to avoid inconsistency among jurisdictions would be to designate only one tribunal for the litigation arising from administrative decisions based on ICSC decisions or recommendations, similar to the jurisdictional set-up for the United Nations Joint Staff Pension Fund. This would imply an adjustment of the relevant bilateral agreements with regard to organizations' adherence to the Tribunals (A/77/222, annex I). At present, the ICSC statute does not condition participation in the common system on accepting the exclusive jurisdiction of any specific administrative tribunal. Upon enquiry regarding the Secretary-General's view on this option, the Advisory Committee was informed that the introduction of a new condition for participation in the United Nations common system, by requiring organizations to accept the exclusive jurisdiction of one designated administrative tribunal, might have the potential to undermine the integrity and stability of the common system.

43. **The Advisory Committee notes that the General Assembly did not request the Secretary-General to pursue the option of a single jurisdiction for litigation arising from administrative decisions based on ICSC decisions or recommendations.**

## **IV. Contribution of additional stakeholders**

### *Role of the International Labour Organization*

44. Upon enquiry, the Advisory Committee was informed that the International Labour Office had so far submitted to the ILO Governing Body two documents, in March 2021 and again in March 2022, "for information only" on the progress of the review. A new document "for debate and decision" would be submitted to the Governing Body at its next session, in October to November 2022. The Governing Body would be invited to provide appropriate guidance on the three proposals contained in the report of the Secretary-General and as regards to the continued engagement of ILO in the process (see also para. 14 above).

### *Role of the Sixth Committee*

45. The Advisory Committee recalls that, in paragraph 11 of its resolution 76/240, the General Assembly looked forward to receiving the review of the jurisdictional set-up of the common system at its seventy-seventh session and invited the Sixth Committee to consider the legal aspects of the report to be submitted by the Secretary-General, without prejudice to the role of the Fifth Committee as the Main Committee entrusted with responsibility for administrative and budgetary matters.

## **V. Resources for the review of the jurisdictional set-up of the United Nations common system**

### *Implementation of the resources for 2021 and 2022*

46. Upon enquiry, the Advisory Committee was provided with table 1 below on the approved and projected expenditures for the review of the jurisdictional set-up in 2021 and 2022.

Table 1  
**Approved resources and actual/projected expenditures: review of the jurisdictional set-up of the United Nations common system**

(United States dollars)

	2021		2022		<i>Estimate Oct–Dec</i>
	<i>Approved</i>	<i>Actual</i>	<i>Approved</i>	<i>Actual<sup>a</sup></i>	
Section 2, General Assembly and Economic and Social Council affairs and conference management					
Documentation services	–	–	62 900	57 700	–
<b>Subtotal, Section 2</b>	<b>–</b>	<b>–</b>	<b>62 900</b>	<b>57 700</b>	<b>–</b>
Section 29A, Department of Management Strategy, Policy and Compliance					
General temporary assistance	212 000	119 800	435 500	227 100	90 000
Travel of staff	–	–	8 400	–	–
<b>Subtotal, Section 29A</b>	<b>212 000</b>	<b>119 800</b>	<b>443 900</b>	<b>227 100</b>	<b>90 000</b>
<b>Total</b>	<b>212 000</b>	<b>119 800</b>	<b>506 800</b>	<b>284 800</b>	<b>90 000</b>

<sup>a</sup> Expenditures through 23 September, indicative cost for documentation services applying standard rates.

47. The Advisory Committee notes that, of an appropriation of \$506,800 for the review for 2022, only \$374,800 is foreseen to be spent by the end of the period, which would result in an underexpenditure of \$132,000.

#### *Resources for 2023*

48. Upon enquiry, the Advisory Committee was informed that a request for resources for 2023 was conditional on the General Assembly requesting that further preparatory work be carried out to advance and finalize the proposal for a joint chamber. If the Fifth Committee were to make such a recommendation to the General Assembly, the Secretariat would inform the Fifth Committee prior to adopting the recommendation that additional resources totalling \$505,000 would be required for 2023. The proposed resources would be included in the appropriation for 2023 under section 29A, Department of Management Strategy, Policy and Compliance (\$443,700) and section 2, General Assembly and Economic and Social Council affairs and conference management (\$61,300). An additional amount of \$61,300 would be required under section 36, Staff assessment.

49. The Advisory Committee was also informed, upon enquiry, that the preparatory work to advance and finalize the proposal for the possible establishment of a joint chamber would require, at a minimum: (a) further refinement of the proposal, including with regard to its scope and costs; (b) preparing the legal instruments underpinning a joint chamber (including possible amendments to the Tribunals' statutes), in close consultation with the International Labour Office as the custodian of the ILO Administrative Tribunal; (c) if appropriate, system-wide consultations with the organizations that had accepted the jurisdiction of the Tribunals and other relevant stakeholders, including the Tribunals, their Registries, the Office of Administration of Justice, the Internal Justice Council, ICSC and the Staff Federations; and (d) the preparation of a report of the Secretary-General setting out recommendations to the

General Assembly. That report, estimated at 20,000 words and translated into all official languages of the United Nations, would be submitted to the General Assembly for consideration at its seventy-eighth session. Upon enquiry, the Committee was informed that efforts would be made to submit the report for consideration in the regular session. However, given the complexity of the proposal and the need to collaborate and consult with key stakeholders – including ILO, which has its own internal processes – it could not be excluded that the report would be submitted for consideration in the resumed session. **The Advisory Committee trusts that further update on the timeline for the finalization of the proposals will be provided to the General Assembly at the time of its consideration of the present report.**

50. The Advisory Committee was also informed that the abovementioned activities would require the continuation of the dedicated resources for 18 months, from 1 January 2023 until 30 June 2024, including the continued services of two temporary positions of a Principal Legal Officer (D-1) and an Associate Legal Officer (P-2).

## VI. Conclusion

51. The Secretary-General's requests to the General Assembly are contained in paragraph 113 (a) to (d) of his report ([A/77/222](#)).

52. **The Advisory Committee acknowledges the efforts undertaken by the Secretary-General to engage with multiple stakeholders in the preparation of his report. It also notes the intention of the Secretary-General to limit the range of options to the General Assembly for guidance and to avoid expending resources unnecessarily.**

53. **The Advisory Committee notes that legal matters discussed in the report of the Secretary-General, in particular in relation to proposal 3, are outside its purview and may need to be addressed, as the General Assembly may deem appropriate (see also [A/75/797](#), para. 16).**

54. **Subject to its recommendations and observations above, the Advisory Committee recommends the consideration of the proposals of the Secretary-General and the approval of the required resources in the amount of \$505,000 including \$443,700 under section 29A, Department of Management Strategy, Policy and Compliance and \$61,300 under section 2, General Assembly and Economic and Social Council affairs and conference management, to allow the finalization of the proposals for 2023. An additional amount of \$61,300 would be required under section 36, Staff assessment.**