



مركز بحوث الرقابيين الأفارقة

African Ombudsman Research Centre

Centre de Recherche des Ombudsman Africains

Centro de Investigação da Provedoria de Justiça Africana

MINUTES OF 9th AORC BOARD MEETING

15 July 2014

African Ombudsman Research Centre

University of KwaZulu-Natal

Durban

South Africa

PRESENT:

CHAIRPERSON: Adv. Thulisile Madonsela, (Public Protector –South Africa)

MEMBERS: Dr Paulo Tjipilica (Provedor di Justica, Angola)
Judge Edmond Cowan (Ombudsman, Sierra Leone)
Prof Managay Reddi (Dean, School of Law –UKZN)
Mr Lesala Mofokeng (School of Law – UKZN)
Prof John Mubangizi (DVC – UKZN)

OBSERVERS: Ms Benita Young (PPSA)
Mr Risenga Maruma (PPSA)
Mr M. Zweni (PPSA)
Mr Pierre Ndagirwa (Office of Provedor di Justica, Angola)
Mr Manuel Da Costa (Office of Provedor di Justica, Angola)
Mr Franky Lwelela (AORC)
Ms Susan Foley (AORC)

APOLOGIES: Mrs Alima Traore (Mediateur du Faso)
Mr Themba Mthethwa (CEO – PPSA)

1. Opening and Welcome

The Chairperson, Adv. Thuli Madonsela, opened the 9th AORC Board meeting by welcoming all present, making special mention of Dr Tjipilica and Judge Cowan who had especially travelled to attend. She thanked the UKZN and PPSA staff for their efforts in arranging the meeting.

2. Apologies, Additions to and Adoption of Agenda, Confirmation of Quorum

The quorum was confirmed and apologies acknowledged from Mrs Alima Traore, whose schedule had not allowed her to travel and Mr Themba Mthethwa, who was recovering from an illness.

It was at this stage that the Chairperson drew the attention of those present to item 11 on the agenda: the appointment of Professor John Cantius Mubangizi to the AORC Board, under “Any Other Matters”.

Judge Cowan expressed his concerns about the UKZN takeover, AORC should have its own administrative wing which will have to liaise with the University Administration so that they can work together rather than handing over the day to day running of AORC to the University. The Chairperson clarified the issue that was on the table, which was not the handover of the running of AORC to the university because that was discussed and a resolution pertaining to this issue had already been taken at the previous board meeting, but the current issue is the membership of Professor Mubangizi in AORC board. she also added that she has nothing against Judge Cowan wanting the Board to review that resolution but she wanted to deal with the issues separately, being the issue of the membership of Professor Mubangizi first, and then the intension of Judge Cowan to review the decision can be discussed when the Board will be dealing with the minutes and matters arising. Prof Reddi shed some light on the matter, saying that there are certain UKZN policies that will have to be followed when the University takes over, one of which is that the Deputy Vice Chancellor will have to sit on the AORC Board. Judge Cowan clarified that he was not against the proposition but, rather, that it needed to be contextualised. He withdrew his perceived objection to the appointing of Prof Mubangizi as a Board member and the following resolution was taken:

RESOLUTION: Professor John Cantius Mubangizi, in his capacity as Deputy Vice Chancellor of the University of KwaZulu-Natal, is appointed as an AORC Board Member

Following this resolution being taken, the Chairperson continued with her opening remarks. She made reference to the previous Board meeting held on 24 February 2014, most especially with regard to the OR Tambo Declaration and the discussion held on the research outputs of the Centre. She also expressed her gratitude for the insights of the Board members pertaining

to the question of staffing and financial management. She was happy to announce that the OR Tambo Declaration had been met with much enthusiasm across the continent, highlighting what governance can do to improve situations. She especially thanked Advocate Arlene Brock, who spent the night writing the declaration, as well as Professor Ayeni, the staff of the PPSA, Prof Reddi and the University who aided in achieving the completion of the document despite enormous obstacles. She thanked the staff of UKZN for the research that was conducted and its presentation at the Summit. She thanked the members of the Board and AOMA for their discussions pertaining to the OR Tambo Declaration, as well as Pierre Ndagirwa for his editing contribution and Benita Young for putting the finishing touches on the document.

With regard to the research, the Chairperson indicated that there had been obstacles in getting the Centre to communicate with the University. She reminded those present that the object of the research was to form a basis for promoting universal Ombudsman standards and that there was, therefore, a need for the research to show the diversity in the ombudsman institution in Africa, and particularly showing the differences in power, jurisdictions and structure. In addition, the research should indicate whether there was any real difference between the French mediator and the Ombudsman institution and also a need to indicate if there is any real difference between Mediators and Ombudsman. The Chairperson revealed that she had made a request in writing for the research to be amended in this way and that a meeting had, subsequently, taken place with the University for discussions and clarification. In order for the research to be expanded, more funds will be required – something that the CEO is in charge of.

Moving on to the subject of training, the Chairperson reported that no training has been rolled out at the Centre since February 2014. She emphasised that the root of the problem was the fact that the Centre still does not have a fixed curriculum. She once again shared her vision: that prospective AORC students can go on the AORC website to consult the virtual faculty to ascertain what training is taking place the following April, for example. She highlighted the need for a research and training panel, whereby trainers are appointed on a part-time basis - even Ombudsman themselves. She noted that this sentiment, which had been expressed at the previous Board meeting, had not been captured accurately in the minutes.

The Chairperson was proud to announce that the Centre had been promoted when she had spoken of its good work at the TIME 100 event in New York and, similarly, when she had had the opportunity to speak to the South African Ambassador to the United Nations, laying the potential foundations of the AORC and AOMA being accredited as UN observers. Mentioning the funders of the AORC, who had given R21 million for a 3 year period, the Chairperson drew attention to their expectations in the use of this money: that a training curriculum would be established, that a written research programme would be established and, thirdly, that transitional democracies would be the target of the trainings. She even suggested the creation and distribution of “professional packages” – that is, computers loaded with training materials. She stressed that the trainings should not be “spur of the moment”. The

Chairperson reminded all those present that the expectation of AOMA is that the AORC should make a tangible difference in creating capacity in Ombudsman offices across Africa and that the AORC should be an implementation partner of the AU shared values. The Chairperson took the opportunity to propose that an AORC Strategic Planning retreat be organized, whereby the Board members would go away to re-evaluate the Strategic Plan of the Centre.

The Chairperson conceded that the Centre had stumbled in the area of staffing – the key failing being that no one had ever been employed who had previously had an interest in Ombudsmanship or good governance before commencing their tenures as staff members of the AORC. The Chairperson revealed that after the “OR Tambo Declaration fiasco”, the Acting Director had been relieved of her duties and the CEO of the PPSA, Mr Themba Mthethwa, had taken over the position during the transitional phase. The Chairperson drew the attention of all present to item 8 on the agenda – staffing of AORC – during which time a secondment request by UKZN would be entertained.

To conclude her opening remarks, the Chairperson thanked the Board Members for their presence and declared the meeting officially in session.

3. Remarks by the President of AOMA

Dr Tjipilica began by reminding all those present that the agenda still needed to be adopted. He also expressed his concern at the CEO’s absence. He then declared his pleasure at being present at this Board Meeting at the University of KwaZulu-Natal and thanked the interns for being present to welcome the Board members at the airport. He commiserated with Judge Cowan, whose luggage had been misplaced in transit. He stressed that the AORC is a much-loved property of AOMA. He went on to thank Prof Reddi, whom he called intelligent and dynamic, for being with the Centre since its inauguration. He accordingly thanked and welcomed Prof Mubangizi, as well as all the collaborators present and the PPSA staff. He expressed his optimism for good discussions and results to come from the meeting. He then congratulated the Chairperson for her recent award of being one of the TIME 100 Most Influential People in the World, lauding her for her intelligence and dedication as an Ombudsman. He concluded his remarks by expressing his hopes that during the course of the meeting, the AORC would be defined as a training centre which directly belongs to AOMA, not the PPSA. He thanked the staff of the AORC once again for their reception and indicated he would make further comments as the matters arose as per the agenda.

4. Remarks by Dean of Law, UKZN

On behalf of the University, the Vice-Chancellor and the Deputy Vice-Chancellor, Prof Reddi extended a warm welcome to all present. She emphasised how highly the University prizes its relationship with the AORC and expressed her joy at the resolution taken to appoint Prof Mubangizi to the Board. She guaranteed that the needs of the Centre would be met. She also took the opportunity to indicate that, from this Board Meeting onwards, all remarks made on behalf of the Centre would be made by Prof Mubangizi in his capacity as Deputy Vice-Chancellor of the University. She, like Dr Tjiipilica, congratulated the Chairperson for her inclusion as one of the TIME 100 Most Influential People in the World for the year 2013. She stated that the UKZN Board members were anticipating the meeting to yield firm outcomes, and took the opportunity to express her appreciation for the wisdom and advice of the Board. She thanked all present and wished them well in their deliberation.

5. Adoption of Minutes of 8th AORC Board Meeting held at Southern Sun OR Tambo, Johannesburg, South Africa on 24 February 2014

The Chairperson invited the Board Members to indicate any changes that would need to be made to the minutes on a page by page basis. The Chairperson herself requested that her opening remarks be augmented and requested the transcription of the meeting so that she could go through it with her team. She also requested that the 's' from "with regards to" be deleted for grammatical purposes. She stressed that the minutes should quote verbatim what was said. She also suggested that the phrase "online faculty" should be replaced with "permanent virtual faculty" and stressed that trainers need to be given 1 – 3 year contracts so that a panel can be permanently there for that period. This would eliminate the problem of postponing trainings due to an inability to find trainers. The Chairperson requested that page 8 be amended to reflect verbatim quotes. With regard to reporting as per the Strategic Plan, she indicated that there is a discrepancy between what is being done by the Centre and what the Strategic Outcomes for the year are. The Chairperson requested explanations for the discrepancies and remedial action and encouraged the Secretariat to approach the PPSA for help with guidelines for preparing such a report.

Judge Cowan then took to the floor, expressing that he feels there is a confusion of roles concerning who is the head of the Secretariat of AORC. He insisted that the minutes should be presented by the AORC and only be brought to the Board for adoption. The Chairperson suggested that to avoid confusion in the future, the transcription of the meeting should be made available. She highlighted another grammatical error on page 12. Thereafter, the minutes were adopted as amended.

6. Matters Arising from the Minutes

Judge Cowan began this item on the agenda by bring everyone's attention to page 8 of the Minutes. He asked if the handover meeting had taken place and the Chairperson confirmed that it had indeed taken place at the University of KwaZulu-Natal on 11 June 2014. He then, in reference to page 9 of the minutes, asked if the handover itself had actually been concluded. The Chairperson revealed that it had not, as the amended MOU has yet to be signed. She went on to say that DIRCO had expressed an interest in seeing the MOU – meaning that the amended MOU will be subject to ratification by both the AOMA and DIRCO. Judge Cowan stated that if the Board, in principle, agrees with the MOU, that it should be sent to DIRCO and then to the board on a round-robin basis. He went on to state that the UKZN Law Faculty is an autonomous body who will not allow the AORC to be involved in its day-to-day academic activities and that he did not believe that it is feasible for the AORC to have a UKZN Secretariat as it is completely out of their mandate. He urged the Board to review their decision as there is huge confusion with regard to the workings of the Secretariat vis-à-vis AOMA and UKZN.

It was at this stage that Prof Reddi suggested when matters arising correlate directly with items on the agenda, that they should be discussed then so that resolutions can be made vis-à-vis the items on the agenda for purposes of coherency and consistency.

Judge Cowan acquiesced to this request and instead moved on to page 13 of the minutes, enquiring as to the progress made with the appointment of members to the AORC Advisory Board. He was informed that this matter has been deferred.

There being no further matters arising, the meeting was paused for a tea break.

7. Acting Director's Activity Report

In the absence of the CEO, the intern Susan Foley was asked to present the Acting Director's Activity Report. The report contained information on the Centre's activities from the period of 1 April 2013 to 30 June 2014. The activities were grouped as per their alignment with the Strategic Outcomes of the AORC Strategic Plan.

Presentation: The activities of the Centre falling under Strategic Outcome 1 (to become a capable and sustainable organization) were listed as follows: applications received for the AORC Advisory Board; 2 interns appointed until 30 September 2014, an Acting Director seconded until 30 December 2014, with recruitment underway to appoint an Executive

Director, a Deputy Director, an Administration and Communication Officer and an Administrative Assistant; various documents and training materials translated into French.

Aligning with Strategic Outcome 2 (to improve the capacity of the AOMA, the Ombudsman and Ombudsman offices), the following activities were listed as achieved: review of the AOMA Needs Assessment instigated; four training programmes rolled out – namely, Pilot Ombudsman Training in French, Sharpening Your Teeth in French and English and Train the Trainers in English; the training programmes planned for 2014 – namely, Lusophone Training and Arabic Training.

Falling under Strategic Outcome 3 (to conduct relevant research to support the agenda of the AOMA), the report indicated that the following had been achieved: the first draft of the Comparative Analysis of Legal Systems within AOMA had been presented at the AORC Summit; the jurisprudence database is in the process of being compiled; the research team for the research project entitled “Enforcement of Ombudsman Decisions” has been assembled and desktop research has commenced; a database of almost all the constitutions, enabling legislation and annual reports of AOMA’s member countries has been uploaded onto the AOMA website.

With regard to Strategic Outcome 4 (to enhance the positioning of AOMA and the Ombudsman Institution), the following were mentioned:

- Facebook and Twitter accounts have been set up;
- An article on the AORC appeared in the UKZN Touch glossy magazine;
- The 6th Edition of the AOMA newsletter was disseminated;
- a two-day African Ombudsman Summit was rolled out;
- The AORC has been registered as a Section 21 non-profit organization; and
- Two Webinars in collaboration with the World Bank were indicated as planned for the latter half of 2014.

It was further reported that no significant steps had been taken to fulfil any aspect of Strategic Outcome 5 (to coordinate the operationalization of the MOU between the AUC and AOMA).

Discussion: The Chairperson took to the floor first, expressing her displeasure at having not been consulted regarding the World Bank Webinar, leading to some awkwardness when she encountered officials from the organization in New York who engaged her in conversation on the topic. She stressed that such a collaboration needed to be preceded by a concept document detailing the nature of the relationship between the AORC and the World Bank, subject to approval by the Board. She also expressed her disappointment that the AORC was serving as a vehicle for other organizations’ projects as opposed to initiating activities of their own accord, and that all activities should be strictly in line with the Strategic Plan.

Following the Chairperson's comments, Prof Reddi took the floor and while thanking Miss Foley for the expressive and well written report, she indicated that it was evident that much good work was being done by the Centre, but she was in support with the point repeatedly made by the Chairperson that there was an urgent need for a set curriculum, which would eliminate any difficulties when it comes to confirming training programmes and which would inform members in advance on the trainings and research programs at the centre. In other words, a very clear program and a clear research agenda that is accessible to everyone must be in place. A resolution was thus passed:

RESOLUTION: Make a firm effort to create a curriculum and to establish a clear research agenda

Dr Tjipilica subsequently, after expressing his gratitude for the work done in relation to the activities of AORC, made some comments – namely, that it was unclear to him as to why Adv. Bodasing's tenure had been terminated and that she should have been invited to participate in the meeting for the sake of preserving administrative justice. Furthermore, he went on to say that he believed she would be well suited to the post of Deputy Director, since she worked hard and knows all the inner workings of the organization. He stated that he believed that maintaining her would allow for continuity with the Acting Director and that he hoped no conflict would arise between her and the Centre. He reminded all those present that Adv. Bodasing had maintained the running of the Centre following the departure of Dr Blessing Karumbidza and that, while some Board members may be doubtful of her holding the position of Director, they cannot be doubtful of her capacity to work. In this context, he went on to say that in order to maintain the administrative justice which Ombudsman espouse, the Board should allow Advocate Bodasing to continue as Deputy Director. He stressed that the proprietor of the AORC was the EXCO of AOMA and that, as such, the nomination of the Director should go to the EXCO. He thus raised his objection to the Interim nomination.

Since there was no further comment, the Chairperson then thanked the President and suggested that the director's issue will be dealt with on item 8. Then she raised the issue of the centre working with international organisations (i.e. Webinar with the World Bank) and suggested that internal governance should be respected by prioritizing the organization's plan and initiatives. In particular, the work must first be done according to the plan, then if there is any smart initiatives that come up, they need to be discussed properly and agreed upon.

Prof Mubangizi then took the opportunity to express his views, stating that lack of leadership at the Centre has left it almost dysfunctional, adding that from his perspective, it appears as though the symptoms and signs of the dysfunction were being dealt with and not the root. According to him, the root cause is due to the lack of a director at the centre, and therefore, there has been a fundamental breakdown in communication and also in structures.

Referencing the Webinar, which he called a good initiative, He expressed his concern that the Board is getting involved in operational issues and that the dysfunction needs to be cured.

The Chairperson responded, saying that the Centre has limited time and should only push its own agenda as opposed to serving as an implementation vehicle for others. She also reminded the Board members that the Director is accountable to the Chairperson of the Board.

Judge Cowan then spoke, saying that he agreed with Prof Mubangizi in that it appears as though there is no functional Secretariat and no head. He enquired as to whether it will now be UKZN or the Chairperson herself.

The Chairperson concluded this item on the agenda by saying that the report presented needs to be re-aligned with the exact targets of the Strategic Plan. She went on to say that is was noted, but not approved and that it ought to reflect what was planned, as opposed to what merely “fits in” as the report is subject to audit. She went on to detail the proper way of reporting as per a Strategic Plan and requested, firstly, that her office will send through a template to the AORC and, secondly, that the AORC should submit the amended report by close of business on Friday 18 July 2014.

Judge Cowan inquired as to whether or not the Webinar would be postponed. Prof Reddi responded by saying that the focus of the AORC’s work should be its own Strategic Plan and suggested that the Webinar project be placed aside. The Chairperson agreed, saying that the Board will deliberate on the matter, clarify the relationship between the AORC and the World Bank and review a concept document detailing the anticipated outcomes of the project.

8. Staffing of AORC

Judge Cowan commenced the discussions on this topic by suggesting that UKZN set up the administration of the Centre then bring it to the Board for approval.

Prof Mubangizi commented on this proposition, suggesting that confusion had arisen from the phrase “day-to-day management of the Centre” being used. He clarified that this did not mean that UKZN staff would be running the Centre. He went on to say that to appoint a Director through the HR mechanisms of the PPSA would be contradictory as the Centre has to follow the UKZN HR department, which will eliminate the serious discrepancies in salaries amongst other things. He indicated the Board will appoint the Director but not be the selection panel. He stressed that it is important to appoint the Director through UKZN to avoid confusion as to which HR structure they report to.

Dr Tjipilica then took to the floor, addressing the Chairperson, saying that he has nothing against the CEO but that he does not agree with his interim appointment as Acting Director of the Centre. He elaborated on his reasons for his dissent, saying that Mr Mthethwa cannot practically be in both places at the same time – in Pretoria as CEO of the PPSA and in Durban as Director of the AORC. He commented that this decision should have gone through the AOMA EXCO, something which, he said, other AOMA members would agree on. He stressed that he was not against the appointment of an Acting Director but, rather, the appointment of the CEO. Dr Tjipilica then moved on to the subject of recruitment of staff. He mentioned the interns, saying that they have been working at the AORC for a long time and that the Board ought to respect them and give them stability, especially since one of them is a father. He reminded all those presents that, per administrative justice, they have rights.

The Chairperson then spoke, stating that since 24 February 2014, the Centre has not had a permanent Director and was being run by the Deputy Director and the CEO in his new capacity as Acting Director. The Chairperson went on to reveal that she has had difficulty in getting the previous Acting Director, Adv. Bodasing, to comply with the Strategic Plan. This difficulty had sharply manifested itself when the African Ombudsman Summit nearly fell apart regarding its outputs and that she had great difficulty managing Adv. Bodasing, who invented things that were not in the Strategic Plan. She revealed that she had asked Adv. Bodasing to establish a committee comprising of Prof Reddi, Prof Victor Ayeni and Arlene Brock to create a draft declaration but that no such committee was ever organized and as such there was no draft prepared. Consequently, her office had to bend backwards to write up the declaration. The Chairperson stated that this was a case of the Acting Director doing things her way resulting in the desired outcome not being achieved. She then reminded all those present that her job keeps her very busy, and that, since the CEO had been the visionary behind the Centre initially, she handed it over to him in order for her to focus on her day-to-day work. In light of this, she had relieved Adv. Bodasing of her duties as Acting Director in favour of the CEO. She then informed the Board that Adv. Bodasing's contract as Deputy Director had ended on 31 May 2014 and that, following a Performance Review based on the AORC Strategic Plan and Adv. Bodasing's performance agreement, her HR department had advised her not to renew the contract. The Chairperson reminded the Board that she acted in terms of the powers given to her by AOMA that had, in turn, given her the responsibility to establish the Centre. Furthermore, she highlighted the fact that she had not consulted the Board when appointing Adv. Bodasing as Acting Director, to which no objections were raised, and had, similarly, withdrawn her from the position without consulting the Board. She stated that a notification had been distributed to all Board members informing them of the expiration of Adv. Bodasing's contract and no objections were raised. The Board members were informed that Adv. Bodasing had not accepted an offer of a 2-month contract extension. The Chairperson also insisted that she was not prepared to manage an employee who does not respect her authority and as such would not consent to re-employ Adv. Bodasing, instead she would invite

the Board to manage her should they wish to re-employ her. It was subsequently revealed that Adv. Bodasing was taking the AORC to the CCMA and expressed her displeasure that Adv. Bodasing counts on board members to defend her at board meetings, something which she termed “anarchy”. The Chairperson insisted that Adv. Bodasing had been treated within the law and yet had continued with her insubordination, leading to confusion between AOMA and the AORC. The Board Members were reminded that the Director is the head of the Secretariat who runs the Centre.

Judge Cowan then inquired as to who supervises the Centre. The Chairperson confirmed that she ultimately has the oversight, coming in at the level of the Board to monitor the activities of the Centre. Judge Cowan continued, saying that the problem was that the board had not been properly informed and that this was the first time the newly divulged information had been brought to the attention of the board members. He reminded the Chairperson that the Board had always showered praises on Adv. Bodasing, clearly unaware of what was going on behind the scenes. Judge Cowan counselled the Board members that this episode be put behind them, and that the focus be on setting up the Centre anew under the auspices of UKZN.

Dr Tjipilica acknowledged the position of Judge Cowan, saying that he had had no knowledge of Adv. Bodasing’s indiscipline and that a disciplinary hearing should have been held at the time of the transgressions and the Board informed of the findings. He acknowledged that at the February board meeting Adv. Bodasing’s “incompetence” had been alluded to, which had caused himself and Mme Troare to question its validity, since Adv. Bodasing had worked for the Centre for so long and had been continually lauded.

The Chairperson stated that it had never been the plan that the Board form the selection committee during the interview process. She indicated that the PPSA had been involved up until present because the amended MOU with UKZN had yet to be signed. She enquired as to the way forward, considering that the posts had recently been re-advertised and applications received.

Prof Reddi responded, saying that if the UKZN HR department takes over, a panel will need to be established. Following this the posts will be re-advertised. She suggested that the applications received be kept aside.

Judge Cowan suggested that the Board delegate the appointment of the Director to UKZN and that representatives of the AORC sit with UKZN on the panel. The Chairperson in turn suggested that the University establish timelines for the recruitment process. Prof Reddi, in response, reminded the Board members that all the above depends on the acceptance and signing of the MOU. She went on to say that renewing the secondment contract of the new Acting Director could always be an option as well. She advised that the recruitment process

not be rushed, and suggested that the new Director ought to be appointed by the end of the year.

The Chairperson proposed that the recruitment process initiated by the PPSA be withdrawn, but informed Prof Reddi that she would not be happy to attend the AOMA General Assembly in October with only an Acting Director.

Prof Reddi elaborated, stating that it is highly possible that the process would be finished sooner, but that she was hesitant to rush only to be faced with the same problems as before. She went on to request that the decision of the Director's salary be made by the Board and not the appointment panel, to which Judge Cowan raised some questions, indicating that the board might not know what an appropriate, market-related salary would be. He reminded the Board that a salary had already been indicated in the memo for the secondment of Dr Forere. The Chairperson stated that, to her knowledge, the issue of the director's salary had been resolved. It was at this stage that she requested that the Secretariat compile a document reflecting all Board resolutions since the Centre's inception. Returning to the question of salaries, she went on to say that DIRCO had set the salary and that the Deputy Public Protector had been opposed to it, saying that it was too high. DIRCO's reasoning was that the calibre of people the Centre hoped to attract would be drawn by a market-related salary. Prof Reddi then confirmed that UKZN salary guidelines would have to be used as per UKZN's other research centres. The Chairperson concurred that there was a huge disparity in the proposed salaries and suggested that junior researcher positions to be created to absorb the interns, whose salaries were, at present, very low.

Prof Reddi confirmed that the restructuring of the posts could be done by the end of the week. Judge Cowan requested that the current staff be borne in mind during this process.

The Chairperson then moved on to the question of the secondment of Dr Malebakeng Forere to the position of Acting Director of the Centre for a 6 month period, starting on 1 July 2014, enquiring as to whether the proposed candidate has an interest in governance and Ombudsman studies. Prof Reddi confirmed that this very question had been discussed with Dr Forere who, she elaborated, has just completed her PhD and whose work slots right in with the direction of the Centre. The Chairperson suggested that the proposed candidate be appointed on a probation period of 3 months, reminding the Board members that a job is not the same as a career. Prof Reddi reminded the Chairperson that the secondment contract provides for 1 month notice for both parties. Prof Mubangizi then spoke, highlighting the overall urgency of the situation at the Centre. He stated that UKZN has a secondment policy and requires that an agreement be signed so as to not disadvantage any party. He reminded the Chairperson that it would not be feasible for the CEO to serve as the Acting Director for the next 6 months. The Chairperson insisted that she was happy with the proposed secondee

and had merely raised a concern. She expressed her hope that the new Acting Director would love, make peace with and push the AORC Strategic Plan.

Judge Cowan then spoke, saying that the search for a permanent Director could be postponed if the secondee is interested in permanently taking over the job or if her outputs suggest that she should. The Chairperson suggested rather that the next 3 months be dedicated to finding a permanent appointee. The secondment of Dr Forere as the new Acting Director of the AORC was moved by Judge Cowan and seconded by Prof Reddi.

The Chairperson proposed that the shortlisting for the post of Executive Director be done by UKZN with the assistance of the AOMA Secretariat. She indicated that Ms Benita Young would assist with the establishment of a date.

Judge Cowan raised the issue of the MOU once more, to which the Chairperson responded, confirming that it was not a new document but the same MOU that was drafted at the AORC's inception. The primary amendment was that UKZN would be the on-site overseer of the Centre. Prof Reddi added that the MOU has a 3 year timeline. Judge Cowan suggested that the MOU be sent first to DIRCO for their comments. The Chairperson thus proposed that her team would meet with DIRCO's legal division and then send the MOU to the Board for approval on a round-robin basis. She stated that the Board would still approve all Strategic Plans. She then asked Dr Tjipilica if he had any objections to the secondment of Dr Forere.

Judge Cowan then spoke, asking if there was any way the Board could consider an out-of-court settlement with Adv. Bodasing, or if UKZN would compromise by retaining her as the Deputy Director. He urged that someone sit down with her to see if a compromise could be reached. He suggested that it may reflect badly on the image of the AORC and AOMA and he reminded the Board Members that the "machinery" is often more sympathetic to the underdog. He once again suggested either reinstatement by UKZN or a once-off payment.

The Chairperson responded by saying that the new Director will appoint their subordinate staff and that she would not recommend re-hiring Adv. Bodasing as she could not be easily managed. Judge Cowan reiterated that his statement was merely a suggestion and that the University's opinion had to be sought. He stressed that Adv. Bodasing would need to be compensated so that she "goes quietly". The Chairperson advised that UKZN not get involved in the CCMA matter.

Dr Tjipilica expressed a golden rule: it is better to have a bad settlement than a good trial. He expressed his agreement with Judge Cowan that Adv. Bodasing be re-instated as Deputy Director, or even in a lesser, administrative role considering the extent to which she excelled at communicating with AOMA members. He stated that any legal action she takes would be

a stain reflecting badly on AOMA. He stressed that as Ombudsman, the ideal should always be cooperation.

It was at this stage that Prof Reddi came forward with a proposal: she stated that it is important that the board supports the actions of the Executive Secretary regarding the end of the Deputy Director's contract. She reminded the Board that in the workplace, anyone who wishes to be re-appointed to a post has to re-apply. Thus she proposed that Adv. Bodasing be invited to re-apply for the position of Deputy Director.

Judge Cowan once again mentioned the out of court settlement, and agreed with Prof Reddi that Adv. Bodasing be contacted and the proposal put to her.

The Chairperson agreed, and stated that HR and Prof Reddi will communicate to Adv. Bodasing that she is invited to apply. Prof Reddi added that it is important to inform Adv. Bodasing that the Board agrees with the Chairperson on this matter. Judge Cowan confirmed that the Board would support the Chairperson on this matter.

9. AORC Finances

The financial report was presented by Mr Risenga Maruma. He went through the document with the Board Members, highlighting noteworthy excerpts, such as: the paying of PPSA staff salaries with AORC funds and the subsequent reimbursing of the AORC coffers; the cost of the Summit, which was R2.2 million; and the cost of the Zambia training, which was approximately R500 000.

The Chairperson reminded the Board Members that the AORC receives approximately R7.1 million a year from DIRCO. She stated that the report should have been presented differently, as per Mrs Traore's requests at the previous three Board meetings – that is, until the end of March 2014 and indicating clearly where the money went to, whether or not the expenditure was sanctioned and whether or not the expenditure was cost effective. The Chairperson therefore proposed that the financial statements be noted and requested that Mr Thando Mkhabela re-do the statements by Monday 21 July for the Board to approve on a round-robin basis.

10. UKZN Handover

This item was dealt with in the items above.

11. Any Other Matters

There were no more matters to discuss.

12. Closing Remarks

The Chairperson gave the floor to Dr Tjipilica, who gave the closing remarks. He thanked the Chairperson for her efforts in organizing the meeting and expressed his hope for the revitalisation and re-energizing of the Centre. He congratulated Prof Mubangizi on his appointment to the Board. He expressed his confidence that a good, sensible and just solution would be found to the issue surrounding Adv. Bodasing, saying that the Board would look to UKZN for guidance on the matter. He thanked Judge Cowan for making the journey to attend from Sierra Leone.

He took the opportunity to mention that he had received a letter from the African Union Commission confirming their willingness to host the 4th AOMA General Assembly from 8 – 10 October 2014. He encouraged all present to congratulate themselves, as this would significantly enhance the visibility of the organization. He stated that the General Assembly would be an opportunity to analyse the profound and grave problems in Africa. He once again congratulated the Chairperson for meeting with UN officials in New York as well as for her inclusion in the TIME 100 Most Influential People in the World, which served as recognition of AOMA and AORC.

The meeting was thus concluded.