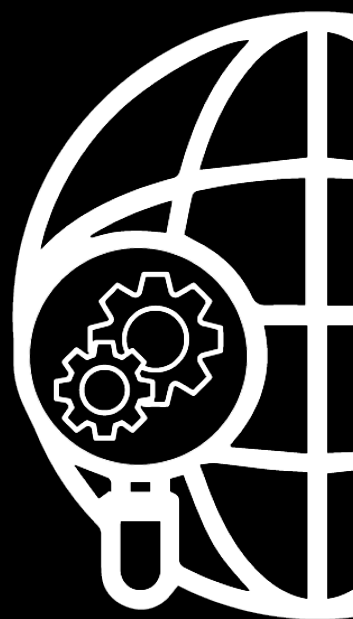


CATALOGUE

OF INTERNATIONAL ORGANISATIONS
2021



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Introduction

Throughout 2021, we have been sharing a 'snapshot' of the internal justice system at different international organisations, and predominantly those that have their staff rules and regulations available in the public domain.

Why? We understand and acknowledge that international organisations are special creatures and at least at the internal stage of disputes, have their own ways of handling cases. By sharing these profiles, we hope to increase transparency, encourage debate about what works and what does not, and provide guidance to those who wish to engage with the systems.

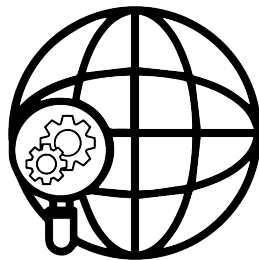
We hope this is a useful catalogue for all readers.

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CATALOGUE

OF INTERNATIONAL ORGANISATIONS

2021

International Atomic Energy Agency (IAEA)

Did you know...

- The **IAEA** was established in 1957, has 173 member states and its headquarters are in Vienna, Austria.
- Although it was established independently of the UN through its own international treaty, the IAEA reports to both the UN General Assembly and Security Council.
- One of the most important IAEA bodies is the Board of Governors. The Board examines and makes recommendations to the General Conference on the IAEA's financial statements, programme and budget, it considers applications for membership, approves safeguards agreements and it also appoints the Director-General of the IAEA.

Who has access to the procedure?

- IAEA Staff Regulations and Staff Rules (**SRR**) apply to staff members only.

Stages in the appeal procedure

1. Submit a request for review of the decision to the Director-General.
2. Appeals against the decisions of the Director-General are made to the Joint Appeals Board.
3. The Joint Appeals Board reviewing the appeal shall submit its report and recommendations to the Director-General, who will then make the final decision on the appeal.
4. The Director-General's final decision can be appealed to the ILOAT.

Is there scope for informal resolution?

- There is no scope for informal resolution.

Time limits

- Request for review: 60 days to file the request, 30 days for the Director-General to provide a response.
- Joint Appeals Board: 30 days to file an appeal, 90 days for the Board to provide a response.
- ILOAT: 90 days from receipt of the Director-General's final decision.

Legal representation

- Staff members may only be represented before the Joint Appeals Board by another staff member or a former staff member.

Transparency

- The SRR are not available online.
- Internal decisions are not published.

Recent decisions

- [ILOAT Judgment No. 4208/2020](#): The complainant was unsuccessful in a selection process for a P5 position and sought review of this decision by the Director-General (DG). The DG agreed to waive the time limit for filing the request for review as the complainant had been on sick leave but considered that the selection process was conducted in accordance with applicable rules. The complainant appealed this decision to the Joint Appeals Board, which dismissed the case for lack of evidence. However, the Board observed that it was difficult to understand the justification for rating the complainant as “Qualified” and not “Well Qualified” and recommended that IAEA give further attention to ensuring that the record of assessment provided a full and accurate description of candidates. The Director-General endorsed the Board’s recommendation. On appeal to the ILOAT, the Tribunal found that certain key factors had not been taken into account in assessing the complainant’s evaluation, which made the selection process flawed. The Tribunal awarded the complainant €15,000 for moral injury and loss of career progress.
- [ILOAT Judgment No. 4346/2021](#): The complainant challenged the decision of the DG not to renew his contract beyond its expiry date and alleged that the decision was based on fraud, procedural flaws, mistakes of law, overlooking of material facts or abuse of power. Both the Joint Appeals Board and the Tribunal dismissed the case as the complainant failed to substantiate his claims of breach of good faith and mutual trust, or otherwise demonstrate that the DG’s decision was arbitrary and made in breach of any internal rules.

Our thoughts

- Despite the lack of any reference to informal resolution in the SRR, IAEA is quite amenable to finding amicable compromises and in negotiating confidential settlement agreements with its staff. In cases of confidential settlements, IAEA is also open to dealing with legal representatives and usually engages in fruitful exchanges.
- The employment relationship section works well in addressing issues at the internal level and assists in avoiding recourse to formal dispute resolution. Although the Staff Council is very helpful in facilitating informal resolution, we would recommend introducing policies and procedures through the SRR to ensure a consistent approach.
- In order to enhance transparency, both the SRR and the most relevant policies should be publicly available.

International Organisation for Migration (IOM)

Did you know...

- One in thirty people in the world is a migrant, and just under 3.5% of the world's population in 2019 were international migrants.
- IOM was established after WWII to help identify resettlement countries for people uprooted by the war. Today, it has an annual operating budget of about \$1.5 billion and more than 10,000 staff working in over 150 countries worldwide.

Who has access to the procedure?

- The IOM Unified Staff Regulations and Rules apply to current and former staff members in the Professional and General Services categories. Non-staff members should refer to the dispute resolution clause in their employment contract.

Stages in the appeal procedure

1. Applies to review of administrative action, decision or omission, or a disciplinary action.
2. Submit a request for review to the Director of Human Resources (or other nominated director depending on your category and location).
3. Appeals from the request for review decision are made to the Joint Appeal Review Board (**JARB**) – the JARB will consider the appeal and then submit a report to the Director-General.
4. Appeal the Director-General's decision to the ILOAT.

Is there scope for informal resolution?

- No specific requirement to attempt informal resolution.

Time limits

- Request for Review: 60 days to file the request, 60 days for IOM to provide outcome.
- JARB: 30 days to file appeal, JARB is appointed within 55 days of IOM receiving the appeal.
- JARB has to submit its report to the Director-General within 90 days of receiving IOM's Statement.
- Director-General has to make a decision within 30 days of receiving JARB's report.
- ILOAT: 90 days from receipt of the Director-General's final decision.

Legal representation

- Staff can appoint legal counsel from the Request for Review stage.
- At the JARB stage, staff can be accompanied by legal counsel during any oral hearings, but the counsel cannot address the JARB directly.

Transparency

- The IOM Staff Regulations and Staff Rules are available [online](#).
- Internal decisions are not published.

Recent decisions

- [ILOAT Judgment No. 4339/2020](#): The complainant contested IOM changing her entitlements upon Swiss naturalization. Complaint dismissed on the basis that complainant did not challenge the each payment decision when it was made.
- [ILOAT Judgment No. 4211/2020](#): Tribunal held that IOM's failure to take any action after an investigation was closed amounted to an implied decision. Since no decision had been made, the matter was remitted to IOM so that the complainant could get a final decision on her claims of harassment and abuse of authority.

Our thoughts

- IOM staff members have a lot of support through the Global Staff Association Committee and the fact that there is a full-time staff member (the Chairperson) specifically appointed to assist with staff affairs. In disputes, IOM is a stickler for procedure and will not entertain any requests made out of time or under exceptional circumstances.

Organisation for the Prohibition of Chemical Weapons (OPCW)

Did you know...

- OPCW was established in 1997 by the Chemical Weapons Convention. OPCW has 193 member states and its headquarters are in the Hague, the Netherlands.
- OPCW has the power to send inspectors to any signatory country to search for evidence of production of banned chemicals.
- In 2013, OPCW won the Nobel Peace Prize for its extensive efforts to eliminate chemical weapons.

Who has access to the procedure?

- OPCW Staff Regulations apply to staff members only.

Stages in the appeal procedure

1. Submit a request for review of the decision to the Director-General.
2. Appeals against the decisions of the Director-General are submitted to the Appeals Council.
3. The Appeals Council reviewing the appeal shall report its findings and recommendations to the Director-General, who will then make the final decision on the appeal.
4. The Director-General's final decision can be appealed to the ILOAT.

Is there scope for informal resolution?

- There is scope for informal resolution and there is a separate administrative directive on independent mediation to prevent or informally resolve work-related disputes.
- The Director-General can appoint an independent mediator based on advice from a panel composed of representatives of the Joint Advisory Board, the Staff Council, the Office of the Legal Adviser, and the Human Resources Branch.
- Timelines for any formal proceedings are suspended during the mediation process.

Time limits

- Request for review: 60 days to file the request, 30 days for the Director-General to provide a response.
- Appeals Council:
 - if the Director-General provides a response → 30 days from the response,
 - if the Director-General does not provide a response → 60 days from the original decision.
- ILOAT: 90 days from when you receive the Director-General's final decision.

Legal representation

- Staff members may only be represented before the Appeals Council by another staff member or a former staff member, or by any other staff member in the UN common system.

Transparency

- The OPCW Staff Regulations are available [online](#).
- Internal decisions are not published.

Recent decisions

- [ILOAT Judgment No. 4373/2021](#): The complainant was in contact with a journalist from the Wall Street Journal and subsequently an article was published about the operations of the OPCW in the Syrian Arab Republic. OPCW claimed that the complainant's contribution to the article may have breached his confidentiality obligations and, after conducting an internal investigation, sent him a letter of censure. The complainant argued that there was no breach of confidentiality but was unsuccessful before the Appeals Council. The complainant further appealed to the ILOAT, who found that the Appeals Council failed to properly address the arguments raised by the complainant and that the Director-General failed to adequately substantiate his decision. The complainant was therefore deprived of his right to an effective internal appeal. The decision was set aside and the complainant was awarded €10,000 in moral damages and €8,000 in costs.
- [ILOAT Judgment No. 4297/2020](#): The complainant filed a formal complaint of harassment against seven staff members before his separation from service. When the Director-General authorised an official investigation into the matter and appointed investigators, the complainant objected to the particular investigators and requested that independent, neutral and competent individuals be appointed to carry out a new investigation. The Director-General rejected the complainant's objection as well as the request for a new investigation. The Final Investigation Report concluded that the evidence did not support the complainant's allegations and did not substantiate harassment. The complainant requested a review of this decision but failed to submit it within the two month time limit, and his appeal to the Appeals Council was found to be irreceivable because it was time-barred. The ILOAT held the OPCW was correct to treat the appeal as irreceivable due to the complainant's failure to comply with time limits.

Our thoughts

- The OPCW has a thorough appeals process on paper and a very active and supportive Staff Council that provide assistance in individual disputes. However, the Director-General is the decision-maker at every stage of an internal appeal. This is highly problematic for independence and impartiality as the same person has to rule on the same case up to three times – for any attempt at informal resolution, at the first request for review and even after the Appeals Council makes recommendations.
- Our impression is that OPCW prefers not to deal with external legal representatives and prefers formal channels of dispute resolution only, despite having the option for mediation.

United Nations Framework Convention on Climate Change (UNFCCC)

Did you know...

- UNFCCC is an intergovernmental treaty developed to address climate change. The Convention entered into force on 21 March 1994 and currently has 197 signatories.
- UNFCCC is administered by the Secretariat, which is based in Bonn, Germany.

Who has access to the procedure?

- The UNFCCC follows the Staff Regulations and Rules of the UN. These apply to staff members only.

Stages in the appeal procedure

1. Submit a request for a management evaluation to the UNFCCC Secretary-General.
2. Appeals from the decision of the Secretary-General are made to the UN Dispute Tribunal.
3. Appeals from the United Nations Dispute Tribunal judgment are made to the UN Appeal Tribunal.

Is there scope for informal resolution?

- Staff members can attempt informal resolution, including mediation, at any time and are encouraged to do this before resorting to formal procedures.
- Both the staff member and the Secretary-General can initiate informal resolution.
- A staff member who wishes to pursue informal resolution should approach the Office of the Ombudsman.

Time limits

- Request for a management evaluation: 60 days to file the request, 45 days for the Secretary-General to provide a response.
- UN Dispute Tribunal: 90 days to file an appeal.
- UN Appeals Tribunal: 60 days from when you receive the UNDT judgment.
- Time limits can be extended to allow for informal dispute resolution.

Legal representation

- No specific provision or prohibition against legal representation.

Transparency

- The UN Staff Regulations and Rules are available [online](#).
- Management evaluation decisions are not published.

Recent decisions

- [UNAT Judgment No. 777/2017](#): The applicant voluntarily decided to surrender their lien on their post. The Tribunal therefore held that UNFCCC's decision to terminate the applicant's appointment was lawful. The applicant did not establish any error in fact or law in the UNDT's Judgment.
- [UNAT Judgment No. 791/2017](#): The applicant contested the amount of her repatriation grant when she left UNFCCC and sought material and moral damages for the 12 month delay in awarding it to her, which UNFCCC had admitted was due to "human oversight". The UNDT held that the applicant had not suffered any material damages, that she had received a beneficial rate of exchange such that she was not entitled to interest, and awarded the applicant 500 USD in moral damages. The UNAT upheld these findings on appeal.

Our thoughts

- The UNFCCC Secretariat is a small organisation, which means that what would be considered a "small" change in a larger organisation ends up having a far more significant impact for staff. This heightens the need for proper consultations with the Staff Representatives and giving notice to staff members of upcoming changes.
- Similar to many organisations over the past year, the UNFCCC Secretariat has been undergoing restructuring. It is important for staff members to get an objective assessment of their situation, how much time they were given to adjust to changes and the applicable deadlines if they are considering an appeal.

United Nations Industrial Development Organisation (UNIDO)

Did you know...

- UNIDO is a specialized agency of the UN based in Vienna, Austria.
- UNIDO was originally established in 1966 by the UN General Assembly to promote and accelerate the industrialization of developing countries emerging from decolonization.

Who has access to the procedure?

- The UNIDO Staff Regulations and Staff Rules apply to serving and former staff members who wish to appeal an adverse administrative decision.

Stages in the appeal procedure

1. Submit a request for review to the Director-General.
2. Appeals from the decision of the Director-General are made to the Joint Appeals Board.
3. The Joint Appeals Board submits its report and recommendations to the Director-General, who will then make the final decision on the appeal.
4. The Director-General's final decision can be appealed to the ILOAT.

Is there scope for informal resolution?

- There is no scope for informal resolution.

Time limits

- Request for review: 60 days to file the request, 60 days for the Director-General to provide a response.
- Joint Appeals Board:
 - if the Director-General provides a response → 60 days from the response,
 - if the Director-General does not provide a response → 90 days from the original decision.
- ILOAT: 90 days from receipt of the Director-General's final decision.

Legal representation

- Staff members may be represented before the Joint Appeals Board by another serving or retired staff member.

Transparency

- The UNIDO Staff Regulations and Staff Rules are available [online](#).
- Internal decisions are not published.

Recent decisions

- [ILOAT Judgment No. 4293/2020](#): The complainant was a G6 Finance Assistant and applied for a P2 Associate Finance Officer vacancy. He was shortlisted for an interview but ultimately was not selected as the interview panel found that an external candidate was more qualified and suitable for the post. The complainant filed a complaint of wrongdoing with the Office of Internal Oversight and Ethics (**IOE**) alleging that the selected candidate's experience did not meet the requirements of the vacancy. He also sought a review of the decision not to select him for the post. IOE conducted a preliminary investigation and concluded that the selected candidate met the requirements of the post and that there was no evidence of wrongdoing or favouritism in the recruitment process. The complainant appealed this decision to the Joint Appeals Board, which found that the recruitment process was not flawed but recommended the award of moral damages for "the absence of meritorious recognition by [UNIDO]". The Director-General dismissed the complainant's internal appeal. Before the ILOAT, the complainant requested the production of all relevant reports regarding the selection process and sought compensation for loss of salary. The Tribunal found that the complainant's arguments that the selected candidate did not meet the minimum experience requirements and that the selection process was biased were unsubstantiated and dismissed the appeal in its entirety.
- [ILOAT Judgment No. 4210/2020](#): The complainant separated from service in 2016 when his contract expired without renewal. He had been on sick leave since 2015, but only submitted a claim for compensation under Appendix D to the Staff Rules in 2016. In 2017, the Advisory Board on Compensation Claims (**ABCC**) concluded the claim for compensation was time-barred, that there were no exceptional circumstances that would justify considering the claim outside of the time limits, and that it was therefore irreceivable. The Director-General affirmed this decision, which the complainant then appealed to the ILOAT. The Tribunal confirmed case law that it is not always necessary to comply with time limits in ABCC complaints, but that the purpose of the time limit is to give the organisation notice of its potential liability. The Tribunal considered all other arguments raised by the complainant to be unfounded and dismissed the case.

Our thoughts

- We have observed that UNIDO has a large number of consultants (compared to the number of staff) and that this creates disparity in that they are not entitled to the same rights and remedies as staff members.
- The Joint Appeals Board is peer review body and despite not having a legally qualified external chair (i.e. someone with legal and/or judicial experience), it appears to deliver fair, balanced and objective reports of good quality.
- Although UNIDO does not have an informal dispute resolution mechanism, it is worth noting that few cases appear to have been escalated and carried through to completion at ILOAT level (three cases in 2019, two in 2020 and none in 2021).

United Nations Joint Staff Pension Fund (UNJSPF)

Did you know...

- UNJSPF is an independent inter-agency entity operating under its own regulations. It was established in 1949 to provide retirement, death, disability and related benefits for staff upon cessation of their services with the United Nations.
- Today, UNJSPF serves 25 member organisations, with 128,262 active participants and approximately 75,000 retirees in nearly 200 countries.
- UNJSPF is administered by a Board consisting of 33 members representing the 25 member organisations.

Who has access to the procedure?

- The UNJSPF Regulations apply to all full time staff members of each member organisation.

Stages in the appeal procedure

Note: Every member organisation has its own Staff Pension Committee and makes its own rules for the election of that committee.

1. Submit a request for review of the decision made by the Staff Pension Committee to the Secretary of the Staff Pension Committee.
2. Appeals from the decisions of the Staff Pension Committee are made to the Standing Committee acting on behalf of the UNJSPF Board. The Standing Committee has 15 members.
3. Appeals from the decisions of the Standing Committee are made to the UN Appeal Tribunal.

Is there scope for informal resolution?

- There is no scope for informal resolution.

Time limits

- Request for review: 90 days to file the request, 60 days for the Staff Pension Committee to provide a response.
- Standing Committee: 60 days to file an appeal.
- UN Appeals Tribunal: 90 days from when you receive the Standing Committee's judgement.
- The rules provide that both the Staff Pension Committee and the Standing Committee may consider a request for review or an appeal notice delivered after the expiry of the prescribed period upon showing "good cause". Good cause generally means such things as the failure to observe the time limit due to a serious illness or an innocent delay.

Legal representation

- No specific provision or prohibition against legal representation.

Transparency

- The UNJSPF Regulations are available [online](#).
- Internal decisions are not published.

Recent decisions

- [UNAT Judgment No. 1010/2020](#): The applicant, an elected member to the UN Joint Staff Pension Board, was suspended by the Pension Board for allegedly violating confidentiality requirements contained within the Pension Board's code of conduct. The Tribunal dismissed the applicant's complaint as irreceivable because the applicant failed to contest the decision before the Staff Pension Committee and the Standing Committee and appealed directly to UNAT. The UNAT held that it was not ordinarily allowed to intervene in matters that have not previously been subject to internal reassessment by the UNJSPF.
- [UNAT Judgment No. 656/2016](#): The applicant had separated and re-joined WHO and the UNJSPF a few times between 1999 and 2014. In 2014, he inquired with the WHO Staff Pension Committee about the possibility of restoring one period of his prior contributory service under Article 24(a) of the Regulations. At that time, the applicant had more than five years of contributory service but was separating before his retirement age. The Pension Committee found that Article 24(a) did not provide a right to restore prior contributory service to participants who, on or after 1 April 2007, had elected to receive a deferred retirement benefit. The Standing Committee and UNAT both affirmed this decision. However, the UNAT suggested that given the history and rationale of Article 24(a) of the Regulations, UNJSPF may want to re-examine this provision to take account of members in a similar situation to the applicant.

Our thoughts

- The UNJSPF provides fantastic online resources that are easy to access and understand, with various tools for self-assessment and calculation. The [Case Digest](#) is an online database of UNAT judgments on cases brought against the UNJS Pension Board and decisions of the UNJS Pension Board Standing Committee.

United Nations Relief and Works Agency for Palestine Refugees in the Near East (UNRWA)

Did you know...

- UNRWA was established as a subsidiary organ of the UN General Assembly on 8 December 1949 and is one of the largest UN programmes. It is funded almost entirely by voluntary contributions by UN Member States.
- In the absence of a solution to the Palestine refugee problem, the General Assembly has repeatedly renewed UNRWA's mandate, most recently extending it until 30 June 2023.

Who has access to the procedure?

- Any current or former staff member or any person making claims in the name of an incapacitated or deceased staff member of UNRWA may file an application.

Stages in the appeal procedure

1. Applies to review of administrative decisions that allegedly breach the contract of employment.
2. Submit a request for decision review to the Director of Human Resources or the Field Office Director (depending on staff member's location).
3. Appeals from the decision of the Director are made to the UNRWA Dispute Tribunal.
4. Appeals from the Tribunal's decision are made to the UN Appeal Tribunal.

Is there scope for informal resolution?

- Staff members may attempt informal resolution, including mediation, at any time before or after they take any formal steps.
- Staff members are encouraged to first try and resolve a dispute through informal channels. Both the staff member and the Commissioner-General can initiate informal resolution.

Time limits

- Request for a decision review: 60 days to file the request, 30 days for UNRWA to provide an outcome.
- UNRWA Dispute Tribunal: 90 days to file an appeal.
- UN Appeal Tribunal: 60 days from when you receive the UNRWA Dispute Tribunal judgment.
- Time limits can be extended to allow for informal dispute resolution.

Legal representation

- No specific provision or prohibition against legal representation. Staff members can request assistance from OSLA, any other staff member or a lawyer of their choice to act as their legal representative.

Transparency

- The UNRWA International Staff Rules are available [online](#).
- Internal decisions are not published.

Recent decisions

- [UNRWA/DT/2021/001](#): The decision not to select the applicant in a recruitment process was considered unlawful because the interview panel did not have at least one representative of the recruitment administrator with voting rights. This irregularity was considered to affect the outcome of the entire process. The applicant was awarded USD 5,000 in damages for the loss of opportunity to advance her career and in lieu of rescinding the recruitment decision.
- [UNRWA/DT/2021/003](#): The applicant was employed as a teacher at a boys' school and allegations arose that he had allegedly engaged in sexual exploitation and abuse against one of his students. He was summarily dismissed. The Tribunal considered that due process was followed in the investigation, that the applicant's statements were not credible, that the allegations had been established and that summary dismissal was a proportionate disciplinary measure.

Our thoughts

- The UNRWA Dispute Tribunal has similar functions to the UN Dispute Tribunal in that it operates on e-filing and allows for a lot of interlocutory processes, such as motions for the production of documents before the pleadings have been finalised.
- UNRWA has been undergoing a number of significant management changes and funding cuts in the past few years, which has undoubtedly added pressure on the day-to-day functions of the Agency.

World Health Organisation (WHO)

Did you know...

- WHO was created in 1948 by member states of the UN as a specialized agency with a broad mandate for health.
- On 21 February 2020, six Special Envoys were appointed to work in close collaboration with WHO Regional Directors and country offices to coordinate the global response to COVID-19.
- WHO's emblem of a staff with a snake coiling around it originates from the legend of Asclepius, who was revered by the Greeks as the god of healing.

Who has access to the procedure?

- The WHO Staff Regulations and Staff Rules apply to staff members and former staff members unless it specifically provides otherwise.

The appeal procedure

1. Applies to a final administrative decision alleging non-observance of the terms of appointment. The Director-General can determine that certain categories of final administrative decisions are not subject to review.
2. Submit a request in writing for an administrative review to the Director-General or his/her representative.
3. Appeals from an administrative review decision (or against a deemed rejection of a request for review) are made to the Global Board of Appeal.
4. The Global Board reports its findings and recommendations to the Director-General, who will then make the final decision.
5. Appeals from the Director-General's decision are made to the ILOAT.

Is there scope for informal resolution?

- Staff members are encouraged to initiate or participate in informal means of resolution in good faith at any time in order to resolve a work-related concern. However, informal channels are not mandatory and do not affect the staff member's right to use the formal procedures.
- Staff members can also approach the Ombudsman, who is an independent and neutral interlocutor who provides confidential impartial assistance.

Time limits

- Administrative Review: 60 days to file the request, 60 days to receive outcome.
- Global Board of Appeal: 90 days to file appeal, 90 days from receiving final written pleadings for the Panel to report findings and recommendations to the Director-General, 60 days for Director-General to inform the parties of the final decision.
- ILOAT: 90 days from receipt of the Director-General's final decision.

Legal representation

- There is no specific provision or prohibition against legal representation, meaning that staff members can either request assistance from OSLA or a lawyer of their choice to act as their representative.

Transparency

- The WHO Staff Regulations and Staff Rules are available [online](#).
- Internal decisions are not published.

Recent decisions

- [ILOAT Judgment No. 4377/2021](#): The complainant alleged that he was promised promotion to D2 level and asked the Tribunal to promote him with retroactive effect. The Tribunal considered that none of the documents submitted by the complainant established the existence of a promotion promise. The Tribunal dismissed the complaint for lack of sufficient evidence.
- [ILOAT Judgment No. 4351/2021](#): The complainant challenged her dismissal from service for misconduct. The decision of the Director-General was based on the conclusion that the complainant failed to inform the organisation of her arrest for trying to import 1,832.4 grams of gold without paying customs duties; used her UN Laissez-Passer for personal travels; and misled the organisation and brought it into public discredit. The complaint was dismissed because the Tribunal found that the charges of misconduct were proven beyond any reasonable doubt and that the disciplinary sanction of dismissal was proportionate to the gravity of the complainant's misconduct.
- [ILOAT Judgment No. 4242/2020](#): The complainant challenged the decision not to consider her claim for compensation for illness attributable to the performance of official duties. The complaint was dismissed because the complainant failed to submit her claim for compensation within the required time limit. The Tribunal held that staff members are expected to know their rights and the staff rules, and that ignorance of the law was no excuse.

Our thoughts

- On paper, the WHO Staff Rules set a good standard for the rights of staff associations – they make specific provision for the rights of staff members to associate in a formal organisation, the rights for duly elected representatives to be consulted regarding any proposed changes to the rules and regulations, and the right of the staff association to request financial contributions from WHO.
- The WHO Staff Rules are also applied in PAHO and UNAIDS which results in more consistency in approach and a greater body of case law. We generally notice more cases arising from regional offices than at WHO headquarters.

World Intellectual Property Organisation (WIPO)

Did you know...

- WIPO is a specialised agency of the UN to promote the worldwide protection of both intellectual property (inventions, trademarks, and designs) and copyright materials (literary, musical, photographic, and other artistic works).
- Unlike most UN organisations, WIPO does not rely heavily on assessed or voluntary contributions from member states – almost 95% of its budget comes from fees related to its global services.
- In 1998, WIPO established the [WIPO Academy](#), which offers intellectual property education, training and skills-building for WIPO [member states](#), in particular developing countries.

Who has access to the procedure?

- The WIPO Staff Regulations and Staff Rules apply to staff members and former staff members for three types of complaints:
 - Discrimination and harassment complaints;
 - Rebutting performance appraisals; and
 - Requesting review of an administrative decision.

Stages in the appeal procedure

1. Submit a complaint, rebuttal or request for review to the Director-General.
2. Appeals from the decision of the Director-General are made to the Appeal Board.
3. The Appeal Board submits its report and recommendations to the Director-General, who will then make the final decision on the appeal.
4. Appeals from the Director-General's final decision are made to the ILOAT.

Is there scope for informal resolution?

- There is scope for informal resolution. Parties are encouraged to seek assistance from the Office of the Ombudsperson, Human Resources or a higher-level supervisor.

Time limits

- Request for review: 90 days to file the request, 60 days for the Director-General to provide a response.
- Appeal Board: 90 days to file an appeal, 60 days from the close of the pleadings for the Board to provide its report, 60 days for the Director-General to take the final decision on the appeal.
- ILOAT: 90 days from receipt of the Director-General's final decision.

Legal representation

- Legal representation is allowed. Staff members may be represented before the Appeals Board by any person of their choice.

Transparency

- The WIPO Staff Regulations and Staff Rules are available [online](#).
- Internal decisions are not published.

Recent decisions

- [ILOAT Judgment No. 4288/2020](#): The complainant filed a harassment complaint alleging that his colleague had harassed him in the corridor by talking to him in an appropriate manner. The Director-General (**DG**) decided to delegate his decision-making authority to the Deputy Director General (**DDG**). The complainant asked the DDG to recuse herself, alleging that she had already reviewed some of his earlier claims. The DDG decided not to do so and rejected the harassment complaint. The Appeal Board found that there was insufficient evidence to conclude that the DDG had a conflict of interest in deciding the case, or to establish the complainant's allegations of harassment. The DG accepted the Appeal Board's recommendation to dismiss the appeal. Before the ILOAT, the complainant sought compensation for the physical, moral and psychological harm caused by the conduct of his colleagues and for WIPO's failure to address the situation. The Tribunal found that the complainant's arguments were repetitive and dismissed the appeal on the basis that both the Appeal Board's and the DG's conclusions about the characterisation of the alleged conduct were correct.
- [ILOAT Judgment No. 4337/2021](#): The Complainant resigned from her D2 position at WIPO in December 2012 to take a post with another UN organisation. Approximately four years later, she requested that WIPO reinstate her to her former position or another D2 position in Geneva. WIPO advised the Complainant that there was no basis for her reinstatement, and the Complainant lodged a request for review seeking immediate reinstatement, moral and exemplary damages and reimbursement of legal fees. WIPO dismissed the request as being time-barred and irreceivable as there was no administrative decision to appeal. The Complainant took this to the Appeal Board, claiming that she had discovered new evidence. The Appeal Board still considered the appeal to be time-barred, and the DG accepted the Board's recommendation to dismiss the appeal. The ILOAT confirmed WIPO's decisions and found that the Complainant had not identified any right to reinstatement accruing from her former employment. Accordingly, there was no cause of action for the Tribunal to determine.

Our thoughts

- WIPO's staff rules specifically refer to three types of decisions or complaints that can be appealed and the time limits that apply to the appeal procedure. This is particularly good for harassment or discrimination complaints, which are prone to delay because of the investigation process.
- The Office of Ombudsperson is specifically designated for assisting with workplace disputes as a "neutral interlocutor".
- Although recently revised in January 2021, following recent case law in the UNAT on the *nemo iudex in causa sua* principle (see our [September blog](#)), the WIPO Staff Rules may need to be reconsidered again as Appeal Board decisions are not binding on the Director-General, who has discretion to adopt or reject their recommendations. However, this will depend on whether the ILOAT adopts the same position as the UNAT on (i) the authority of internal appeal boards issuing first instance decisions as opposed to recommendations; and (ii) the conflict of interest in heads of organisations reviewing their own decisions.



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