



# General Assembly

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## Sixty-fifth session

Agenda item 113 (g)

### **Appointments to fill vacancies in subsidiary organs and other appointments: appointment of a judge of the United Nations Appeals Tribunal**

## **Report of the Internal Justice Council**

### **I. Introduction**

1. On 11 October 2010, Judge Rose Boyko of the United Nations Appeals Tribunal gave notice of resignation as a judge of the Tribunal, with effect from 15 January 2011, for personal reasons.
2. By its resolution 62/228, the General Assembly decided to establish the Internal Justice Council to help ensure independence, professionalism and accountability in the system of administration of justice within the United Nations. By paragraph 37 of that resolution, the Assembly decided that the Internal Justice Council should “provide its views and recommendations ... on two or three candidates” to the Assembly for each vacancy that occurred in the Tribunal, “with due regard to geographical distribution”.
3. At present, the Council consists of only four members: Judge Kate O’Regan (the chair); Sinha Basnayake (the external jurist nominated by management); Jenny Clift (the staff member nominated by staff); and Geoffrey Robertson (the external jurist nominated by staff). There has been no staff member representing management since Martha Helena Lopez resigned in early August 2010. Members of the Council understand that steps are being taken to nominate a new member to replace Ms. Lopez, but that the process is not yet complete.
4. Given the imminent vacancy on the Tribunal arising from the resignation of Judge Boyko, the remaining members of the Council held a teleconference to discuss whether they should identify suitable candidates to recommend to the General Assembly for appointment to the post to be vacated by Judge Boyko, as required by paragraph 37 of resolution 62/228. After discussion, it was agreed that, given that there were suitable candidates available from the previous round of appointments, and given the heavy workload of the Tribunal and the consequent need for a replacement for Judge Boyko to be found immediately, the present report to the Assembly presenting candidates for appointment should be prepared as a matter of urgency.



5. In considering whom to nominate for the vacancy, the members of the Council took into consideration the geographical distribution of States reflected by the current members of the Tribunal: Judge Jean Courtial (France), currently the presiding judge; Judge Sophie Adinyira (Ghana); Judge Kamaljit Singh Garewal (India); Judge Mark P. Painter (United States of America); Judge Luis María Simón (Uruguay); and Judge Inés Weinberg de Roca (Argentina). The members also took into account a range of other considerations, including language ability and depth of experience in the field of administrative and labour law.

6. Owing to the urgent need to appoint a judge to begin work by February 2011, when the Tribunal is next due to hold a session, the members of the Council determined that it would first consider those persons put forward to the General Assembly for appointment as judges of the Tribunal in its 2008 report to the Assembly (A/63/489).

7. In the present report, the members of the Council present the names of three candidates for appointment as a judge of the Tribunal. The members of the Council have taken steps to ascertain that these candidates are available for appointment, if selected. All three candidates are from countries currently not represented on the Tribunal. The three candidates were examined and interviewed by the Council in September 2008 and recommended for appointment as judges of the Tribunal, as described in the 2008 report of the Council.

8. The current members of the Council consider that, given the availability of suitable candidates who have already undergone interviews, testing and screening, it is not necessary to delay the process by advertising for additional suitable candidates for appointment.

## **II. Profiles of recommended candidates**

9. The three candidates recommended by the Council for appointment to the position of judge of the Tribunal are listed alphabetically by last name. The curriculum vitae of each candidate is contained in the annex to the present report.

*Mary Faherty (Ireland), born in 1960*

10. Judge Faherty is currently serving as a judge of the Circuit Court of Ireland, a position she has held since 2002. Prior to that, she was a practising barrister and served as chair of the Employment Appeals Tribunal of Ireland for eight years, from 1995 to 2002, and as vice-chair of the same Tribunal for six years, from 1989 to 1995. She holds a law degree from the National University of Galway (1984). Her mother tongue is English, and she has a working knowledge of German.

*Roy Lewis (United Kingdom of Great Britain and Northern Ireland), born in 1943*

11. Professor Lewis is currently the Deputy Chair of the Central Arbitration Committee, which is a statutory body tasked with resolving issues relating to trade union recognition by employers for the purposes of collective bargaining and the operation of European works councils. He has also held a wide range of positions concerned with dispute resolution in labour law. He has been a member of the Panel of Mediators and Arbitrators for Trade Disputes of the Advisory Conciliation and Arbitration Service since 1985, professor of law at the University of Southampton

(1987-1996), a founding member of the panel for arbitrators for unfair dismissal under the auspices of the Advisory Conciliation and Arbitration Service (since 2001), chair of the Royal Mail National Appeals Panel (since 1998), part-time chair of employment tribunals for the Southampton region (2001-2006), President of the Administrative Tribunal for the Black Sea Trade and Development Bank (since 2006) and Chair of the Grievance Committee of the European Bank for Reconstruction and Development (since 2007). As a barrister, he is a member of one of the leading sets of chambers in the field of employment law. He has also written and published widely on employment law since 1969. He holds a law degree from the London School of Economics (1966). His first language is English, and he has a basic knowledge of French.

*Brian Tamberlin (Australia), born in 1939*

12. Justice Tamberlin is currently serving as a Federal Court justice in New South Wales, a position he has held since 1994. He has also served both as a member and as deputy president of the Australian Administrative Appeals Tribunal, and as a member of the Supreme Court of the Australian Capital Territory. He holds law degrees from the University of Sydney (1962) and Harvard Law School (1963). His first language is English; he speaks French fluently and has a basic knowledge of Spanish, Italian and German.

### III. Conclusion

13. The members of the Council would like to thank the Secretariat for the ongoing support that it has provided to them.

Signed by the members of the Internal Justice Council and submitted to the Secretary-General for transmission to the General Assembly.

*(Signed)* Kate **O'Regan**

*(Signed)* Sinha **Basnayake**

*(Signed)* Jenny **Clift**

*(Signed)* Geoffrey **Robertson**

## Annex

### Curricula vitae

#### Mary Faherty (Ireland)

**Date of birth:** 16 January 1960

**Present position:** Judge of the Circuit Court of Ireland and Senior Counsel of the Bar of Ireland

#### Education

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|---------|--|
| 1997    | Diploma in domestic arbitration (honours), University College, Dublin  |
| 1998    | Diploma in international arbitration (honours), University College, Dublin                                   |
| 1986    | Barrister at law (honours), Honourable Society of Kings Inns   |
| 1984    | LLB (honours), University College, Galway, Ireland   |
| 1984    | Course on human rights, University of Prince Edward Island, Canada   |
| 1983    | Course on human rights, Strasbourg, France   |
| 1982    | BA (honours), legal science and German, University College, Galway, Ireland                                  |
| 1980-81 | German studies, University of Freiburg, Germany (Deutscher Akademischer Austausch Dienst (DAAD) scholarship) |

#### Professional qualifications and awards

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|------|--|
| 2006 | The National University of Ireland, Galway, Award for Law, Public Service and Government |
| 2001 | Called as Senior Counsel to the Inner Bar of Ireland                                     |
| 1998 | Appointed as a Fellow of the Chartered Institute of Arbitrators                          |
| 1996 | Called to the Bar of England and Wales   |
| 1986 | Called to the Bar of Ireland   |

#### Professional experience

- |           |   |
|-----------|---|
| 2002      | Appointed as a judge of the Circuit Court, Ireland  |
| 2002      | Appointed as a member of the Tribunal of Enquiry into Certain Planning Matters and Payments (parliamentary enquiry)                                     |
| 1986-2002 | Practising barrister at the Bar of Ireland  |
| 1995-2002 | Chair of the Employment Appeals Tribunal, Ireland. The function of the Tribunal is to hear and determine cases taken under various employment statutes. |
| 2000      | Member of the Government Task Force on Bullying at Work   |
| 1999-2000 | President of the European Association of Labour Court Judges  |

1997 Equality Officer of the Labour Relations Commission, Ireland

1989-1995 Vice-Chair of the Employment Appeals Tribunal, Ireland

**Other**

2008 Delegate to the ninth biennial conference of the International Association of Women Judges, Panama City, Panama

2010 Chair of a conference on international and comparative perspectives on employment and disability law, National University of Ireland, Galway

**Languages**

English (first language), German (working knowledge) and French (conversational)

**Roy Lewis (United Kingdom of Great Britain and Northern Ireland)**

**Date of birth:** 7 November 1943

**Profile of legal practice**

Professor Lewis is a barrister at Old Square Chambers, a leading set of chambers in employment law in the United Kingdom. He has a niche practice in third-party roles in industrial relations and employment and discrimination law. These roles include adjudication, arbitration, mediation, investigation, consultancy and the chairing of appeals bodies. He performs these roles within the United Kingdom and in international governmental institutions.

**International administrative law appointments**

Chair of the Grievance Committee of the European Bank for Reconstruction and Development (EBRD) (since 2007). Formerly, President of the Administrative Tribunal of EBRD (2002-2007) and chair of the Appeals Committee of EBRD (1999-2002)

President, Administrative Tribunal, Black Sea Trade and Development Bank (since 2006)

Speaker at the eighth Conference of International Investigators, Vienna, 9-11 May 2007; paper on the interaction between departments of institutional integrity and administrative tribunals in international organizations (conference was co-sponsored by the United Nations Office in Vienna and the European Commission's Anti-Fraud Office)

Speaker at a symposium to commemorate the thirtieth anniversary of the World Bank Administrative Tribunal, Washington, D.C., 23 March 2010; paper on the effectiveness of international administrative law; symposium sponsored by the World Bank and the American International Law Society.

**Law appointments in the United Kingdom**

Deputy Chair, Central Arbitration Committee (since 2000). The Committee determines issues under the statutory procedures governing (a) trade union recognition by employers for the purposes of collective bargaining, (b) European works councils and (c) information and consultation

From 2001 to 2006, part-time chair of employment tribunals, Southampton region. The employment tribunals are the equivalent of first instance labour courts in the United Kingdom, and the chairs have recently been renamed employment judges.

**Arbitration and adjudication appointments**

Member of the Advisory Conciliation and Arbitration Service panel of arbitrators and mediators for trade disputes (since 1985)

Founding member of the Advisory Conciliation and Arbitration Service panel for arbitrators for unfair dismissal (since 2001)

Founding member of the arbitration and mediation panel of the Advisory Conciliation and Arbitration Service for two-tier workforces in Government services and the National Health Service (since 2005)

Appointed by the Advisory Conciliation and Arbitration Service to train new labour arbitrators (since 2007)

Numerous other (non-Advisory Conciliation and Arbitration Service) appointments as arbitrator to settle labour disputes in a wide variety of industries in the United Kingdom and the Channel Islands

Chair, Royal Mail National Appeals Panel (since 1998): hears disciplinary appeals from trade union representatives in Royal Mail, a large industry with a high density of union membership

### **Other relevant appointments and positions**

Accredited member of ADR Chambers (United Kingdom), Ltd. (since 2002)

Member of the employment section of the City Disputes Panel (since 2003)

Individual member of the Civil Mediation Council (since 2004)

### **Previous relevant appointments and experience**

National appeal hearings, clinical regrading exercise, National Health Service (1994-1996)

Designated an independent person under the Local Authorities (Standing Orders) Regulations and disciplinary procedure for local government chief executives (1997, 2003 and 2004)

Independent expert to the technical advisory panel of the National Joint Council of Local Authorities' Fire Brigades (2004-2007)

### **Education**

1966 LLB, London School of Economics

1967 MSc (Economics), industrial relations, London School of Economics

### **Career history**

1967-69 Consultant, Division of Industrial and Human Relations, AIC Ltd.

1969-79 Lecturer in industrial relations, London School of Economics

1979-80 Special Adviser, House of Commons Select Committee on Employment

1979-87 Principal Research Fellow, Industrial Relations Research Unit, University of Warwick

1987-96 Professor of Law, University of Southampton; Dean of the Faculty of Law and Head of the Law Department (1989-1993)

1994 to date Barrister, Old Square Chambers, plus the appointments listed above

**Examples of writings by Professor Lewis on employment dispute adjudication**

- 1990 “Strike-free deals and pendulum arbitration”, *British Journal of Industrial Relations*
- 1993 (With Jon Clark) *Employment Rights, Industrial Tribunals and Arbitration: the Case for Alternative Dispute Resolution*, Institute of Employment Rights (proposed scheme for an arbitral alternative to the tribunals, which was the basis of the Employment Rights (Dispute Resolution) Act 1998)
- 1995 (With Jon Clark and Catherine Barnard) *The Exercise of Individual Employment Rights in the Member States of the European Community*, Research Series No. 49, Employment Department (research commissioned by the Department)
- 1998 “The Employment Rights (Dispute Resolution) Act 1998”, *Industrial Law Journal*

**Languages**

English (first language)



## Brian Tamberlin (Australia)

**Date of birth:** 30 March 1939

**Present position:** Justice of the Supreme Court of New South Wales, sitting in Sydney, and Deputy President of the Australian Administrative Appeals Tribunal, also sitting in Sydney

### Education

- 1963 LLM, Harvard Law School, specializing in international business transactions and international trade law
- 1962 LLB, Sydney Law School, University of Sydney, with first class honours (second in the graduation year)
- 1958 BA, University of Sydney

### Professional experience

- 2010 Rapporteur general at a worldwide conference of the heads of supreme administrative jurisdictions, which was conducted under the auspices of the French Council of State in Sydney and attended by more than 50 heads of administrative law jurisdictions
- 2005 Appointed as Presidential Member of the Australian Administrative Appeals Tribunal, and as Acting President of the Tribunal
- 2004-2007 Actively engaged in the activities of the International Association of Supreme Administrative Jurisdictions, in which the French Council of State plays an important role. As a consequence, he has a sound understanding of French administrative law
- 1994 Appointed Justice of the Federal Court of Australia
- 1994 Counsel assisting the inquiry into the Tasmanian Constitution
- 1981 Appointed Queens Counsel
- 1979-1980 Counsel assisting the inquiry into Rainforest Logging
- 1967-1981 Barrister admitted to interstate bars in Australia, principally practising in Sydney
- 1965-1966 Solicitor for two years with Allens, a large Sydney law firm
- 1963-1964 Legal counsel with IBM, New York
- 1962 In-house counsel, Unilever Ltd., Sydney
- 1958-1962 Articles of clerkship with Freehills, a large Sydney law firm

### Other activities

- 1995-2005 Gave lectures to overseas judges from Cambodia, Indonesia, Malaysia, Thailand, Viet Nam and Hong Kong, China.
- 2000 Gave a six-week lecture course at Washington and Lee University in Lexington, Virginia, United States, dealing with the World Trade

- Organization Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS Agreement) and the law of intellectual property
- 1999 One-week teaching assignment in conjunction with a group of academics at the newly established Intellectual Property Court of Thailand
- 1965-1972 Lecturer in federal constitutional law at the University of Sydney Law School (part-time)
- 1966-1972 Lectured in town-planning and administrative law at the Legal Practitioners Admission Board
- Attended a number of overseas legal conferences concerning judicial administration, mediation and arbitration
- Familiar with the practices, procedures, operation and jurisprudence of the World Trade Organization and the World Intellectual Property Organization, having spent three weeks in Geneva visiting those bodies and speaking to a large number of personnel engaged in those activities, including dispute settlement, as well as attending a short course on those bodies conducted by the University of Geneva
- Gave a number of lectures in admiralty, maritime and shipping law, on the practice and procedure and the administration of the admiralty jurisdiction, to overseas judges as well as within Australia
- On two occasions taught intellectual property law and the TRIPS Agreement in Hanoi and Ho Chi Minh City to Vietnamese judges, as well as court officers, registrars and administrators, and lectured to law students in Hanoi

**Languages**

English (first language), French (fluent), Spanish and Italian (fluent in speaking and reading) and German (reading)

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