

FOCUS

on staff



News from the United Nations Staff Union - Vienna

FALL 2010

www.unodc.org/intranet_sc

It's your Union!

Welcome to the Fall 2010 issue of "FOCUS on Staff" the quarterly newsletter of the United Nations Staff Union at Vienna. FOCUS has been the newsletter of the Staff Union for some time. We have decided to make it all new and provide to staff the information and news that are of their interest particularly in relation to conditions of work, salary, benefits, rights, etc.

We hope that you will read it and find it useful. We would appreciate to have your feedback and suggestions for topics to be addressed in the future issues. If you have any suggestion please write an e-mail to staffcouncil@unvienna.org or stefano.berterame@unodc.org.

We would like also to invite you to visit the website of the Staff Union on the intranet at: http://www.unodc.org/intranet_sc/



добро пожаловать (Welcome)

Mr. Yuri Fedotov has taken up his post as Executive Director of UNODC and Director General of UNOV on 13 September 2010. In Vienna, Mr. Fedotov has the responsibility of Executive Director of UNODC but also that of Director General of UNOV. Along with UNODC colleagues, he will rely on the work of colleagues from the rest of UNOV. Colleagues from the Conference Management Section and other offices in the Department of Management who work hard to ensure that the essential conditions that enable UNODC and others to work. It is an important work that is often not recognized but without the commitment of these colleagues many activities would simply not happen. There are also the colleagues from the Safety and Security Section who are ensuring our safety and peace of mind while we work in our office. Also, there are the relatively small offices that deal with big issues: the peaceful use of space and the use of satellite technology in natural and man-made disasters, the promotion of trade law standards, the legal rights of people affected by the construction of the wall in Palestine, etc.

Mr. Fedotov can be assured that the staff in Vienna serve the United Nations with the highest standards of efficiency, competence, and integrity as required by the Charter of the United Nations. But their commitments have been put to some difficult tests in the last years by the protracted discussion on the contractual situation and the financial uncertainties, In particular, the staff of UNODC have been living for many years with yearly cycles of funding and despite the many financial emergencies, the short-term contracts, the cost-saving exercises, and the numerous reorganizations, they have always delivered in accordance with the mandates. We hope that Mr. Fedotov will be able to impress on the Member States that UNODC as an organization and its staff will be in a better position to deliver if the resources at their disposal are predictable and sustained.

The Staff Union of the United Nations office at Vienna welcome Mr. Fedotov and pledge its commitment to work together with him and his senior managers to discuss the issues of staff welfare and conditions of service. Dialogue and negotiation with staff will lead to better solutions that are much necessary because of the many critical issues that our organization is facing.



From unjustice to UN Justice?

Marcus Joyce, lawyer of the Office of Staff Legal Assistance, writes how the new United Nations Dispute Tribunal (UNDT), through significant case law, has impacted the working conditions of staff since its work commenced 1 July 2009. The article highlights the most important judgments in relation to some of the key issues to have been considered by the Tribunal. From: UNSpecial N° 697 - July 2010

Expectancy of renewal of contract

Fixed-term contracts currently state that they do not carry any expectancy, legal or otherwise, of renewal. However, in *Kasmani* (UNDT/2009/36), in the context of a judgment on Suspension of Action (injunctive relief to prevent a contested administrative decision being implemented), the Tribunal qualified this rule. In ruling in favour of Suspension of Action, the Tribunal concluded that damages could not adequately compensate a staff member for the damage to reputation occasioned by UN non-renewal in circumstances where there is work to be done. Therefore, it is expected that a contract be renewed in the case that the staff member has performed well and there is money available to fund the renewal of contract.

The right to reasons

The law prior to the commencement of the UNDT was that no duty existed on behalf of the Administration to provide reasons for their administrative decisions. However, where reasons were provided, they had to be supported by the available evidence. This created arguably an incentive for no reasons to be provided at all. This inequity has been reversed by Judge Adams in *Beaudry* (UNDT/2010/39) and there is now a duty to provide reasons for all administrative decisions. Judge Adams' justification for this much-needed change in the law was as follows: "where staff members ask to be informed as to the reasons for a decision affecting them, these must be provided in sufficient detail to enable a decision to be made as to whether to seek management evaluation (...). It is not for the Administration, by not providing reasons, to evade the internal system of justice. To act in this way would be to breach its contract with the staff member in question."

The right to a preliminary investigation following complaint

Many staff members will be familiar with the case of *Abboud* (UNDT/2009/55) in which Judge Adams underlined the importance of conducting a preliminary investigation following a complaint by a staff member in accordance with s.2 ST/AI/371. However, perhaps the most important principle to emerge from this judgment is that all staff members, regardless of rank, are subject to the rule of law, as evidenced by Judge Adams' referral of Mr. Shaaban to the Secretary-General under Article 10 of the Statutes for possible action to enforce accountability. It is therefore an important judgment not only in relation to the obligations of staff members, regardless of rank, towards their colleagues but also of all staff members' duties to the Tribunal. Both *Abboud* and *Beaudry* are currently being appealed by the Administration to the Appeals Tribunal (UNAT). Therefore while both are valid law at present this could of course change depending on the outcome of the adjudications of the UNAT.

Prohibition of illegal breaks in contract

In *Gomez* (UNDT/2010/42), the staff member was subject to the practice of a separation in service just prior to the 12-month point in his contract when certain rights would have become effective due to continuity in service. The Tribunal found that the requirement of break in service existed in practice, despite no such policy being in existence, with the purpose of preventing staff members having access to contractual rights. Furthermore, the Tribunal concluded that this practice had been inconsistently and unlawfully applied in the Applicant's case.

Future challenges:

There are many issues which still need to be resolved to provide greater certainty for staff members. One key area is that of disciplinary proceedings. The repeal of large parts of ST/AI/371 by ST/AI/2009/7 and ST/SGB/2009/11 has left those staff members facing disciplinary allegations in an uncertain position. In addition, while the correct burden and standard of proof has quite rightly been revisited in judgments including *Masri* (UNDT/2009/51), a uniform approach is yet to emerge on these important issues. It is anticipated that these, among other matters, will be resolved in due course by the UNAT.

More information at:
http://www.unodc.org/intranet_sc/en/un-dispute-tribunal.html



Your rights

A new system of Administration of Justice for the UN Secretariat and the Funds and Programmes has been functioning since 1 July 2009. The new system is already demonstrating that it is capable of addressing some of the problems that characterized the previous system. Judgments of both UNDT and UNAT are being delivered relatively quickly and a considerable improvement on the previous situation. There are not too many cases originating from Vienna so far but this is not an indication that problems do not exist. More likely, staff need to have access to reliable legal assistance in order to be able to enter into a litigation process. The experience of the Staff Union in Vienna is that staff have issues and concerns that may require recourse to internal justice but many staff are hesitant to proceed because of they are not sure they have a strong case. In the last year, we have received concerns from staff mostly related to: performance issues; appointment, selection and promotion; harassment and discrimination; and dispute on benefits and condition of services. While the Staff Union recognizes the positive elements of the new system, we need to highlight the problems that still remain:

- the limited resources available for staff representation and the general concern with absence of the equal legal representation opportunities for staff;
- the suspension of action has not been granted consistently across the UNDT;
- there are some apparent inconsistencies in the judgments and court procedures in the different locations;
- strong concerns on lack of recognition of the due process rights and lack of legal counsel for staff in disciplinary actions and investigations remain.



Gender balance

In several of its resolutions, the General Assembly has called for a 50/50 gender distribution in the composition of the staff of the United Nations system. So far, the Organization has failed to make this goal a reality. Despite efforts made to improve women's representation, much remains to be done to elevate the ratio and role of women within UNODC and UNOV.

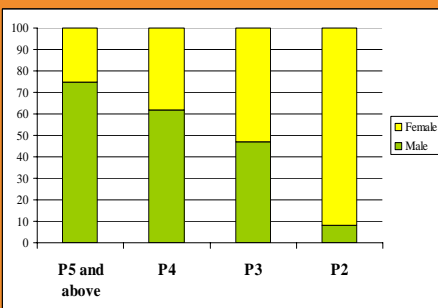
UNODC professional staff.

Overall, as of May 2010, UNODC had a total of 282 professional staff: 125 female (44 %) and 157 male (56 %). Of all professional staff at the P5 level and above, 75% are men and 25% are female while at the P2 level, 92% are women and 8% men. Between 2002 and August 2010, there was a lower rate of appointment/promotion at the P5 level and above for women than for men: 67 men were promoted/externally appointed at the level of P5 or above, whereas 20 women were promoted/externally appointed at these levels. Between 2002 and August 2010: approximately 67% (45/67) of the men appointed/promoted were internal, while only 45% (9/20) of appointed/promoted women were internal. When internal women were promoted, they had spent more years in their grade than their male counterparts (statistics May 2009-May 2010).

UNOV professional staff

Overall, as of May 2010, UNOV had a total of 126 professional staff: 45 female (36 %) and 81 male (64 %). Of all professional staff at the P5 level and above, 59% are men and 41% are female while at the P2 level, 60% are men and 40% women. When internal women were promoted, they had spent more years in their grade than their male counterparts and women were older than men.

Gender Distribution of UNODC Professional Staff



Continuing Contracts

The new contractual framework for the UN Secretariat and the Funds and Programmes is one of the main areas of action for the Staff Union.

We started to discuss this issue in 2002 and since then we have seen the elimination of the permanent contract and all along we were told that these were to be replaced by continuing contracts that were going to benefit a larger number of staff who would not have been entitled to the permanent.

Over the last eight years, the Staff Union, together with other staff unions of the UN, has engaged in a dialogue that has proven difficult and we have conceded on some important issues, the most important one being the Permanent Contracts. The Staff Union, as well as other sister unions participating in SMCC, agreed during the last eight years to some basic principles:

- Continuing contracts would replace permanent contracts, frozen since 1995
- Staff on any type of post who have served five years would be eligible for consideration for continuing contracts
- No ceiling would be imposed on the issue of continuing contracts

In November 2009, together with staff unions of the UN who are participating in SMCC, we presented our reasons to the Member States in New York. This was done also on the basis of the compelling evidence on the prevalence of permanent/long-term contractual status in most national civil services as evidenced by a study commissioned by a number of staff unions to the Labour Research Department an independent, trade union based research organization.

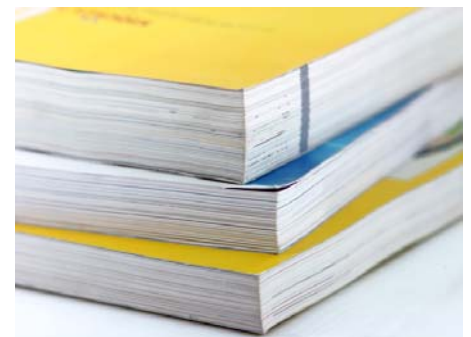


Despite these efforts and the clarification of the criteria provided by the report presented by the Secretary-General, reflecting the agreement reached by staff and management, Member States were not convinced. After receiving the report they raised new issues and concerns that were not in the resolution and asked for more clarification. Without a clear definition of "continuing need" and/or the workforce planning models, it appeared that no consensus could be reached on the implementation of the continuing contracts.

The issue of continuing contracts was taken up in June 2010 in the SMCC held in Beirut. An agreement was reached for a new proposal to submit to the Member States in October of 2010. Staff representatives will address the 5th Committee of the GA to advocate for the implementation of the continuing contracts.

One-time review of Permanent contracts

The Staff Union has worked with the Administration to complete the review of staff who had five years or more continuous service at 30 June 2009. The review is proceeding with the active participation of the Staff Union and it is expected to be complete in the first quarter of 2011.



It's your pay. Participate in the Place-to-Place Survey for the Calculation of the Post Adjustment

The International Civil Service Commission (ICSC) carries out cost-of-living (place-to-place) surveys every five years at headquarters duty stations to measure the cost-of-living at the duty station relative to the cost-of-living at the base of the system (New York). The results of the survey will determine the future post adjustment multiplier for salaries of staff in the Professional and higher categories.

Post adjustment is an amount paid in addition to net base salary, to ensure that no matter where United Nations common system staff work, their net remuneration has a purchasing power equivalent to that of their counterparts at the base of the system, New York. Adding post adjustment to the net base salary gives the net remuneration. Post adjustment is applicable to the United Nations common system international staff in the professional and higher categories.

Mobility: the view of staff

The issue of mobility has been a major source of discussion for staff of the UN Secretariat. The United Nations Staff Union at Vienna, together with other staff unions of the Secretariat, organized a survey of staff of the UN Secretariat. A total of 1414 people completed the questionnaire and expressed their opinions about the mobility policy of the UN and the idea of job rotation. Within the UN Secretariat the mobility issue is strongly linked to the continuing contract. The management is very keen on geographical mobility and aims to establish mobility requirements for all staff members. Currently the mobility system of the UN is on hold. The most important thing is to implement a framework under which the demanded mobility can take place. One of the main issues is how to consider staff in specialized functions and staff in rather transferable functions. Another issue is the transparency of the recruitment of staff. According to the survey, many employees feel treated in an unfair way and require more fairness and transparency. A proposal for this problem would be to establish a centralized management for mobility, with transparent recruitment and selection criteria. The main issues influencing the decision to move or not mentioned by staff were: **family and work-life issues in general; career; loss of experience and expertise; additional costs for the staff members and for the UN; competition and recruitment procedures; standard of living and security concerns.** In addition, there are concerns about the financial viability of the policy, the knowledge transfer issues, unclear analysis of the skills necessary.



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The next cost-of-living survey in Vienna will be conducted in October 2010. During this month, staff members at the levels of P-1 to D-1 will be requested to complete two questionnaires: one on housing and domestic service costs and a second on household expenditures.

A place-to-place survey is a statistical activity used to obtain and process benchmark data for establishing the post adjustment index (PAI). The PAI resulting from a place-to-place survey ensures purchasing power parity of salaries of professional staff serving at the duty station relative to those of their counterparts in New York.

There is a special web page with more information
<http://pp2010.commonssystem.org> From there click on "For Staff at Large"
<http://pp2010.commonssystem.org/eso.htm>



Who really saved our pensions.

On August 3rd an article on the UN intranet i-Seek informed staff on the fact that a "Top finance website was praising the UN Pension Fund performance."

The article links the reader to [\[http://www.top1000funds.com/photo-stories/2010/07/12/how-active-contrarian-realism-saved-the-un-2\]](http://www.top1000funds.com/photo-stories/2010/07/12/how-active-contrarian-realism-saved-the-un-2) the website of *Top1000Funds.com* a news and analysis site for the world's largest institutional investors. The article interviews Suzanne Bishopric, director of the investment management division of the UNJSPF. Bishopric says that the emphasis on active management – and the philosophy of being willing to buck investment trends – has meant the fund has continued to outperform even throughout the recent crisis. "We out-performed in the financial crisis because we didn't follow the trend, for example we weren't overexposed to financial stocks which saved us a few billion dollars. Benchmarks are a reflection of the current vogue, you can't invest where it is popular." Ms. Bishopric fails to mention that, under pressure from the previous USG for management Mr. Burnham, who favoured indexation and passive management, the Administrations of the UN System and the Member States voted for embracing the investment philosophy contrary to the one praised in the article. Staff Unions and staff representatives voted against it but their concerns were quickly dismissed. Luckily, the proposal was delayed because of the costs involved and never implemented. Then, the financial crisis put it to definitive rest.

Now, who really save the UN pension fund?