

The Joint Advisory Appeals Board (JAAB)
to the
Joint Negotiating Committee (JNC)

ACTIVITY REPORT FOR THE PERIOD 1 JANUARY TO 31 DECEMBER 2009

This activity report covers the period from 1 January to 31 December 2009. It was studied by all the members of the Board prior to its finalization and transmission to the Joint Negotiating Committee. It comprises four sections and an annex:

1. General overview
2. The Board's membership and functioning
3. Number and nature of cases and processing time
4. Action on the Board's recommendations

Annex: Members of the Board and its secretariat

1. General overview

In 2009, the number of grievances received by the Board was lower than the peak recorded in 2008, but that did not make the Board's workload any lighter, since many cases from the previous year were still under examination and one of the chairpersons who resigned during the year was not replaced (see section 2). In 2009, the Board completed the examination of 53 grievances (for the details, please see section 3).

When considering grievances, the Board often found that problems had arisen from a lack of clear rules and procedures which everyone knew, from the lack of clarity or the ambiguity of existing rules and practices or even from inconsistency between the applicable texts and the Office's practice. In such cases, the Board announces its findings in the actual report, or in the covering letter to the Director-General, accompanied by recommendations on the general measures which could be taken. In 2009, it sent eight letters containing general recommendations to the Director-General.

The recruitment procedure laid down in Annex I to the Staff Regulations is an area where the number of grievances received by the Board rose substantially in 2008 and 2009. In 2008, the Board drew attention to the fact that the Office's practice when holding competitions (candidate assessment by the Assessment Centre) departed from the procedure prescribed by the relevant provisions of the Staff Regulations and it suggested that that practice and the texts in question should be re-examined in order to ensure their consistency and to dispel current uncertainty. In 2009, the Board pointed out that, in the absence of detailed written rules on conducting competitions, apart from the general instructions contained in Annex I, there was an urgent need to adopt comprehensive rules covering all aspects of the selection process. In another case, it again noted the importance of establishing clear written procedures based on the relevant provisions of the Staff Regulations and of supplying candidates and responsible chiefs with the requisite information and guidance. In another case, the Board recommended that the Director-General should encourage the Human Resources Development Department (HRD) and the Staff Union Committee to use all appropriate channels to pursue their discussions regarding recruitment procedures and to bring them to a successful conclusion.

In one case concerning the use of short-term contracts the Board pointed out that, as long as the Office's practices in that area, as well as those in respect of recruitment and selection, conflicted with existing rules and procedures, grievances would continue to be submitted to the Board and complaints might be filed with the Administrative Tribunal of the International Labour Organization (ILOAT). It therefore urged the Director-General to encourage the Administration and the Staff Union to make every effort to overcome their differences of opinion in order to enable the Office to establish rules and procedures which would be helpful for both the Office and its staff.

Several grievances which were examined in 2009 concerned the increasing use of technical cooperation contracts. They revealed distortions and anomalies in the Office's practice. In one case, the Board recommended to the Director-General that, in view of the substantial rise in the number of posts financed by technical cooperation resources which were being used for purposes well outside the framework of the "technical cooperation projects" originally envisaged by the Staff Regulations, the Office and the Staff Union Committee should re-examine all the provisions of the Staff Regulations and practice with regard to the employment of staff holding such posts, in order to make them more coherent, transparent and fair, while taking due account of the restrictions and constraints inherent in the method of funding those posts. In his decision on that case, the Director-General agreed to ask HRD to carry out the recommended re-examination.

In its previous annual report, the Commission considered that in cases concerning allegations of harassment, it would be desirable for the Office to introduce an inquiry procedure which met the criteria of impartiality, objectivity and promptness set by the Tribunal. The Board notes with interest that in one case referred to it in 2009, the Director-General agreed to the holding of an independent inquiry.

2. The Board's membership and functioning

Coordinating Chairperson: pursuant to paragraph 1 of the Board's working methods, in 2008 the chairpersons nominated Mr Warwick Jones as coordinator.

Nominations in 2009: one member nominated by the Office (Walter Grandpré, on 1 November 2009) and one member nominated by the Staff Union (Martin Hahn, 1 November 2009).

Resignations in 2009: two chairpersons: Mr Alfred Pankert, on 1 July 2009 and Mr Warwick Jones on 31 December 2009; three members nominated by the Staff Union: Ms Mary Kawar on 1 March 2009, Ms Marika Maillot on 15 August 2009 and Mr Pierre Sayour on 1 December 2009; one member nominated by the Administration: Ms Tania Caron on 1 September 2009.

At the time of adopting this report, the Board comprised eight members nominated by the Administration and six members nominated by the Staff Union. It had two chairpersons.

3. Number and nature of cases dealt with in 2009 and processing time

Thirty-one grievances were submitted to the Board in 2009. Thirty-eight grievances submitted in 2008 were still pending on 1 January 2009. One grievance concerning reassignment after leave without pay, which had been suspended in 2008, was resumed in 2009.

Of those 31 cases, four were submitted by external offices (compared with 10 out of 63 in 2008).

Nineteen grievances were submitted by women and 12 by men (compared with 30 by women and 33 by men in 2008).

Language of submission: in 2009, 19 grievances were formulated in French and 12 in English. In 2008, 43 grievances were formulated in French, two in Spanish and 18 in English.

Grades: 16 staff members in the Professional category (five P5s, two P4s and nine P3s), 14 from the General Services category (two G7s, two G6s, nine G5s and one G4) and one Director (D1). In 2008, of the 63 grievances, 41 were submitted by staff members in the Professional category and 22 by staff members in the General Services category.

Time taken to process grievances in 2009:

- three months for 13 grievances;
- two-and a-half months for six grievances;
- two months for 12 grievances;
- one and a half months for four grievances; and
- one month for seven grievances.

Two of the grievances submitted in 2009 were suspended by mutual consent of the parties. Both grievances were submitted under article 13.3.2:

- one concerned performance appraisal; and
- the other concerned the redefinition of contracts. This grievance was resumed.

Of the three grievances suspended in 2008:

- one was still suspended pending a Tribunal judgment (redefinition of contract);
- the second was withdrawn in 2009 (paragraph 17, Annex I to the Staff Regulations, competition procedure); and
- the third was resumed (reassignment after leave without pay).

Three cases filed in 2009 were withdrawn as was one case filed in 2008:

- one grievance submitted under article 13.3.2 concerned the absence of a decision to withdraw a disciplinary sanction, another concerned the non-renewal of a contract and the third was related to the non-execution of a decision on job regarding; and
- one grievance was submitted under paragraph 17 of Annex I and concerned a competition procedure.

In 2009 the breakdown of grievances filed pursuant to the following provisions is shown below (the figures for 2008 are given in brackets):

• Article 13.3.2 of the Staff Regulations	21 (37) (please see below for the breakdown)
• Circular No. 6/639 (job grading procedure)	1 (1)
• Annex I to the Staff Regulations (recruitment procedure, competition)	9 (23)

The reasons for the grievances submitted under article 13.3.2 of the Staff Regulations were as follows:

Non-renewal of contract	5 (5)
Redefinition of contract	2 (2)
Application for execution of a decision of the Director-General	1 (1)
Performance appraisal	2 (1)
Application of a decision on regrading	1 (1)
Appointment by direct selection	2 (1)
Unfair treatment incompatible with terms of employment	4 (0)
Request for cancellation of disciplinary sanction (no decision)	1 (0)
Request to cancel disputed appointment	2 (0)
Pension – taxation	1 (0)

In the course of 2009, 42 recommendations¹ were made to the Director-General (31 in 2008). As of 31 December 2009, 12 cases were under examination and two others had been suspended (38 and five respectively as of 31 December 2008).

4. Action on the Board's recommendations

As of 31 December 2009, the Board had issued 117 recommendations in all since its establishment.

Of these 117 recommendations:

- 69 recommended the dismissal of the grievance;
- 19 recommended dismissal in part of the grievance; and
- 29 recommended the setting aside of the impugned decision.

The Director-General issued a decision on 110 of these recommendations:

- 90 of them were accepted in full;
- ten were accepted in part; and
- ten were rejected.

¹ As cases Nos. 92, 94, 95, 96, 97, 102, 103, 105 and 106 were joined since they raised interconnected questions of fact and of law, only one report was issued. The same is true of cases Nos. 121 and 130 (only one report covering both cases) and cases Nos. 110, 113 and 125 (one report covering all three cases).

Between the setting up of the Board and the end of 2009, a total of 28 complaints had been filed with the Tribunal which had delivered a judgment in 24 cases:

- in 13 cases the Tribunal concurred with the Board (in one case where the Tribunal requested additional information, the complaint was then dismissed on the Board's recommendation);
- in four cases the Tribunal agreed in part with the Board;
- in five cases it disagreed;
- in one case it agreed with the dissenting opinion of the chairperson of the panel; and
- in one case the appellant withdraw their claim that the disputed appointment should be cancelled and all other claims were dismissed.

Thanks

The Board wishes in particular to thank Mr Alfred Pankert and Mr Warwick Jones who resigned as chairpersons during the year. They had both been chairpersons since the Board's inception and they helped to lay the foundations for its work.

The Board also wishes to thank the following members who left it during the year: Ms Tania Caron, Ms Mary Kavar, Ms Marika Maillot and Mr Pierre Sayour. Its thanks also go to Ms Talvik and Ms Ducret, from its secretariat, for their efficiency and cheerful assistance throughout the year.

Geneva, 12 February 2010

Hông-Trang Perret Nguyên
Chairperson

Gabriele Stoikov
Chairperson