



OIOS

Office of Internal Oversight Services

INTERNAL AUDIT DIVISION

AUDIT REPORT

Conduct and Discipline Unit in MINUSTAH

**Non-mandated tasks were routinely assigned to
and performed by the Conduct and Discipline Unit
compounding its workload and reducing its
effectiveness**

28 August 2009

Assignment No. AP2009/683/08

United Nations  Nations Unies

INTEROFFICE MEMORANDUM

MEMORANDUM INTERIEUR

OFFICE OF INTERNAL OVERSIGHT SERVICES · BUREAU DES SERVICES DE CONTRÔLE INTERNE
INTERNAL AUDIT DIVISION · DIVISION DE L'AUDIT INTERNE

TO: Mr. Hédi Annabi
A: Special Representative of the Secretary-General

DATE: 28 August 2009

REFERENCE: IAD: 09- 02785

FROM: Fatoumata Ndiaye, Acting Director
DE: Internal Audit Division, OIOS

Fatoumata

SUBJECT: **Assignment No. AP2009/683/08 - Audit of the effectiveness of Conduct and Discipline Unit in**
OBJET: **MINUSTAH**

1. I am pleased to present the report on the above-mentioned audit.
2. Based on your comments, we are pleased to inform you that we will close recommendations 6, 7 and 8 in the OIOS recommendations database as indicated in Annex 1. In order for us to close the remaining recommendations, we request that you provide us with the additional information as discussed in the text of the report and also summarized in Annex 1.
3. Please note that OIOS will report on the progress made to implement its recommendations, particularly those designated as high risk (i.e., recommendations 4 and 7), in its annual report to the General Assembly and semi-annual report to the Secretary-General.

cc: Mr. Luiz Carlos Da Costa, Principal Deputy SRSG, MINUSTAH
Mr. Paul Aghadjanian, Chief Mission Support, MINUSTAH
Mr. Swatantra Goolsarran, Executive Secretary, UN Board of Auditors
Ms. Susanne Frueh, Executive Secretary, Joint Inspection Unit
Mr. Seth Adza, Chief, Audit Response Team, DFS
Mr. Moses Bamuwanye, Chief, Oversight Support Unit, Department of Management
Mr. Byung-Kun Min, Programme Officer, OIOS
Ms. Eleanor Burns, Chief, Peacekeeping Audit Service, OIOS

INTERNAL AUDIT DIVISION

FUNCTION

"The Office shall, in accordance with the relevant provisions of the Financial Regulations and Rules of the United Nations examine, review and appraise the use of financial resources of the United Nations in order to guarantee the implementation of programmes and legislative mandates, ascertain compliance of programme managers with the financial and administrative regulations and rules, as well as with the approved recommendations of external oversight bodies, undertake management audits, reviews and surveys to improve the structure of the Organization and its responsiveness to the requirements of programmes and legislative mandates, and monitor the effectiveness of the systems of internal control of the Organization" (General Assembly Resolution 48/218 B).

CONTACT INFORMATION

ACTING DIRECTOR:

Fatoumata Ndiaye: Tel: +1.212.963.5648, Fax: +1.212.963.3388,
e-mail: ndiaye@un.org

CHIEF, PEACEKEEPING AUDIT SERVICE:

Eleanor Burns: Tel: +1.212.963.2792, Fax: +1.212.963.3388,
e-mail: burnse@un.org

EXECUTIVE SUMMARY

Conduct and Discipline Unit in MINUSTAH

OIOS conducted an audit of the effectiveness of the Conduct and Discipline Unit (CDU) in the United Nations Stabilization Mission in Haiti (MINUSTAH). The overall objective of the audit was to assess the effectiveness of CDU in performing its functions. The audit was conducted in accordance with the International Standards for the Professional Practice of Internal Auditing.

CDU has been proactive in the area of misconduct prevention by carrying out effective awareness campaigns targeting military, police and civilian personnel. However, OIOS identified the following opportunities to further enhance the effectiveness of CDU:

- Mission guidelines for handling incidents involving MINUSTAH personnel were not sufficiently comprehensive to serve as standard operating procedures to effectively guide and direct staff on conduct and discipline in the Mission;
- The Mission guidelines assigned non-mandated tasks to CDU compounding the Unit's workload and reducing its effectiveness;
- Three of the five approved international posts were vacant at the time of the audit impacting the effectiveness of the work of CDU;
- CDU did not develop a comprehensive communication strategy targeting the Host Country's population as directed by the Department of Peacekeeping Operations;
- CDU could not account for 19 (5 per cent) of its 344 misconduct cases primarily due to poor recordkeeping and lack of sufficient filing space for misconduct case files;
- One case involving a senior staff member above the P-5 level was not forwarded to OIOS for investigation as required by OIOS' investigation guidelines. OIOS noted that the investigation handled by the Mission management, was not sufficiently independent; and
- There was no evidence on file that CDU staff evaluated misconduct cases to determine whether proper investigations were carried out and whether the actions recommended were in line with the related regulations.

OIOS made a number of recommendations to address the issues identified during the audit and to further improve the effectiveness of the Conduct and Discipline Unit in MINUSTAH.

TABLE OF CONTENTS

Chapter	Paragraphs
I. INTRODUCTION	1 - 8
II. AUDIT OBJECTIVES	9
III. AUDIT SCOPE AND METHODOLOGY	10 - 11
IV. AUDIT FINDINGS AND RECOMMENDATIONS	
A. Policies and procedures	12 - 14
B. Human resources in the Conduct and Discipline Unit	15 - 19
C. Prevention strategies	20 - 27
D. Handling of misconduct cases	28 - 35
V. ACKNOWLEDGEMENT	36
ANNEX 1 – Status of Audit Recommendations	

I. INTRODUCTION

1. The Office of Internal Oversight Services (OIOS) conducted an audit of the effectiveness of the Conduct and Discipline Unit (CDU) in the United Nations Stabilization Mission in Haiti (MINUSTAH). The audit was conducted in accordance with the International Standards for the Professional Practice of Internal Auditing.

2. The recommendations of the Special Committee on Peacekeeping Operations, the C-34 (A/59/19/Rev 1), as endorsed by General Assembly Resolution 59/300 dated 22 June 2005, provided for the establishment of Conduct and Discipline Teams in DFS Headquarters and in all field Missions. These recommendations also documented the roles and responsibilities of the Discipline Teams.

3. The CDU became operational in MINUSTAH in September 2005. The Unit serves as the Mission's focal point and principal advisor to the Special Representative of the Secretary-General (SRSG) to address conduct and discipline issues relating to all categories of United Nations peacekeeping personnel in the Mission. CDU is responsible for receiving allegations and complaints, assessing each case and forwarding it to the appropriate investigatory body. Matters in which it is decided that they do not require investigation are referred to other offices such as the Chief of Mission Support (CMS) or the Staff Counselor.

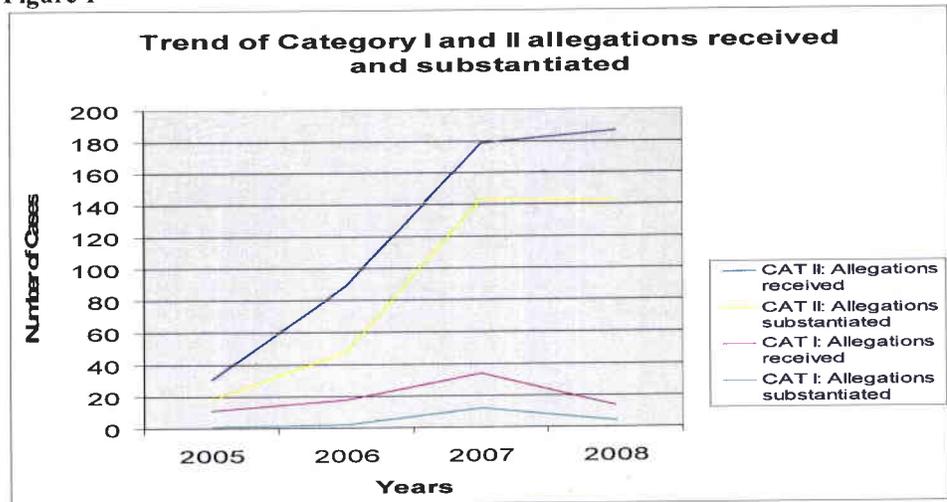
4. The Investigation and Disciplinary Group (IDG) meets every two months to co-ordinate Mission's activities with regard to conduct and discipline and is chaired by the Chief of Staff. Other members include the Chief of CDU, the Chief of Board of Inquiry, the Chief of Claims and Property Survey Unit, the Force Provost Marshal, the Special Investigation Unit (SIU), the Legal Advisor and the UNPOL Internal Investigations Unit.

5. The main functions of CDU include: (a) conducting awareness training to strengthen the standards of conduct; (b) establishing measures to prevent misconduct; (c) enforcing UN standards of conduct; (d) ensuring remedial action where misconduct has occurred; and (e) maintaining a database to track, monitor and report on conduct and discipline cases and the follow up on recommendations for disciplinary action.

6. Allegations of misconduct are classified into category I and II cases, depending on their nature and severity. Category I cases include allegations such as complex fraud, serious criminal act, sexual exploitation and abuse (SEA), etc. Category II cases include allegations such as simple theft, infraction of rules, negligent driving and misuse of equipment or staff.

7. As shown in Figure 1, there was a significant increase in Category II allegations between 2005 and 2007 that the Mission explained were due to increased awareness of actions that constitute misconduct. Meanwhile, Category I cases declined slightly thereafter:

Figure 1



8. Comments made by MINUSTAH are shown in *italics*.

II. AUDIT OBJECTIVES

9. The main objectives of the audit were to assess the:
- Effectiveness of misconduct prevention strategies;
 - Adequacy of resources available to the CDU in effecting its mandate;
 - Effectiveness of the investigation process and disciplinary procedures; and
 - Completeness and accuracy of the database of misconduct cases and effectiveness of monitoring by CDU.

III. AUDIT SCOPE AND METHODOLOGY

10. OIOS reviewed the activities of the CDU relating to all categories of peacekeeping personnel in the Mission (Headquarters and regional offices), with a focus on preventive strategies in place, enforcement and remedial actions, and their monitoring thereof. Detailed reviews were carried out on a sample of 35 cases recorded between July 2005 and December 2008. The audit did not include Category I cases under the purview of the Investigation Division, OIOS.

11. The audit methodology included an in-depth review of a sample of cases, interviewing key personnel and analytical review of related data.

IV. AUDIT FINDINGS AND RECOMMENDATIONS

A. Policies and procedures

Lack of comprehensive Standard Operating Procedures (SOPs)

12. Guidelines for handling alleged misconduct involving Mission personnel were issued by MINUSTAH on 15 January 2007. The guidelines were not sufficiently comprehensive, and assigned functions to CDU that were outside its mandate, as follows:

- (a) They assigned 21 tasks to the Chief of CDU out of which 10 of these are normally the responsibility of the Board of Inquiry. These extra activities increased the Unit's workload, and reduced its focus and hence its effectiveness;
- (b) The CDU's role as focal point for all conduct and discipline matters was not clearly defined. As a result, CDU was not reviewing investigation reports because the SIUs sent its reports directly to Mission management prior to obtaining the Unit's input and advice. From a sample of 35 cases, 21 (60 per cent) of them were submitted directly from SIU to Mission management; and
- (c) There was no mention of the role of CDU in prevention of misconduct. This role is described in an advisory document from the Conduct and Discipline Team (CDT) in DFS, dated 29 September 2006.

13. The IDG decided, in its meeting on 24 March 2009, to develop SOPs. However, at the time of the audit, these were still pending.

Recommendation 1

(1) The MINUSTAH Management should prepare comprehensive standard operating procedures for conduct and discipline in the Mission that clearly define the respective roles and responsibilities of those involved in conduct and discipline matters in the Mission.

14. *The MINUSTAH Management accepted recommendation 1 and stated that draft SOPs have been drafted and circulated to all relevant sections. The SOPs are currently being finalized and will be effective once authorized by Mission Management. Recommendation 1 remains open pending receipt of a copy of the authorized SOPs.*

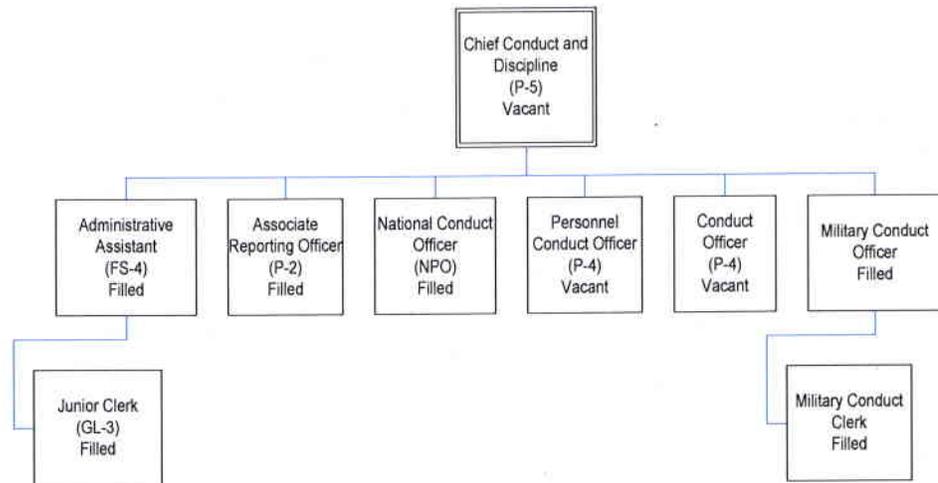
B. Human resources in the Conduct and Discipline Unit

High staff turnover and vacancies in the Conduct and Discipline Unit

15. Twenty different staff members have worked in CDU between September 2005 to March 2009, for varying lengths of time ranging from five months to over three years. Nine of the staff members have worked for one year or less. The Mission attributed the high staff turnover to the temporary nature of CDU positions. In 2008/2009, four out of seven CDU positions were approved posts while in previous years all CDU positions were on a temporary status only.

16. During the period January to March 2009, three international positions (two at the P-4 and one at P-5 levels) were vacated within a short time frame. One of the posts has subsequently been filled in May 2009. The 2008/2009 budget provides for a total of seven positions; five international and two national staff. Due to the increase of misconduct cases from the Military, DPKO provided two Military personnel to join CDU with effect from March 2007. The CDU organogramme is shown in Chart 1:

Chart 1: Organization chart for CDU (as of April 2009)



17. As a result of the high staff turnover and vacancy rates, CDU targeted results were not met. For example, according to the Results Based Budget for 2007/2008, only 2,698 (24 per cent) out of a total of 11,225 mission personnel were directly trained by CDU, as indicated in the Mission training plan.

Recommendations 2 and 3

The MINUSTAH Management should:

- (2) Ensure that vacancies in the Conduct and Discipline Unit are filled in a timely manner; and**

(3) Ensure that relevant training in the area of conduct and discipline are provided to all staff as appropriate.

18. *The MINUSTAH Management accepted recommendation 2 and stated that the two P-4 positions mentioned in the report had already been advertised and the candidates selected; they joined CDU after their release from their previous functions was accepted. The Mission has also taken steps to recruit the P-5 position, Chief of CDU. Recommendation 2 remains open pending confirmation by the Mission that the vacant P-5 post has been filled.*

19. *The MINUSTAH Management accepted recommendation 3 and stated that CDU has revised its training strategy and plans to increase the number and length of training sessions. The Unit is preparing an interactive training module for all Mission personnel to be launched in December 2009. Recommendation 3 remains open pending evidence that adequate training in conduct and discipline matters has been provided to all Mission staff.*

C. Prevention strategies

Failure to establish the status report of welfare and recreation for uniformed personnel as mandated

20. CDU is mandated by the Secretary-General in his comprehensive report (A/62/663) outlining the SEA strategy to ensure peacekeeping personnel have adequate welfare and recreation facilities as a strategy to prevent serious misconduct on their part, particularly SEA.

21. However, the CDU did not establish a status report of welfare and recreations for uniformed personnel. OIOS visited six contingents to review welfare and recreation facilities and found that the Nigerian Formed Police Unit comprising 125 personnel was in poor condition. Three out of five exercise machines were not functional, and had been in this condition for an extended period. In response to the audit, the Contingent Owned Equipment Unit started to prepare a detailed status report of all 21 military and 9 formed police units.

22. OIOS also noted that according to the Memorandum of Understanding (MoU) between the United Nations and Troop Contributing Countries (TCCs), appropriate levels of welfare facilities should be provided by the TCCs, one of the requirements to qualify for reimbursement. Between November 2005 and March 2009, the Mission reimbursed \$31,826 to the Government of Nigeria for welfare. No recommendation is made, as OIOS plans to audit the DPKO Office of Military Affairs later in 2009, and the MoUs with TCCs will be reviewed during that audit.

Recommendation 4

(4) The MINUSTAH Management should ensure that the Conduct and Discipline Unit establish a

**status report of welfare and recreation activities for
all Mission military and police contingents.**

23. *The MINUSTAH Management accepted recommendation 4 and stated that CDU has begun comprehensive assessment visits, which will comprise the evaluation of welfare and recreation activities for all military and police contingents. Reports will be issued pursuant to each visit and forwarded to senior management. Recommendation 4 remains open pending receipt of a status report of all Mission military and police contingents.*

Lack of a public information strategy

24. According to DPKO Public Information Guidelines for Allegations of Misconduct Committed by Personnel of United Nations Peacekeeping and Other Field Missions, a public information strategy should be developed. While the Mission has drafted terms of reference that require CDU to liaise and coordinate with other United Nations, non-governmental organizations (NGOs) and governmental entities on conduct and discipline issues, these did not fully meet the requirements established by DPKO's guideline. For example, the guideline requires CDU to provide the latest information and statistics to Public Information Officers in Missions so that they may release the relevant information to the public in an accurate and timely fashion.

25. The Mission had not developed a comprehensive strategy/procedure to raise awareness of its conduct and discipline activities among the host country population. The absence of visible accountability gives rise to the perception that those accused may not be held liable for their crimes. For example, in 2008, Save the Children Fund carried out a study on child sexual exploitation and abuse in three countries, including Haiti and concluded that the host country population perceived that they have no one to turn to if an incident occurs, leading to under-reporting of sexual exploitation and abuse.

26. There had been two CDU outreach initiatives to inform the local population about the United Nations rules and standards of conduct for MINUSTAH personnel through broadcasts on MINUSTAH radio and presentations in various regions of the country. These presentations targeted local NGOs that were involved in advocating for rights of women and children. However, OIOS is of the view that there is a need for a strategy to provide information to the host country population, and complement the outreach programmes.

Recommendation 5

(5) The MINUSTAH Management should develop and communicate a public information strategy on sexual exploitation and abuse as mandated by DPKO.

27. *The MINUSTAH Management accepted recommendation 5 and stated that a draft public information strategy on sexual exploitation and abuse is being*

circulated to relevant parties. It will be implemented once authorized by the Mission Management. Recommendation 5 remains open pending receipt of a copy of the authorized public information strategy on SEA.

D. Management of misconduct cases

Evidence of evaluation of investigation reports not documented

28. From a sample of 15 case files, there was no evidence that CDU staff had evaluated investigation reports prepared by SIU. The Unit's monitoring database primarily contained photocopies of SIU investigation reports. All incidences investigated by SIU are reported to the Security Advisor and copied to CDU, Senior Management (CMS, PDSRSG, and SRSG) and Claims Unit depending on the outcome of the investigation. SIU determines which cases are forwarded to CDU. CDU categorizes the case in its database and follows up on the action required.

29. According to Paragraph 27 of the Advisory document from the CDT, DFS, dated 29 September 2006, CDU shall determine if the investigation report amounts to an allegation of misconduct and shall either by itself or in consultation with CDT, DFS or OIOS make an assessment as to the category of the allegation. In addition, Paragraph 7 of the Code Cable # 2852 dated 30 December 2008 sent by DFS re-emphasized the requirement that CDU in the Mission routinely review investigation reports and provide advice on subsequent action to be taken in respect of disciplinary issues.

Recommendation 6

(6) The MINUSTAH Management should ensure that the Conduct and Discipline Unit adequately documents its evaluation of investigation reports prepared by the Special Investigation Unit to allow an adequate audit trail.

30. *The MINUSTAH Management accepted recommendation 6 and stated that CDU is now using evaluation forms and other such documentation to clearly record its assessment, analysis and evaluation activities. These forms will be included in all files related to case handling and will provide an adequate audit trail.* Based on assurances provided by management, recommendation 6 has been closed.

Weaknesses in maintaining database

31. Between July 2005 and December 2008, 19 (5 per cent) of the 344 misconduct cases were not logged in the CDU database. The Mission attributed the missing cases to poor recordkeeping arising from high staff turnover and lack of sufficient filing space, especially for cases that took place between 2006 and 2007. In response to the audit, the Mission has begun to take corrective action to address this.

32. Non-misconduct cases were routinely forwarded to CDU increasing the Unit's workload and reducing its effectiveness. Non-misconduct cases include traffic accidents, thefts and Board of Inquiry cases.

Recommendation 7

(7) The MINUSTAH Management should ensure that non-misconduct cases such as regular traffic accidents or Board of Inquiry cases are not forwarded to the Conduct and Discipline Unit to allow the Unit to focus on conduct and discipline issues.

33. *The MINUSTAH Management accepted recommendation 7 and stated that traffic accidents are referred to the SIU and the CDU no longer handles Board of Inquiry matters that are unrelated to misconduct. Also, a new Board of Inquiry SOP has been effective since 30 April 2009. Based on the action taken, recommendation 7 has been closed.*

Category I case not brought to attention of Investigation Division, OIOS

34. One case involving a senior staff member above the P-5 level was not forwarded to the Investigation Division, OIOS as required by the guidelines. Instead the Mission management investigated the case and cleared the staff member after considering the investigation results and subsequent receipt of a statement from the staff. OIOS took note that the investigation as conducted by the Mission was not sufficiently independent. According to OIOS' investigation guidelines, any allegation of misconduct made against personnel from the P-5 or equivalent level and above will be classified as a Category I case, irrespective of the type of alleged violation.

Recommendation 8

(8) The MINUSTAH Management should ensure that all Category I cases related to staff members at P-5 level and above are forwarded to the Investigation Division, OIOS to enable uniform standards to be applied. Further, Management should immediately inform the Investigation Division, OIOS of the particular case mentioned in this report.

35. *The MINUSTAH Management accepted recommendation 8 and stated that relevant documents regarding the specific case mentioned in the audit report were provided to the Investigations Division, OIOS. Based on the action taken, recommendation 8 has been closed.*

V. ACKNOWLEDGEMENT

36. We wish to express our appreciation to the Management and staff of MINUSTAH for the assistance and cooperation extended to the auditors during this assignment.

STATUS OF AUDIT RECOMMENDATIONS

Recom. no.	Recommendation	Risk category	Risk rating	C/O ¹	Actions needed to close recommendation	Implementation date ²
1	The MINUSTAH Management should prepare comprehensive standard operating procedures for conduct and discipline in the Mission that clearly define the respective roles and responsibilities of those involved in conduct and discipline matters in the Mission.	Compliance	Medium	O	Receipt of the authorized standard operating procedures for conduct and discipline in the Mission.	Upon authorization
2	The MINUSTAH Management should ensure that vacancies in the Conduct and Discipline Unit are filled in a timely manner.	Human Resources	Medium	O	Confirmation by the Mission that the vacant P-5 post has been filled.	Ongoing
3	The MINUSTAH Management should ensure that relevant training in the area of conduct and discipline are provided to all staff as appropriate.	Human Resources	Medium	O	Evidence that training in the area of conduct and discipline has been provided to all Mission staff.	December 2009
4	The MINUSTAH Management should ensure that the Conduct and Discipline Unit establish a status report of welfare and recreation activities for all Mission military and police contingents.	Operational	High	O	Receipt of a status report of all Mission military and police contingents.	Ongoing
5	The MINUSTAH Management should develop and communicate a public information strategy on sexual exploitation and abuse as mandated by DPKO.	Compliance	Medium	O	Receipt of the authorized public information strategy on sexual exploitation and abuse.	Upon authorization
6	The MINUSTAH Management should ensure that the Conduct and Discipline Unit adequately documents its evaluation of investigation reports prepared by the Special Investigation Unit to allow an adequate audit trail.	Operational	Medium	C	Action taken.	Implemented
7	The MINUSTAH Management should ensure that non-misconduct cases such as	Operational	High	C	Action taken	Implemented

Recom. no.	Recommendation	Risk category	Risk rating	C/O ¹	Actions needed to close recommendation	Implementation date ²
8	regular traffic accidents or Board of Inquiry cases are not forwarded to the Conduct and Discipline Unit to allow the Unit to focus on conduct and discipline issues. The MINUSTAH Management should ensure that all Category I cases related to staff members at P-5 level and above are forwarded to the Investigation Division, OIOS to enable uniform standards to be applied. Further, Management should immediately inform the Investigation Division, OIOS of the particular case mentioned in this report.	Compliance	Medium	C	Action taken.	Implemented

1. C = closed, O = open
2. Date provided by MINUSTAH in response to recommendations.