



# General Assembly

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**Human resources management**

## **Practice of the Secretary-General in disciplinary matters and cases of possible criminal behaviour, 1 January to 31 December 2021**

### **Report of the Secretary-General**

#### *Summary*

The present report is submitted in response to the request of the General Assembly in paragraph 16 of its resolution [59/287](#) that Member States be informed on an annual basis of all actions taken in cases of established misconduct and/or criminal behaviour and of the disciplinary action and, where appropriate, legal action taken in accordance with the established procedures and regulations. The report covers the period from 1 January to 31 December 2021.

The General Assembly is invited to take note of the report.



## I. Introduction

1. The present report is submitted in response to the request of the General Assembly in paragraph 16 of its resolution 59/287 that Member States be informed on an annual basis of all actions taken in cases of established misconduct and/or criminal behaviour in accordance with the established procedures and regulations. The report covers the period from 1 January to 31 December 2021.
2. An overview of the administrative framework with regard to disciplinary matters, which includes the administrative instruction on unsatisfactory conduct, investigations and the disciplinary process (ST/AI/2017/1), is set out in section II so that the information provided in sections III and IV may be understood in context.
3. Section III contains a summary of the cases in which disciplinary measures were imposed during the reporting period. Section IV contains data reflecting the disposition of cases completed during the reporting period and comparative data for the previous four calendar years.<sup>1</sup> Given the passage of time between the end of the reporting period and the issuance of the present report, section V provides data for the period from 1 January to 30 September 2022. Section VI provides information on the practice of the Secretary-General in cases of possible criminal behaviour.
4. A consolidated compendium of disciplinary measures<sup>2</sup> was reissued during the reporting period to provide all staff of the Organization with information on the most common examples of misconduct and their disciplinary consequences since 1 July 2009, with due regard for the protection of the privacy of the staff members concerned. The summaries of the cases of established misconduct set out in section III have been added to the compendium during 2022.

## II. Overview of the administrative framework with respect to disciplinary matters

### A. Legislative framework governing the conduct of staff members<sup>3</sup>

5. In Article 101, paragraph 3, of the Charter of the United Nations, it is stated that the “paramount consideration in the employment of the staff and in the determination of the conditions of service shall be the necessity of securing the highest standards of efficiency, competence and integrity”.
6. Article I of the Staff Regulations and chapter I of the Staff Rules, both entitled “Duties, obligations and privileges”, set out the basic values expected of international civil servants because of their status, as well as particular manifestations of such basic values (see staff regulation 1.2 and staff rule 1.2).
7. Staff regulation 10.1 (a) provides that “the Secretary-General may impose disciplinary measures on staff members who engage in misconduct”. Staff rule 10.1 (a) provides that the “failure by a staff member to comply with his or her obligations under the Charter of the United Nations, the Staff Regulations and Staff

<sup>1</sup> In reports issued prior to the report for the period from 1 July to 31 December 2017 (A/73/71), the reporting periods were 1 July to 30 June. To allow for easy comparison of data, all data provided in the present report are provided by calendar year, unless otherwise indicated.

<sup>2</sup> “Compendium of disciplinary measures: practice of the Secretary-General in disciplinary matters and cases of criminal behaviour from 1 July 2009 to 31 December 2021” (see <https://hr.un.org/page/compendium-disciplinary-measures>).

<sup>3</sup> Provisions relating to the status, rights and duties of staff members, and to disciplinary matters, can be found in the electronic version of the Human Resources Handbook (see <https://hr.un.org/handbook>) under the categories “Duties, obligations and privileges” and “Administration of justice and disciplinary matters”.

Rules or other relevant administrative issuances or to observe the standards of conduct expected of an international civil servant may amount to misconduct and may lead to the institution of a disciplinary process and the imposition of disciplinary measures for misconduct”.

8. Staff rule 10.1 (c) provides that “the decision to launch an investigation into allegations of misconduct, to institute a disciplinary process and to impose a disciplinary measure shall be within the discretionary authority of the Secretary-General or officials with delegated authority”. Within those parameters, the Secretary-General has broad discretion in determining what constitutes misconduct and in imposing disciplinary measures.

9. Examples of conduct for which disciplinary measures may be imposed are listed in section 3.5 of administrative instruction [ST/AI/2017/1](#). Reference may also be made to the Secretary-General’s bulletin on addressing discrimination, harassment, including sexual harassment, and abuse of authority ([ST/SGB/2019/8](#)), the Secretary-General’s bulletin on special measures for protection from sexual exploitation and abuse ([ST/SGB/2003/13](#)) and the Secretary-General’s bulletin on protection against retaliation for reporting misconduct and for cooperating with duly authorized audits or investigations ([ST/SGB/2017/2/Rev.1](#)).

10. In keeping with a victim-centred approach, [ST/SGB/2019/8](#) contains support and information-sharing provisions that are applicable during an investigation and any subsequent disciplinary process. In addition, the Secretary-General notes in [ST/SGB/2019/8](#) that the Organization and other entities that are members of the United Nations System Chief Executives Board for Coordination collect information on established cases of sexual harassment in an application called ClearCheck,<sup>4</sup> which United Nations entities can access for the purpose of reference-checking.

11. ClearCheck has been operational since 28 June 2018 and consists of a database with information on subjects of established cases of sexual harassment and of sexual exploitation and abuse. As at 28 October 2022, 33 United Nations entities had committed to participating in ClearCheck, and 19 entities had entered the names of subjects in the database, with 147 subjects entered because of established sexual harassment and 430 subjects entered because of established sexual exploitation or abuse. Recruitment screening had resulted in over 3,600 verification results and two confirmed matches of job applicants to subject names.

## **B. Summary of the disciplinary process<sup>5</sup>**

12. Under administrative instruction [ST/AI/2017/1](#), all reports of possible unsatisfactory conduct shall be brought to the attention of the Office of Internal Oversight Services (OIOS). Upon receipt, OIOS may decide either to consider the report for investigation or closure or to refer it to management for assessment and possible investigation. OIOS shall be apprised of decisions made by managers in relation to such reports.

13. Administrative instruction [ST/AI/2017/1](#) contains standards for the conduct of investigations (sect. 6) and provides for the acknowledgement of receipt of reports of unsatisfactory conduct (sect. 4). The instruction also contains procedures relating to staff members who are the subject of an investigation. For example, such staff members shall be informed in writing, prior to or at the start of an investigative interview, that they are the subject of an investigation and of the nature of the

<sup>4</sup> ClearCheck includes a separate database that contains information about proven cases of sexual exploitation and sexual abuse.

<sup>5</sup> The annex to the present report contains a flowchart of the investigation and disciplinary processes.

allegations. Those staff members may be accompanied by another staff member to act as an observer during an interview.

14. Administrative instruction [ST/AI/2017/1](#) also sets out the circumstances in which a staff member may be placed on administrative leave with or without pay in accordance with staff rule 10.4 (a). As reflected in the instruction, staff rule 10.4 (c) provides that, in cases of sexual exploitation and sexual abuse, a staff member may be placed on administrative leave without pay when there are reasonable grounds to believe (probable cause) that the staff member engaged in such conduct. It is specified in the instruction that, in cases in which a staff member is placed on administrative leave without pay, the staff member will continue to maintain some entitlements and benefits.

15. Sections 7, 8 and 9 of administrative instruction [ST/AI/2017/1](#) contain a step-by-step summary of how matters are dealt with after the completion of an investigation. If the Assistant Secretary-General for Human Resources decides to initiate a disciplinary process, the staff member shall be notified in writing of the allegations of misconduct and informed of the opportunity to comment on the allegations and of the right to seek the assistance of counsel through the Office of Staff Legal Assistance or from outside counsel at the staff member's expense. In the light of the comments provided, the Assistant Secretary-General shall decide whether to close the case, with or without administrative action, or to recommend the imposition of one or more disciplinary measures. In the latter case, the Under-Secretary-General for Management Strategy, Policy and Compliance shall decide whether to impose one or more of the disciplinary measures provided for in staff rule 10.2 (a). In cases involving allegations of sexual exploitation and abuse or sexual harassment, if a sanction of, as a minimum, separation from service is imposed, the staff member's name shall be entered in the ClearCheck application. In some cases of lesser gravity, the Assistant Secretary-General may, before deciding whether to initiate a disciplinary process through the issuance of allegations of misconduct, request the staff member to provide comments regarding the case. The request for comments shall be made, *inter alia*, in compliance with staff rule 10.2 (c) if the issuance of a censure is being contemplated.

16. In accordance with staff rule 10.3 (c), a staff member against whom a disciplinary measure has been imposed may submit an application to the United Nations Dispute Tribunal challenging the imposition of the measure in accordance with chapter XI of the Staff Rules.<sup>6</sup>

### C. Disciplinary measures

17. Staff rule 10.2 (a) provides that disciplinary measures may take one or more of the following forms:

- (a) Written censure;
- (b) Loss of one or more steps in grade;
- (c) Deferment, for a specified period, of eligibility for salary increment;
- (d) Suspension without pay for a specified period;
- (e) Fine;
- (f) Deferment, for a specified period, of eligibility for consideration for promotion;

<sup>6</sup> Judgments of the United Nations Dispute and Appeals Tribunals relating to disciplinary cases may be found on the website of the Office of Administration of Justice ([www.un.org/en/internaljustice/oaj/](http://www.un.org/en/internaljustice/oaj/)).

(g) Demotion, with deferment, for a specified period, of eligibility for consideration for promotion;

(h) Separation from service, with notice or compensation in lieu of notice, and with or without termination indemnity;

(i) Dismissal.

18. In determining the appropriate measure, each case is decided on its own merits, taking into account the particulars of the case, including aggravating and mitigating circumstances. In accordance with staff rule 10.3 (b), the disciplinary measures imposed must be proportionate to the nature and gravity of the misconduct involved. In *Kennedy (2021-UNAT-1184)*, the United Nations Appeals Tribunal listed factors that it considered relevant. These included: (a) the extent of culpability – that is, whether the action was accidental, careless, reckless or deliberate; (b) whether the staff member acted alone or with others; (c) whether the action was organized or the result of a rash action or lapse of judgement; (d) whether the misconduct was minor, technical, substantive or severe; (e) whether a single or multiple acts were involved; and (f) the extent of harm or damage to the Organization, colleagues and/or the public.

19. Examples of possible aggravating circumstances include: (a) a prior disciplinary record; (b) the intent to derive personal benefit; (c) the presence of a conflict of interest; (d) the seniority of a staff member; (e) acts that were in contravention of the staff member's duties; and (f) misconduct resulting in substantial harm. Examples of possible mitigating circumstances include: (a) early and voluntary disclosure of actions constituting possible misconduct; (b) lack of seniority; and (c) sincere remorse. Long service may be taken into account as a mitigating factor, but the gravity of the misconduct often outweighs that and other mitigating factors. The lack of a disciplinary record is not considered a mitigating factor because staff members are expected to act to the highest standards of efficiency, competence and integrity.

20. Given the need to weigh a number of factors in relation to each case, the specific sanction that applies to a type of misconduct cannot be determined in advance or applied across the board. A review of more than 10 years of the Secretary-General's disciplinary practice contained in the online compendium provides information on the types of misconduct likely to lead to the imposition of the severe disciplinary sanction of separation or dismissal, such as sexual exploitation, sexual abuse, sexual harassment, abuse of authority or workplace harassment resulting in significant harm, the taking of United Nations assets without authorization, physical assault and acts demonstrating a lack of integrity, such as false entitlement claims. Such a review also provides information on the types of misconduct likely to lead to a less severe sanction, such as the failure to honour legal obligations, engaging in outside activities, minor misuse of United Nations assets and minor workplace harassment.

## **D. Other measures**

21. Written or oral reprimands, recovery of moneys owed to the Organization and administrative leave with or without pay are not disciplinary measures. Reprimands are administrative measures that are important for upholding standards of proper conduct and promoting accountability. Written reprimands are placed in the staff member's official status file. Warnings or letters of caution are managerial measures directed at fostering awareness of the proper standards of conduct. In addition, where conduct that may amount to misconduct has an impact on performance, the issue may be addressed in the context of performance management. That may include training, counselling, the non-renewal of a contract or the termination of an appointment.

22. Staff rule 10.1 (b) provides for the imposition of the administrative measure of financial recovery in cases of established misconduct in which the conduct is determined to be wilful, reckless or grossly negligent. The measure is imposed in appropriate cases, although recovery is sometimes limited by insufficient final entitlements. In order to provide for the maximum financial recovery, in appropriate cases, the Under-Secretary-General for Management Strategy, Policy and Compliance may decide to withhold pension clearance documentation. The United Nations Joint Staff Pension Fund will, at its discretion and with the agreement of former staff members, split payments to allow for financial recovery.

### **III. Summary of cases in which disciplinary measures were imposed during the period from 1 January to 31 December 2021<sup>7</sup>**

23. For each case that led to the imposition of one or more disciplinary measures, a summary is provided below indicating the nature of the misconduct and the disciplinary measure or measures imposed. The functional title of the staff members or other similar particulars are provided only when they played a role in determining the measures to be taken. Also set out below are summaries of cases in which misconduct was established but mitigating factors led to the imposition of an administrative measure.

24. Not every case brought to the attention of the Secretary-General indicating unsatisfactory conduct results in disciplinary or other measures being taken. When a review by the Office of Human Resources reveals that there is insufficient evidence to pursue a matter as a disciplinary case, or when a staff member provides a satisfactory explanation in response to the formal allegations of misconduct, the case is closed. Cases will also typically be closed when a staff member retires or otherwise separates from the Organization before an investigation or the disciplinary process is concluded, unless continuation is in the interest of the Organization. In these cases, a record is made and placed in the former staff member's official status file so that the matter may be further considered if and when the staff member rejoins the Organization.

25. Certain cases may be and, as can be seen below,<sup>8</sup> have been pursued post-separation because it is in the interest of the Organization to do so. Such cases may involve circumstances in which the disciplinary process is in progress at the time of separation, financial recovery is still a possibility or the allegations concern sexual harassment or sexual exploitation and abuse. In such cases, former staff members are invited to participate in a disciplinary process, at the end of which they are provided with an outcome in which the sanction that would have been imposed had the staff member continued in service is set out. In the present report, a separation sanction imposed post-separation is referred to as "separation from service".<sup>9</sup>

<sup>7</sup> Information contained in the summaries is correct as at the date of submission of the present report.

<sup>8</sup> See paras. 36, 37 and 72. See also para. 55 relating to post-separation financial recovery decision.

<sup>9</sup> In most post-separation cases, the sanction is defined as "at least separation from service with compensation in lieu of notice and with termination indemnity". Since this is a hypothetical sanction, no payments are made. In some cases, a more specific sanction, such as dismissal, is indicated if the repatriation grant has been withheld and the case involves sexual exploitation or abuse, since the repatriation grant is paid into the Victim's Trust Fund.

26. In certain cases,<sup>10</sup> sanctions are “agreed” in principle with counsel acting for a subject. In these cases, the staff member undertakes not to contest a sanction if the Under-Secretary-General for Management Strategy, Policy and Compliance decides to impose it. Agreeing to a sanction in advance is not to be confused with “plea bargaining”, since pleading guilty to a lesser sanction than would otherwise have been imposed in the expectation of leniency from a judge is not the same as agreeing to a sanction. The benefit to staff members of agreeing to sanctions is to gain certainty in relation to the outcome of the process and for the Administration to save resources that might otherwise have been expended defending a contested decision within the internal justice system.

27. In paragraph 23 of its resolution 68/252, the General Assembly requested the Secretary-General to take appropriate measures to mitigate and recoup any losses arising from misconduct by staff members and to report thereon. As the summaries of the cases below indicate, in the majority of the cases in which there was a quantifiable loss to the Organization, the Organization either recovered the relevant property/funds, the staff member repaid the funds at issue or it was decided to recover an amount equal to the financial loss.

#### **A. Discrimination, harassment, including sexual harassment, and abuse of authority**

28. A staff member made sexually suggestive comments and sexual advances towards a colleague. Repetition of the conduct despite a prior warning was an aggravating factor. *Disposition*: separation from service with compensation in lieu of notice and without termination indemnity. The name of the staff member was entered in ClearCheck. *Appeal*: none.

29. A staff member improperly exercised authority regarding a subordinate and shouted at and intimidated other staff members, including with regard to contractual status. *Disposition*: written censure and loss of five steps in grade. *Appeal*: none (agreed sanction).

30. A staff member verbally abused another staff member during a work-related phone call. Long service was a mitigating factor. *Disposition*: demotion by one grade with deferment for three years of eligibility for consideration for promotion, in addition to training. *Appeal*: none (agreed sanction).

31. A staff member, through emails exchanged with another staff member, used language that constituted harassment. *Disposition*: loss of three steps in grade with deferment for two years of eligibility for consideration for promotion and administrative measures of required training. *Appeal*: the disciplinary measures were rescinded by the Dispute Tribunal.

32. A staff member repeatedly made sexually suggestive comments to two other staff members. *Disposition*: separation from service with compensation in lieu of notice and without termination indemnity. The name of the staff member was entered in ClearCheck. *Appeal*: the sanction was upheld by the Dispute Tribunal. The deadline for the former staff member to appeal to the Appeals Tribunal has not expired.

33. A security staff member made unwanted sexual advances towards a United Nations conference participant while on duty and, on a separate occasion, during a party on United Nations premises, the staff member touched, without consent, another staff member in a sexually suggestive manner. Long service was a mitigating factor. *Disposition*: separation from service with compensation in lieu of notice and with

<sup>10</sup> See paras. 29, 30, 39, 52, 64, 66, 78, 79 and 80.

termination indemnity. The name of the staff member was entered in ClearCheck. *Appeal*: none.

34. A staff member engaged with multiple junior staff members in a sexually inappropriate manner over multiple years. Mitigating factors were present. *Disposition*: separation from service, with compensation in lieu of notice and 25 per cent termination indemnity. The name of the staff member was entered in ClearCheck. *Appeal*: none.

35. A senior staff member acted in an aggressive or intimidating manner towards subordinates and made inappropriate enquiries about their private lives. In addition, the staff member misused their position and United Nations assets. *Disposition*: demotion with deferment for one year of eligibility for consideration for promotion. *Appeal*: filed with the Dispute Tribunal, where the case remains under consideration.

36. A staff member touched two other staff members in an unwelcome and sexual manner. *Disposition*: post-separation sanction of “separation from service” (see para. 25). The name of the staff member was entered in ClearCheck. *Appeal*: none.

37. A staff member sent a series of sexually explicit text messages, including photographs, to a staff member in another United Nations entity. *Disposition*: post-separation sanction of “separation from service” (see para. 25). The name of the staff member was entered in ClearCheck. *Appeal*: none.

## **B. Theft and misappropriation**

38. Four staff members took part in a scheme whereby fuel volumes that were charged to the Organization were inflated above the actual volumes dispensed to United Nations vehicles. *Disposition*: separation from service with compensation in lieu of notice and without termination indemnity for three staff members and with 25 per cent termination indemnity for one staff member. The financial loss was unquantifiable. *Appeal*: none.

## **C. Fraud, misrepresentation and false certification**

39. A staff member submitted false medical insurance claims.<sup>11</sup> Mitigating factors included admission, a family member’s medical condition and the small amount involved. There was no financial loss. *Disposition*: demotion, with deferment for three years of eligibility for consideration for promotion, loss of nine steps in grade, deferment for two years of eligibility for salary increment and a fine of \$1,981.50. *Appeal*: none (agreed sanction).

40. A staff member submitted false medical insurance claims. Mitigating factors included long service and prior repayment of false claims. *Disposition*: separation from service with compensation in lieu of notice and without termination indemnity. *Appeal*: none.

41. A staff member submitted false medical insurance claims. There was no financial loss. Mitigating factors included admission and long service. *Disposition*: separation from service with compensation in lieu of notice and with termination indemnity. *Appeal*: none.

42. A staff member submitted false medical insurance claims. Mitigating factors included admission. *Disposition*: separation from service with compensation in lieu of notice and without termination indemnity. Financial recovery of \$3,389 was specified. *Appeal*: none.

<sup>11</sup> The reference to “medical insurance claims” in the summaries means one or more such claims.



43. A staff member submitted false medical insurance claims. Mitigating factors included admission and long service. There was no financial loss. *Disposition*: separation from service with compensation in lieu of notice and without termination indemnity. *Appeal*: none.
44. A staff member submitted false medical insurance claims. Mitigating factors included partial prior repayment of the false claims. *Disposition*: separation from service with compensation in lieu of notice and without termination indemnity. Financial recovery of \$909 was specified. *Appeal*: none.
45. A staff member submitted false medical insurance claims. Mitigating factors included admission, sincere remorse and no financial loss. *Disposition*: separation from service with compensation in lieu of notice and with termination indemnity. *Appeal*: none.
46. A staff member submitted false medical claims and provided false information to other staff members for their own submissions of false medical insurance claims. In addition, the staff member attempted to interfere with the OIOS investigation. *Disposition*: separation from service with compensation in lieu of notice and without termination indemnity, and a fine of three months' net base salary. Financial recovery of \$270 was specified. *Appeal*: none.
47. A staff member submitted false medical insurance claims and attempted to interfere with an OIOS investigation. Aggravating factors included requesting another staff member to lie to OIOS and repetition of the misconduct. *Disposition*: separation from service with compensation in lieu of notice and without termination indemnity, and a fine of two months' net base salary. Financial recovery of \$1,005.70 was specified. *Appeal*: none.
48. A staff member submitted false medical insurance claims. Mitigating factors included long service and cooperation with an investigation into the conduct of another staff member. *Disposition*: separation from service with compensation in lieu of notice and without termination indemnity. Financial recovery of \$2,439.72 was specified. *Appeal*: none.
49. Eight staff members each submitted false medical insurance claims. Mitigating factors were present, including long service and the repayment of false claims in some cases. *Disposition*: separation from service with compensation in lieu of notice and with termination indemnity. Financial recovery of \$863.35 and \$448.51, respectively, was specified in two cases. *Appeal*: one sanction was appealed to the Dispute Tribunal, where the case remains under consideration.
50. Ten staff members each submitted false medical insurance claims. Aggravating factors included repetition of the misconduct. *Disposition*: separation from service with compensation in lieu of notice and without termination indemnity. Financial recovery of \$1,002, \$991, \$1,007, \$1,020 and \$958, respectively, was specified in five cases. *Appeal*: none.
51. A staff member submitted false medical insurance claims. Aggravating factors included repetition of the misconduct and the substantial size of the false claims. *Disposition*: disciplinary measure of separation from service with compensation in lieu of notice and without termination indemnity, and a fine of two months' net base salary. Financial recovery of \$4,490.56 was specified. *Appeal*: none.
52. Seven staff members each submitted false medical insurance claims. Mitigating factors included the low value of the claims and long service. *Disposition*: demotion by one grade with deferment for three years of eligibility for promotion. Financial recovery of \$270.07, \$595.05, \$605.70 and \$948.89, respectively, was specified in four cases. *Appeal*: none (four agreed sanctions).

53. A staff member submitted false medical insurance claims. Mitigating factors included admission and the absence of a financial loss. *Disposition*: separation from service with compensation in lieu of notice and with termination indemnity. *Appeal*: none.
54. A staff member submitted false medical insurance claims. Mitigating factors included admission and long service. There was no financial loss. *Disposition*: separation from service with compensation in lieu of notice and without termination indemnity. *Appeal*: none.
55. In August 2003, a staff member misappropriated United Nations cheques and subsequently resigned from service. The staff member recently sought the release of their final entitlements. *Disposition*: post-separation administrative measure of recovery of \$138,773.07 from final entitlements and the withholding of Pension Fund forms until settlement of the debt (see para. 25). *Appeal*: none.
56. A staff member submitted false official documentation to obtain a visa. Mitigating factors included admission. *Disposition*: separation from service with compensation in lieu of notice and with termination indemnity. *Appeal*: none.
57. A staff member submitted false medical insurance claims. *Disposition*: separation from service with compensation in lieu of notice and without termination indemnity. Financial recovery of \$11,445 from final entitlements and settlement from the pension fund. *Appeal*: none.
58. A staff member misrepresented having the authority to sell United Nations vehicles. *Disposition*: separation from service with compensation in lieu of notice and without termination indemnity. *Appeal*: none.
59. A staff member failed to disclose required information in their personal history profile, acted in a disruptive manner at a public gathering and threatened to use a weapon. *Disposition*: separation from service with compensation in lieu of notice and with termination indemnity. *Appeal*: none.
60. In a recruitment process, a staff member failed to disclose a familial relationship with a candidate while furthering the candidate's job application, resulting in a conflict of interest. *Disposition*: written censure and a fine of one month's net base salary. *Appeal*: none.
61. A staff member submitted false information in a job application by not disclosing that a relative was working for the United Nations. *Disposition*: separation from service with compensation in lieu of notice and without termination indemnity. *Appeal*: none.
62. A staff member submitted false information about academic qualifications in a job application. Mitigating factors included long service. *Disposition*: separation from service with compensation in lieu of notice and with termination indemnity. *Appeal*: none.

#### **D. Unauthorized outside activities and conflict of interest**

63. A staff member held an ownership interest in a private company and engaged in business activities without authorization using United Nations information and communications technology (ICT) resources. Mitigating factors included admission, apology and sincere remorse. *Disposition*: written censure with loss of two steps in grade and deferment for two years of eligibility for consideration for promotion. *Appeal*: none.
64. A staff member engaged in a series of unauthorized outside activities that constituted a conflict of interest. Aggravating factors included the staff member's

legal function and long service. *Disposition*: separation from service with compensation in lieu of notice and without termination indemnity, and a fine equivalent to 80 per cent of the sum the staff member would have otherwise received as repatriation grant. *Appeal*: none (agreed sanction).

65. A staff member engaged in inappropriate behaviour towards a young non-staff member. The staff member also engaged in extensive outside activities and posted inappropriate content on social media sites. Mitigating factors included long service. *Disposition*: separation from service with compensation in lieu of notice and without termination indemnity. *Appeal*: rejected as non-receivable by the Dispute Tribunal.

66. A staff member engaged in an unauthorized outside occupation using United Nations ICT resources. This was the second case involving the same previously sanctioned conduct. *Disposition*: separation from service with compensation in lieu of notice and with termination indemnity. *Appeal*: none (agreed sanction).

## **E. Verbal abuse and physical assault**

67. A staff member physically abused their spouse. Long service constituted a mitigating factor. *Disposition*: separation from service with compensation in lieu of notice and without termination indemnity. *Appeal*: none.

68. A staff member physically injured a non-staff colleague during a domestic altercation. The context and circumstances of the physical altercation constituted a mitigating factor. *Disposition*: demotion with deferment for three years of eligibility for consideration for promotion, together with a managerial measure of anger management counselling and gender-sensitivity training. *Appeal*: none.

## **F. Sexual exploitation and abuse**

69. A staff member sexually exploited a non-staff colleague and submitted false information in relation to a leave request. Mitigating factors were present. *Disposition*: separation from service with compensation in lieu of notice and with termination indemnity, together with a fine of one month's salary. The name of the staff member was entered in ClearCheck. *Appeal*: the Dispute Tribunal upheld the sanction, which has been appealed to the Appeals Tribunal, where the case remains under consideration.

70. A staff member had non-consensual sexual activity with a consultant. *Disposition*: dismissal. The name of the staff member was entered in ClearCheck. *Appeal*: none.

71. A staff member sexually abused a minor. Mitigating factors were present. *Disposition*: separation from service with compensation in lieu of notice and without termination indemnity. *Appeal*: sanction upheld by the Dispute Tribunal. The deadline for the former staff member to appeal to the Appeals Tribunal has not expired.

72. A staff member engaged in sexual relationships with two minors and interfered with the investigation. *Disposition*: post-separation sanction of "separation from service" (see para. 25). The name of the staff member was entered in ClearCheck. *Appeal*: none.

## **G. Failure to report**

73. A staff member failed to report an allegation of sexual exploitation and abuse, actively attempted to conceal information about the matter and interfered with and prevented its investigation. The staff member also attempted to interfere with the investigation into the staff member's own conduct. *Disposition*: dismissal. *Appeal*:

sanction upheld by the Dispute Tribunal. The deadline for the former staff member to appeal to the Appeals Tribunal has not expired.

74. A staff member, knowing that a colleague had been implicated in a matter concerning allegations of sexual exploitation and abuse for failing to report the allegations, actively participated in an attempt to conceal information about the matter. The staff member also interfered with the investigation into the staff member's own conduct. *Disposition*: separation from service with compensation in lieu of notice and without termination indemnity. *Appeal*: sanction upheld by the Dispute Tribunal. The deadline for the former staff member to appeal to the Appeals Tribunal has not expired.

75. A staff member, knowing that colleagues had been implicated in a matter concerning allegations of sexual exploitation and abuse, was involved in an attempt to conceal the allegations. *Disposition*: demotion with deferment for two years of eligibility for consideration for promotion. *Appeal*: none.

## H. Procurement irregularities

76. A staff member with procurement functions engaged in unauthorized outside activities while using an official email account and failed to disclose a conflict of interest. *Disposition*: separation from service with compensation in lieu of notice and without termination indemnity. *Appeal*: none.

## I. Other

77. A staff member failed to disclose a conflict of interest in a number of recruitment processes, and viewed and commented on pornographic content on a United Nations-issued cell phone. Mitigating factors included admission. *Disposition*: separation from service with compensation in lieu of notice and without termination indemnity. *Appeal*: none.

78. A staff member failed to obtain authorization to have a guest stay overnight multiple times in United Nations-provided accommodation. *Disposition*: loss of two steps in grade. Cost of accommodation for the period of the stays was recovered. *Appeal*: none (agreed sanction).

79. A staff member exceeded permissible personal use of United Nations ICT resources. *Disposition*: written censure and loss of three steps in grade with deferment for two years of eligibility for consideration for promotion. *Appeal*: none (agreed sanction).

80. A staff member operated a United Nations vehicle while under the influence of alcohol. Mitigating factors were present. *Disposition*: demotion with deferment for two years of eligibility for consideration for promotion. *Appeal*: none (agreed sanction).

81. A staff member misused a United Nations vehicle and violated curfew restrictions. Mitigating factors included admission. *Disposition*: written censure with loss of two steps and deferment for a period of one year of eligibility for salary increment. *Appeal*: none.

82. A staff member working in public information posted political commentary about the host country and the Organization on a social media account without authorization. *Disposition*: separation from service with compensation in lieu of notice and with termination indemnity. *Appeal*: none.

83. A staff member photographed a government official of a Member State using a United Nations-issued cell phone, disseminated one of the photographs, which was

then published online, and failed to cooperate with the investigation into the conduct. *Disposition*: separation from service with compensation in lieu of notice and without termination indemnity. *Appeal*: none.

84. A staff member circulated an email to various persons external to the United Nations that contained homophobic comments. Mitigating factors included admission. *Disposition*: separation from service with compensation in lieu of notice and with termination indemnity. *Appeal*: none.

85. A staff member sent a person external to the United Nations text messages that included hateful and sexually explicit remarks. Mitigating factors included admission. *Disposition*: separation from service with compensation in lieu of notice and with termination indemnity. *Appeal*: none.

86. A staff member failed to honour private legal obligations stemming from three judgments and failed to provide officially requested information about actions taken to honour such obligations. *Disposition*: deferment for two years of eligibility for salary increment and written censure. *Appeal*: none.

87. A staff member cheated on an examination during a hiring exercise. *Disposition*: separation from service with compensation in lieu of notice and with termination indemnity. *Appeal*: sanction was upheld by the Dispute Tribunal.

## IV. Data on cases received and completed during the reporting period

### A. Cases completed during the reporting period

88. The tables in the present section provide information on the number and disposition of cases completed during the reporting period, including those that did not result in the imposition of a disciplinary measure. Information is also provided about applications to the Dispute and Appeals Tribunals contesting disciplinary measures imposed since 1 July 2009.

89. In general, the length of time for completion of the disciplinary process varies depending on the complexity of the matter, the strength of the evidence contained in the referral, and any clarifications that may be required following review by the Office of Human Resources. The jurisprudence from the Dispute and Appeals Tribunals regarding the standard of proof and the reliability of witness statements, as well as an expanded proportionality analysis, continue to add to the level of review required by the Office, often necessitating additional evidence-gathering by investigating entities.<sup>12</sup>

90. The time taken to process a case also includes the time needed for the staff member concerned to respond to the allegations of misconduct and any further relevant information received by the Office of Human Resources during the disciplinary process. After a response is received from a staff member, further clarifications from the investigating entity are often necessary, and the staff member is then again provided with an opportunity to comment.<sup>13</sup> Requests from staff

<sup>12</sup> Reflecting the Appeals Tribunal's judgment in *Molari* (2011-UNAT-164), ST/AI/2017/1 requires "clear and convincing evidence" as the standard of proof in cases in which termination is a possible outcome and "preponderance of the evidence" in all other cases. In practice, the Office of Human Resources often needs to request further input from investigating entities after the referral to ensure that there is sufficient evidence to accord with the required standard of proof. See also *Kennedy* (2021-UNAT-1184).

<sup>13</sup> The requirement that additional information be provided to the staff member for comment was confirmed by the Dispute and Appeals Tribunals in *Israbhakdi* (UNDT/2012/010 and 2012-UNAT-277).

members and the Office of Staff Legal Assistance for extensions of time to respond to communications from the Office of Human Resources also account for additional time being taken to complete cases. Given the uncertainty regarding the amount time taken by factors outside the control of the Office of Human Resources, the benchmarking of time taken to complete a disciplinary process is not appropriate.

91. The number of cases completed during the reporting period that had been referred to the Office of Human Resources both prior to and during the reporting period, along with the average time required to complete those cases, by investigating entity, are shown in tables 1 and 2. During the reporting period, 163 cases were closed and 84 sanctions imposed. This was surpassed only by the numbers from 2011 (271 cases closed and 113 sanctions imposed), the most recent period when there was a significant backlog of cases to be handled by the Office. The average disposal time was 13.8 months, which was a significant increase relative to the time taken during the period ending 31 December 2020 (11.2 months) and an even greater increase compared with the previous five-year average of eight months.

92. The increase in time taken to complete disciplinary cases was due to several factors. An increased number of disciplinary referrals in 2020 and 2021 resulted in the reprioritizing of cases as new cases of sexual exploitation and abuse, sexual harassment or serious fraud. There was increasingly voluminous supporting documentation to be reviewed that resulted from more thorough investigations. Previously reported effects of adjustments to working practices during the pandemic continued to have an impact on the time taken to complete matters. In addition, there was an increase in the volume of submissions to the Dispute Tribunal, as well as in the number of days in hearings. Finally, staffing mobility resulted in the reassignment of often aged cases to new staff members unfamiliar with the detailed disciplinary process. As can be seen from the data relating to the first nine months of 2022 (see sect. V), fewer cases were referred in 2022, which permitted an acceleration in the disposal rate of cases, for an average completion time of 12.7 months. Benchmarking of time taken for the Office of Human Resources to begin a disciplinary process for straightforward cases (as opposed to complex ones) is expected to be piloted in 2023 once resources are identified.

Table 1  
**Disposition of cases completed between 1 January and 31 December 2021<sup>a</sup>**

<i>Disposition</i>	<i>Number</i>
Dismissal	2
Separation from service, with notice or compensation in lieu of notice and with or without termination indemnity	61
Other disciplinary measures	21
Administrative measures	16
Closed with no measure	3
Not pursued as a disciplinary matter	15
Separation of the staff member prior to or after referral of the case to the Office of Human Resources prior to the completion of a disciplinary process	33
Other	3
<b>Total</b>	<b>154<sup>b</sup></b>

<sup>a</sup> Cases completed during 2021 were referred in 2021 or in previous reporting periods.

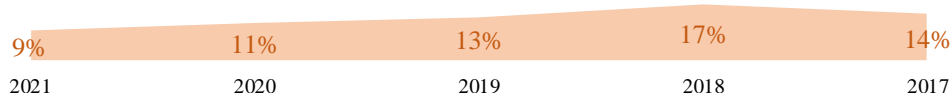
<sup>b</sup> Although there were 154 dispositions, 7 of those dispositions closed 16 cases: 6 sanctions of separation from service closed a total of 13 cases and one placement of a note in the official status file of a former staff member closed 3 cases. In total, 163 cases were closed during 2021.

**Table 2**  
**Length of time to dispose of cases completed between 1 January and**  
**31 December 2021, by investigating entity**  
 (Months)

<i>Number of cases</i>	<i>Time to dispose of the cases</i>
Administrative Officer/Human Resources Officer	6.7
Department of Safety and Security	29.7
Investigative Panel	13.4
Office of Internal Oversight Services	14.2
Special Investigations Unit	10.2
United Nations Development Programme Office of Audit and Investigations	23.0

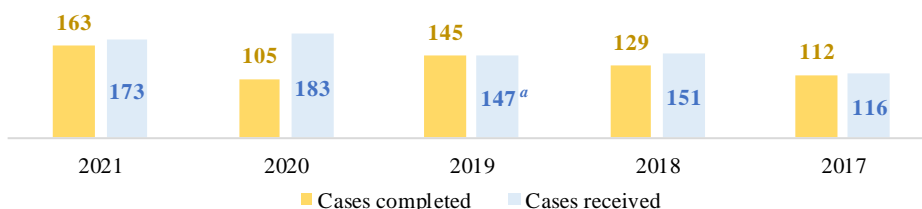
93. Of the 163 cases completed during the reporting period, 15 (9 per cent) were not pursued as disciplinary matters. This is in line with the percentages of not pursued matters in the previous four annual periods. Figure I sets out comparative data for the period covered by the present report and the previous four annual periods.<sup>14</sup> The comparative data indicate a trend of between 9 and 17 per cent of matters referred not being pursued through the disciplinary process. This rate demonstrates that a rigorous standard is applied during the review of referrals, rather than a failure by investigating entities or by the officials referring the matter.

**Figure I**  
**Percentage of cases completed and not pursued as disciplinary matters**



94. Thirty-three cases of unsatisfactory conduct referred to the Office of Human Resources in 2021 involved staff members who had separated from service before an investigation or a disciplinary process was concluded (for example, due to resignation or expiration of appointment). For these cases, notes documenting the matter were placed in the staff member's personnel records. Most of these matters were concluded within an average of 8.6 months.

**Figure II**  
**Cases completed in the current and previous four annual periods<sup>15</sup>**



<sup>a</sup> Previously, it was reported that 146 cases had been received in 2019. That was incorrect by 1 case; in fact, 147 cases were received that year.

<sup>14</sup> For the year ending 30 June 2017 (see footnote 1 regarding the change in annual reporting periods after 2017), the corresponding percentage was 12 per cent. In 2011, the number of cases closed that ended with no sanction was 92 out of 271 cases, or 34 per cent.

<sup>15</sup> For the year ending 30 June 2017, the corresponding number was 136.

95. An increase in the number of cases completed during the current reporting period is observed in comparison with the four previous annual periods: 84 disciplinary measures were imposed,<sup>16</sup> which was significantly greater than the average number of disciplinary measures imposed in the previous four annual periods (56 measures). The increase in the number of sanctions imposed may be explained in part by the closure of a group case of 30 staff members regarding false medical insurance claims. The figure below sets out comparative data on disciplinary measures imposed in the current reporting period and the previous four annual periods.

Figure III

**Disciplinary measures imposed**



96. The workload of the Office of Human Resources in relation to disciplinary issues also includes representing the Secretary-General before the Dispute Tribunal on appeals of discipline-related matters, including suspensions of action and challenges to more complex terminations for facts anterior. In addition, the Office provides recommendations to the Under-Secretary-General for Management Strategy, Policy and Compliance with respect to requests for placement of a staff member on administrative leave without pay. The Office of Human Resources has also been involved in working groups and committees on developing policies relating to conduct issues, including the task force on racism. In addition, the Office routinely provides advice to other offices on the handling of complaints of prohibited conduct, which tends to be resource-intensive.

## B. Appeals against disciplinary measures

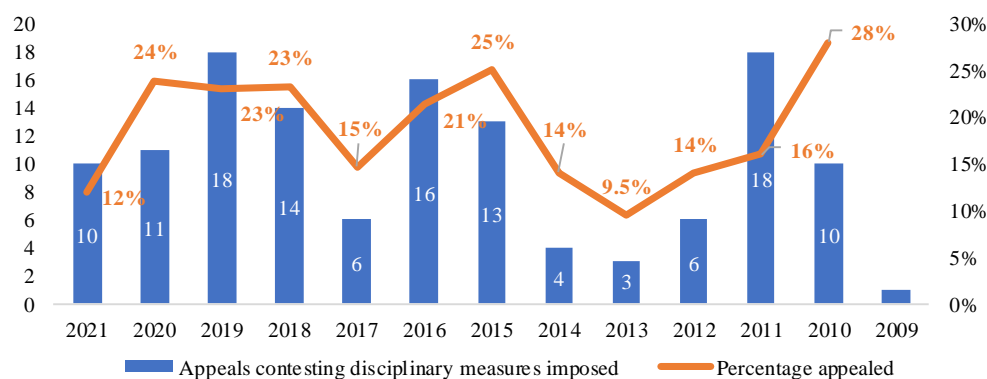
97. Once a completed case has resulted in the imposition of a disciplinary measure, the staff member may challenge that decision before the Dispute Tribunal.<sup>17</sup> There are appeals regarding approximately 15 to 25 per cent of the measures imposed during an annual period. For the previous reporting period, ending 31 December 2020, there were appeals in 11 cases, or 24 per cent. For the current period, 10 disciplinary measures were appealed, which represented 12 per cent of the measures imposed.

<sup>16</sup> This number reflects the closure of 91 cases because 2 cases were closed with the imposition of one disciplinary measure with respect to 5 staff members, and 3 cases were closed with respect to 1 staff member.

<sup>17</sup> In the early years of the new system of justice, the Dispute and Appeals Tribunals considered appeals of both disciplinary measures imposed prior to 1 July 2009, under the previous system of justice, and measures imposed after 1 July 2009. Data on the outcome of appeals of measures imposed before 1 July 2009 are not included in the present section.



Figure IV  
**Appeals contesting disciplinary measures imposed between 1 July 2009 and 31 December 2021**<sup>18</sup>



98. The Dispute and Appeals Tribunals carefully consider whether the facts on which disciplinary measures are based are established to the requisite standard. The Dispute Tribunal continues to undertake a detailed review of the proportionality of the sanction imposed, especially when the case involves a sanction other than separation or dismissal. Table 3 provides information about the final outcome of challenges to disciplinary measures imposed during the period from 1 July 2009 to 31 December 2021 before the Dispute and Appeals Tribunals.

Table 3  
**Disposition of appeals contesting disciplinary measures imposed between 1 July 2009 and 31 December 2021**

<i>Disposition</i>	<i>Number</i>	<i>Percentage</i>
Final ruling in favour of respondent in whole <sup>a</sup>	84	73.7
Cases withdrawn by staff member	10	8.8
Final ruling in favour of staff member in whole <sup>b</sup>	7	6.1
Final ruling in favour of staff member in part	4	3.5
Cases settled	9	7.9
<b>Total</b>	<b>114</b>	<b>100</b>
Staff member's appeal pending at Dispute or Appeals Tribunal or time for appeal to the Appeals Tribunal has not expired	16	

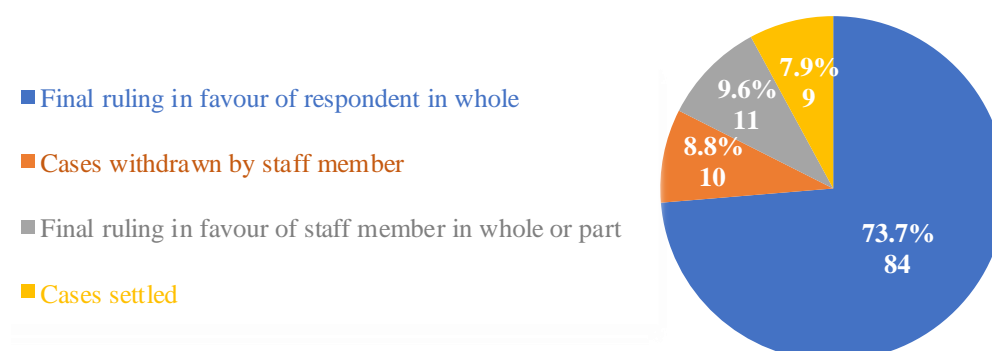
<sup>a</sup> This figure includes cases in which: the respondent prevailed at the Dispute Tribunal with no appeal by the staff member to the Appeals Tribunal; the respondent prevailed at the Dispute and Appeals Tribunals; and the staff member prevailed at the Dispute Tribunal but the respondent prevailed at the Appeals Tribunal.

<sup>b</sup> This figure includes cases in which: the respondent prevailed at the Dispute Tribunal, but the staff member prevailed at the Appeals Tribunal; and the staff member prevailed at the Dispute Tribunal and no appeal was filed by the respondent to the Appeals Tribunal.

<sup>18</sup> For the period before 2018, when figures were provided on the basis of a fiscal year ending on 30 June, the corresponding figures were 8 for 2009/10, 16 for 2010/11, 7 for 2011/12, 5 for 2012/13, 2 for 2013/14, 7 for 2014/15, 17 for 2015/16 and 12 for 2016/17.

Figure V

**Disposition of appeals contesting disciplinary measures imposed between 1 July 2009 and 31 December 2021 (as at 27 October 2022)**



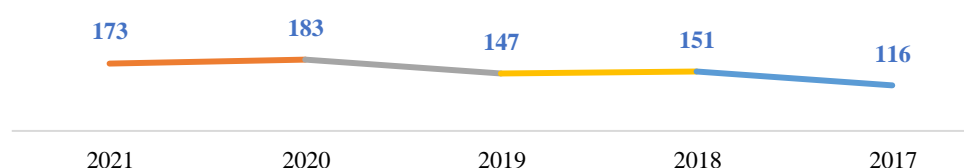
### C. Cases received by the Office of Human Resources

99. The tables and graphs in the present section provide information on the number and types of cases referred to the Office of Human Resources for possible disciplinary action during the reporting period, as well as the number of cases received over the previous four annual periods.

100. The number of cases received during the reporting period shows an increase compared with the average number of cases received during the previous four annual periods.

Figure VI

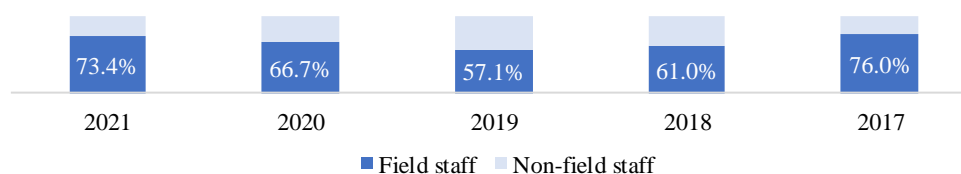
**Cases received by the Office of Human Resources during the current and previous four annual periods<sup>19</sup>**



101. The proportion of cases concerning field staff received during the reporting period is 73.4 per cent. Comparative data for this and the four previous annual periods are set out below.<sup>20</sup> The percentage of cases originating in field missions is broadly in line with that of previous annual periods.

Figure VII

**Proportion of cases concerning field staff received**



<sup>19</sup> For the year ending 30 June 2017, the corresponding number was 123.

<sup>20</sup> For the year ending 30 June 2017, the corresponding number was 70 per cent.

Figure VIII  
Source of cases received by the Office of Human Resources from 1 January to 31 December 2021

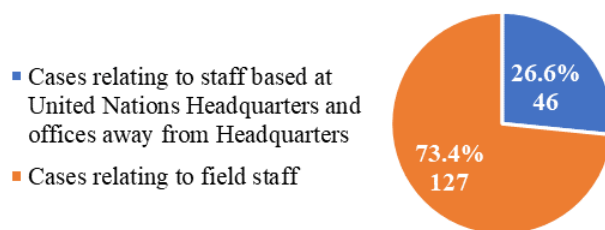


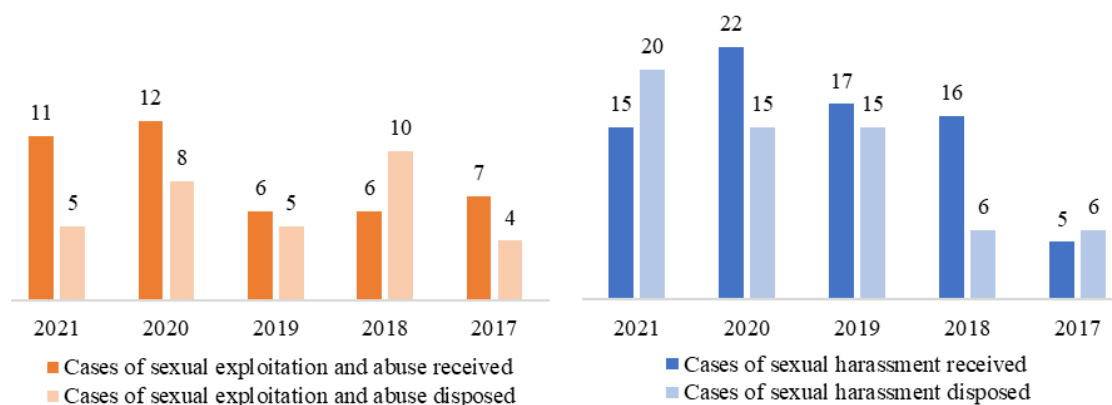
Table 4  
Cases received between 1 January and 31 December 2021, by type of misconduct<sup>21</sup>

<i>Type of misconduct</i>	<i>Number</i>
Abuse of authority, harassment and discrimination	33
Assault and abusive conduct	8
Failure to report	1
Inappropriate or disruptive behaviour	11
Misrepresentation and false certification	67
Misuse of United Nations property	6
Misuse of information and communications technology resources/computer-related misconduct	1
Procurement irregularities	7
Sexual exploitation and abuse	11
Theft/taking without authorization	2
Unauthorized outside activities	13
Violation of local laws	3
Others	10
<b>Total</b>	<b>173</b>

102. Figure IX sets out comparative data related to matters referred during this and the previous four annual periods with regard to sexual exploitation and abuse and sexual harassment.

<sup>21</sup> The number of cases referred to the Office by type of misconduct varies considerably from year to year. Nevertheless, some comparative data are set out in figure XIX.

Figure IX  
Cases referred during the present and previous four annual periods with regard to sexual exploitation and abuse and sexual harassment



103. Given that the staff population is over 36,000, it is not possible to derive meaningful trends from disciplinary process-related data, since the information relates to a small percentage of the staff population (0.005 per cent), other than to note that the likelihood that a staff member will be involved in a disciplinary process is exceedingly small. The increase in the number of cases of sexual harassment compared with 2017 may have resulted from the focused efforts of leadership, such as the Secretary-General's public confirmation in early 2018 that there would be zero tolerance for sexual harassment in the United Nations, the promulgation of the revised policy on harassment, including sexual harassment (ST/SGB/2019/8), and the addition of nine posts in OIOS to investigate allegations of sexual harassment. Anecdotally, the overall emphasis on accountability and the imposition of sanctions in an office, mission or other entity is said to be positively noticed by staff in general and more particularly in those locations where action is taken.

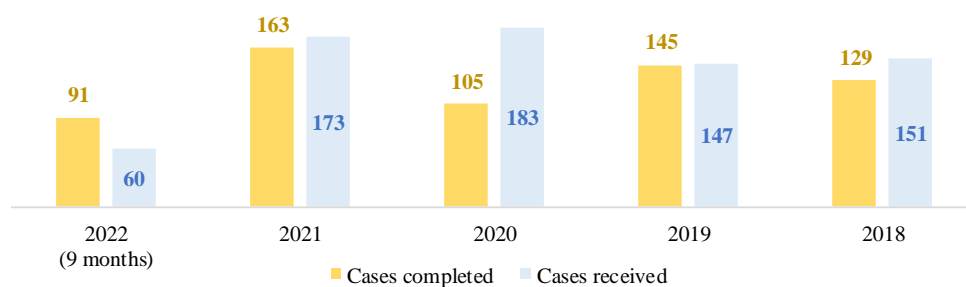
## V. Data for the period 1 January to 30 September 2022

Table 5  
Disposition of cases completed between 1 January and 30 September 2022

<i>Disposition</i>	<i>Number</i>
Dismissal	3
Separation from service, with notice or compensation in lieu of notice and with or without termination indemnity	32
Other disciplinary measures	13
Administrative measures	1
Closed with no measure	1
Not pursued as a disciplinary matter	13
Separation of the staff member prior to or after referral of the case to the Office of Human Resources prior to the completion of a disciplinary process	16
Other	8
<b>Total</b>	<b>87<sup>a</sup></b>

<sup>a</sup> Although there were 87 dispositions, 4 dispositions closed more than 1 case. In total, 91 cases were closed in the nine-month period.

Figure X  
**Cases received and completed in the nine-month period ended 30 September 2022 and the previous four annual periods<sup>a</sup>**



<sup>a</sup> During the nine-month period, 48 disciplinary measures were imposed; 14 per cent of the cases were not pursued as disciplinary matters.

Figure XI  
**Proportion of cases concerning field staff received**

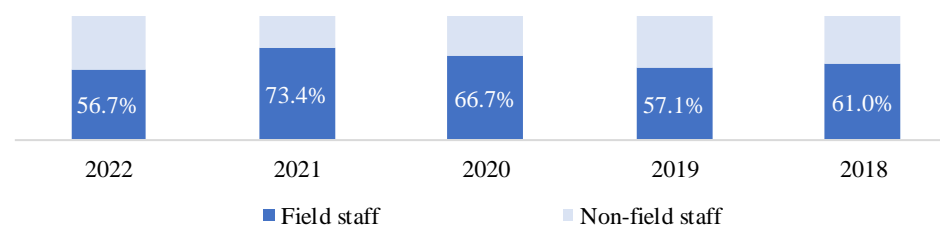


Table 6  
**Cases received between 1 January and 30 September 2022, by type of misconduct**

Type of misconduct	Number
Abuse of authority, harassment and discrimination	10
Assault and abusive conduct	5
Inappropriate or disruptive behaviour	2
Misrepresentation and false certification	19
Misuse of United Nations property	1
Misuse of information and communications technology/computer-related misconduct	4
Procurement irregularities	1
Sexual exploitation and abuse	1
Theft/taking without authorization	5
Unauthorized outside activities	7
Violation of local laws	2
Others	3
<b>Total</b>	<b>60</b>

## **VI. Possible criminal behaviour**

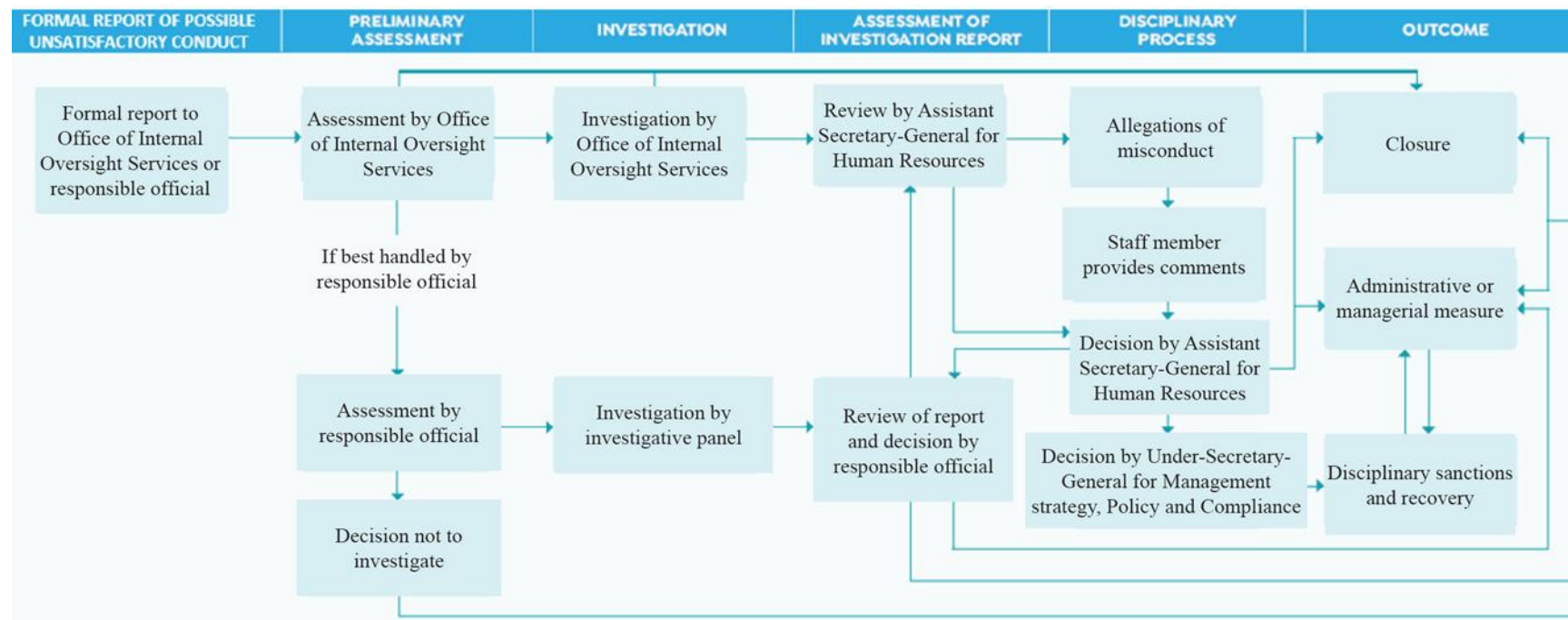
104. In its resolution [59/287](#), the General Assembly requested the Secretary-General to take action expeditiously in cases of proven misconduct and/or criminal behaviour and to inform Member States about the actions taken. During the reporting period, 39 cases involving credible allegations of criminal conduct by United Nations officials or experts on mission were referred to Member States.

105. All the matters referred as possible criminal conduct during the reporting period concerned entitlement fraud and/or corruption. Some 74.5 per cent of the matters relate to disciplinary cases reported in the present report, 20.5 per cent relate to matters which remain under review for possible disciplinary action and 5 per cent were closed in 2022.

## **VII. Conclusion**

106. The Secretary-General invites the General Assembly to take note of the present report.

## Annex

Investigation and disciplinary process<sup>22</sup>

<sup>22</sup> This flowchart, together with a summary of the investigative and disciplinary processes, is included in the online guidance material on Secretary-General's bulletin ST/SGB/2019/8 entitled "United to respect: toolkit" (see <https://hr.un.org/united-to-respect>, pp. 42–45).