

ARTICLE 97

Table of Contents

	<u>Paragraphs</u>
Text of Article 97	
Introductory Note	1 - 3
Analytical Summary of Practice	4 - 17
I. The staff of the Organization	4 - 17
A. Staff of the Secretariat	4 - 12
1. In general	4
2. Staff governed by special staff rules	5 - 12
a. Staff specifically engaged for conferences and other short-term service at Headquarters	5
b. Technical assistance project personnel	6
c. Dispatchers and guides in the Visitors' Service at Headquarters	7 - 9
d. Special internes	10 - 12
B. Staff of certain organs	13 - 17
1. The Military Staff Committee	13 - 15
** 2. Staff of the United Nations Children's Fund (UNICEF)	
** 3. Joint secretariat of the Permanent Central Opium Board and Narcotic Drugs Supervisory Body	
** 4. United Nations Panel of Field Observers	
** 5. The secretariat of the Technical Assistance Board	
** 6. Staff of the Office of the United Nations High Commissioner for Refugees	
7. Staff of United Nations Relief and Works Agency for Palestine Refugees in the Near East	16 - 17
** 8. Staff of the United Nations Korean Reconstruction Agency	
** C. Staff of the Office of the Registry of the International Court of Justice	
** II. Appointment of the Secretary-General	

TEXT OF ARTICLE 97

The Secretariat shall comprise a Secretary-General and such staff as the Organization may require. The Secretary-General shall be appointed by the General Assembly upon the recommendation of the Security Council. He shall be the chief administrative officer of the Organization.

INTRODUCTORY NOTE

1. This study of Article 97 follows generally the classification in the corresponding study in the Repertory. There is nothing new to report for the period of this Supplement under the headings dealing with the staff of the United Nations Children's Fund (I,B,2), 1/ the joint secretariat of the Permanent Central Opium Board and Narcotic Drugs Supervisory Body (I,B,3), the United Nations Panel of Field Observers (I,B,4), the secretariat of the Technical Assistance Board (I,B,5), the staff of the Office of the United Nations High Commissioner for Refugees (I,B,6), the staff of the United Nations Korean Reconstruction Agency (I,B,8), and the staff of the Registry of the International Court of Justice (I,C). These headings are therefore omitted.

2. Part II of the Analytical Summary of Practice in the previous study of Article 97 contained an account of the practice followed in appointing the Secretary-General and also set forth his terms of office and conditions of service. As Mr. Hammarskjold has continued in the office of Secretary-General throughout the period covered by this Supplement, part II is omitted from this study.

3. As before, questions relating to the role of the Secretary-General as the chief administrative officer of the Organization are dealt with under Article 98. Article 101 again refers to the organizational structure of the Secretariat, and the conditions of appointment and service. The present study is therefore confined to certain categories of staff and other persons employed by the United Nations whose conditions of appointment and service are governed by special rules. In this respect, a description of two new categories of staff, dispatchers and guides in the Visitors' Service at Headquarters, 2/ and special internes, 3/ will be found under the heading "Staff governed by special staff rules" (I,A,2).

ANALYTICAL SUMMARY OF PRACTICE

I. THE STAFF OF THE ORGANIZATION

A. Staff of the Secretariat

1. In general

4. Several amendments to the staff regulations were adopted by the General Assembly at its ninth 4/ and tenth 5/ sessions and have necessitated alterations in certain staff rules. 6/ As formerly, an account of the staff regulations and rules will be found under Articles 100 and 101.

1/ The numbers indicated in brackets follow those used in the Repertory, vol. V, under Article 97.

2/ See paras. 7-9 below.

3/ See paras. 10-12 below.

4/ G A resolutions 882 (IX) and 887 (IX).

5/ G A resolution 974 (X).

6/ For a list of the changes in the staff rules for the year 1956, see A/C.5/L.392. The staff rules and regulations as of 14 August 1956 are to be found in ST/SGB/94/Rev.4; ST/SGB/94/Rev.4/Amend.1 to 3; and ST/SGB/105.

2. Staff governed by special staff rules

a. STAFF SPECIFICALLY ENGAGED FOR CONFERENCES AND OTHER SHORT-TERM SERVICE AT HEADQUARTERS

5. The special staff rules 7/ applicable to short-term appointments at Headquarters have undergone several minor amendments 8/ in this period in order to give effect to a rise in salary rates and to introduce some changes in the provisions concerning overtime payment and compensatory time off. Otherwise the position of this staff remains as described in the previous study of this Article in the Repertory.

b. TECHNICAL ASSISTANCE PROJECT PERSONNEL

6. The special staff rules 9/ applicable to experts and other persons internationally recruited for service with technical assistance projects have been amended 10/ during the period under review, to bring them into line with decisions of the General Assembly, or decisions of the Technical Assistance Board.

c. DISPATCHERS AND GUIDES IN THE VISITORS' SERVICE AT HEADQUARTERS

7. In a memorandum 11/ submitted to the Fifth Committee at the ninth session of the General Assembly the Secretary-General outlined proposals for absorbing the Visitors' Service at Headquarters into the United Nations Secretariat. At that time, this service, which conducted guided tours of the Headquarters buildings, was under the management of the American Association for the United Nations (AAUN). For several reasons, including the interest shown by these visitors in the operations of the United Nations and the detailed knowledge required of guides in answering some of the questions raised by them, the Secretary-General considered that the Visitors' Service should form an integral part of the Secretariat, which should assume full responsibility for the service, as for the other public information activities of the Organization.

8. The Secretary-General proposed to combine the Visitors' Service with a new special interne programme, 12/ but, in view of the reservations expressed 13/ by the Advisory Committee on Administrative and Budgetary Questions and by certain delegations 14/ in the Fifth Committee, he agreed to keep the two separate for the time being, the Visitors' Service being regarded as one of the units of the Secretariat to which special internes would be assigned for temporary duty. On this basis the Fifth Committee agreed 15/ to the opening of a new section 10 (a) in the budget appropriations, entitled "Visitors' Service".

7/ Rules 301.1 to 312.6 (ST/AFS/SGB/94/Add.2).

8/ ST/SGB/94/Add.2/Amend.3.

9/ Rules 201.1 to 212.5 (ST/SGB/94/Add.3/Rev.1).

10/ ST/SGB/104.

11/ G A (IX), annexes, a.i. 38, p. 30, A/C.5/603.

12/ See paras. 10-12 below.

13/ G A (IX), annexes, a.i. 38, p. 49, A/2811.

14/ G A (IX), 5th Com., 478th mtg.

15/ G A (X), Suppl. No. 1 (A/2911), p. 122.

9. In his annual report to the General Assembly at its tenth session the Secretary-General stated 16/ that the Visitors' Service had become part of the United Nations Secretariat on 1 June 1955. A special series of rules 17/ applicable to dispatchers and guides in this service has been issued. Under these rules they are engaged on temporary appointments for a fixed term, 18/ they have the status of locally recruited staff and are not eligible for the benefits of international recruitment. 19/

d. SPECIAL INTERNES

10. As indicated in paragraph 8 above, the Secretary-General in his memorandum 20/ on the Visitors' Service to the Fifth Committee at the ninth session of the General Assembly proposed a new special interne programme to enable a certain number of foreign students to study the working of the United Nations at first hand over a period of one year, thus supplementing the other established interne programmes of eight weeks each 21/ for national civil servants and students. The Secretary-General felt 22/ that this programme would undoubtedly contribute to a more informed understanding of the United Nations. While agreeing initially not to integrate the interne programme with the Visitors' Service 23/ the Secretary-General proposed to experiment with the use of special internes as part-time guides; the rest of their time being divided between lectures, seminars and interne duties in various departments of the Secretariat. The Fifth Committee voted 24/ in favour of an addition to the budget appropriations for 1955 under section 15 (common staff costs) for financing the new programme.

11. The terms of service of special internes are set forth in their letters of appointment. These state, inter alia, that:

"For the duration of your internship, you will have the status of a temporary staff member of the United Nations and will be bound by the relevant Staff Regulations and any instructions, directives or procedures issued in pursuance thereof for Special Internes. As a Special Interne, you will have no entitlement to or expectancy of re-assignment to other offices or activities of the United Nations during the internship, nor to employment by the United Nations upon the completion of the internship."

The letters of appointment further provide that special internes will be attached to the Office of Personnel, and will carry out such functions as the Director of the Interne Programme assigns to them.

12. In a memorandum 25/ to the Fifth Committee at the tenth session of the General Assembly the Secretary-General reported that it was still too early to reach any definitive

16/ Ibid.

17/ Rules 401.1 through 412.7 (ST/SGB/94/Add.4) apply to staff members specifically engaged for full-time service as dispatchers and guides in the Visitors' Service at Headquarters. These rules, with certain modifications (see ST/SGB/94/Add.5) apply to staff members engaged for half-term service as dispatchers or guides.

18/ ST/SGB/94/Add.4 rule 404.4.

19/ Ibid., rule 404.5.

20/ G A (IX), annexes, a.i. 38, p. 30, A/C.5/603.

21/ First introduced in 1947.

22/ G A (IX), 5th Com., 478th mtg., para. 6.

23/ See para. 7 above.

24/ G A (IX), annexes, a.i. 38, p. 30, A/C.5/603.

25/ G A (X), annexes, a.i. 38 and 47, p. 49, A/C.5/641.

conclusions about the programme, and he proposed, with the approval 26/ of the Advisory Committee on Administrative and Budgetary Questions, to submit a full report on all the interne programmes to the General Assembly at its eleventh session. In the report 27/ presented to the eleventh session, the Secretary-General recommended the continuation of both the short-term and the special interne programmes. The latter, he said, had been a success in as far as it aimed at creating a more informed understanding of the work of the United Nations, but he intended, if the Fifth Committee agreed to retain the programme, to introduce some slight modifications in the arrangement of the tours of duty of special internes with the Visitors' Service.

B. Staff of certain organs

1. *The Military Staff Committee*

13. The Military Staff Committee has continued to function under the terms of its draft statute and draft rules of procedure. 28/ No change has therefore taken place in the position of its secretariat as an independent unit of the United Nations Secretariat.

14. The following reference to the secretariat of the Military Staff Committee appears in the first report of the Advisory Committee on Administrative and Budgetary Questions 29/ to the tenth session of the General Assembly:

"76. In previous reports the Advisory Committee has drawn attention to a basic question of principle: that both from the point of view of the fundamental unity of the Secretariat as a main organ of the United Nations and as a matter of economical and orthodox administration, the language and other conference staff servicing the Military Staff Committee secretariat should form part of the Department of Conference Services. The Military Staff Committee has, however, held to the view that under the terms of the (provisional) rules of procedure of that Committee, its secretariat must remain an independent and separate unit."

15. The above report was discussed in the Fifth Committee at its 491st meeting. 30/ In his report to the General Assembly 31/ on this meeting the Rapporteur of the Fifth Committee stated:

"Several delegations expressed the view that the maintenance of an independent secretariat for the Military Staff Committee was not warranted and that the Secretariat of the United Nations should be one and indivisible. It was suggested that the objection to integration of the secretariat of the Military Staff Committee, based on the fact that the provisional rules of procedure of that Committee provided for an independent secretariat, could be overcome by amending these rules. The Committee was informed by the Principal Secretary of the Military Staff Committee that any proposals for the absorption of the Military Staff Committee's secretariat by the United Nations Secretariat would be unacceptable to the Military Staff Committee, which felt that an important question of principle was involved...."

26/ Ibid., A/3067.

27/ A/C.5/661.

28/ S/421.

29/ G A (X), Suppl. No. 7 (A/2921), para. 76.

30/ G A (X), 5th Com., 491st mtg., paras. 36-48.

31/ G A (X), annexes, a.i. 38 and 47, p. 82, A/3103, paras. 155 and 157.

"A number of delegations considered that if integration was held to be desirable, the rules should be amended to make it possible. In this connexion it was considered advisable that in order for the Committee to appreciate the full implication of this problem a detailed statement should be provided at the next session underlining clearly the various considerations involved."

*** 2. Staff of the United Nations Children's Fund*

*** 3. Joint secretariat of the Permanent Central Opium Board and Narcotic Drugs Supervisory Body*

*** 4. United Nations Panel of Field Observers*

*** 5. The secretariat of the Technical Assistance Board*

*** 6. Staff of the Office of the United Nations High Commissioner for Refugees*

7. Staff of United Nations Relief and Works Agency for Palestine Refugees in the Near East

16. In its Judgment No. 57 32/ of 9 September 1955 the Administrative Tribunal upheld its own jurisdiction to hear an appeal for termination indemnities lodged by a former staff member of the United Nations Relief and Works Agency for Palestine Refugees in the Near East (UNRWA).

17. On the right of a staff member of UNRWA to lodge an appeal the Tribunal remarked: 33/

"6. The Tribunal notes that in resolution 302 (IV), paragraph 9 (b), the General Assembly provided that the Director of the Agency should select and appoint his staff in accordance with general arrangements made in agreement with the Secretary-General, including such of the staff rules and regulations of the United Nations as the Director and the Secretary-General should agree to be applicable. In this resolution the General Assembly did not specify any particular form for such an agreement between the Secretary-General and the Director.

"It would appear that the exchange of letters between Mr. Byron Price, Assistant Secretary-General in charge of Administrative and Financial Services, and Major-General Howard Kennedy, Director, UNRWA, dated 28 July 1950 and 15 September 1950, constituted a written agreement. The staff rules proposed by Mr. Price in the said letter included provision for access to the Administrative Tribunal. Even if serious doubts 34/ arose subsequently as to the exact rules applicable to the staff of the Agency, the Tribunal is not aware of any modification of paragraph 9 (b) of resolution 302 (IV), whereby any of the Staff Rules and Regulations agreed between the Director and the Secretary-General are of full effect".

32/ AT/DEC/57.

33/ Ibid., pp. 11 and 12, para. 6.

34/ These doubts appear to have arisen from the fact that the staff rules issued by the Director of UNRWA on 23 January 1952 contained no reference to any right of appeal to the Tribunal. See AT/DEC/57, p. 7.

**** 8. *Staff of the United Nations Korean Reconstruction Agency***

**** C. Staff of the Office of the Registry of the International Court of Justice**

**** II. APPOINTMENT OF THE SECRETARY-GENERAL**

