XI. APPEALS

REGULATION 11.3

STATUTE OF THE UNRWA DISPUTE TRIBUNAL

Article 1

A tribunal to be known as the UNRWA Dispute Tribunal is established by the present statute to be utilized by UNRWA as the neutral first instance of the United Nations two-tier formal system of administration of justice.

Article 2

1. The Dispute Tribunal shall be competent to hear and pass judgement on an application filed by an individual, as provided for in article 3, paragraph 1, of the present statute, against the Commissioner-General as the Chief Executive Officer of UNRWA:
(a) To appeal an administrative decision that is alleged to be in non-compliance with the terms of appointment or the contract of employment. The terms “contract” and “terms of appointment” include all pertinent regulations and rules and all relevant administrative issuances in force at the time of alleged non-compliance;

(b) To appeal an administrative decision imposing a disciplinary measure.

2. The Dispute Tribunal shall be competent to permit or deny leave to an application to file a friend-of-the-court brief by a staff association.

3. The Dispute Tribunal shall be competent to permit an individual who is entitled to appeal the same administrative decision under paragraph 1 (a) of the present article to intervene in a matter brought by another staff member under the same paragraph.

4. In the event of a dispute as to whether the Dispute Tribunal has competence under the present statute, the Dispute Tribunal shall decide on the matter.

5. As a transitional measure, the Dispute Tribunal shall be competent to hear and pass judgement on cases filed prior to the establishment of the Dispute Tribunal and in respect of which no report of a joint appeals board has been submitted to the Commissioner-General. Such cases will be deemed to be receivable under article 8 of the present statute.

Article 3

An application under article 2, paragraph 1, of the present statute may be filed by:

(a) Any staff member of UNRWA;

(b) Any former staff member of UNRWA;

(c) Any person making claims in the name of an incapacitated or deceased staff member of UNRWA.

Article 4

1. The Dispute Tribunal shall be composed of one judge, who may be full-time or part-time, and ad litem judges as appropriate.

2. The UNRWA Internal Justice Committee established by Area and International Staff Rule 111.5 shall select the judge for formal appointment by the Commissioner-General.
3. To be eligible for appointment as a judge, a person shall:

   (a) Be of high moral character; and

   (b) Possess at least 10 years of judicial experience in the field of administrative law, or the equivalent within one or more national jurisdictions.

4. A judge of the Dispute Tribunal shall be appointed for one non-renewable term of seven years.

5. A judge of the Dispute Tribunal shall not be eligible for any appointment within UNRWA for a period of five years following his or her term of office.

6. A judge of the Dispute Tribunal shall serve in his or her personal capacity and enjoy full independence.

7. A judge of the Dispute Tribunal who has, or appears to have, a conflict of interest shall recuse himself or herself from the case. A party may request recusal on the basis that the judge has, or appears to have, a conflict of interest. Where a party requests such recusal, the decision shall be taken by the UNRWA Internal Justice Committee.

8. A judge of the Dispute Tribunal may only be removed in case of misconduct or incapacity. The UNRWA Internal Justice Committee shall decide whether a judge should be removed on these grounds, following which the Commissioner-General shall formally remove the judge.

9. A judge of the Dispute Tribunal may resign by notifying the Commissioner-General in writing.

10. The UNRWA Internal Justice Committee may only make a decision under paragraphs 2, 7 and 8 of the present article with the agreement of at least five of its members including a majority of the three distinguished external jurist members.

Article 5

The judge of the Dispute Tribunal shall exercise his or her functions in Amman. However, the Dispute Tribunal may decide to hold sessions at other UNRWA duty stations.
Article 6

1. The Commissioner-General shall make the administrative arrangements necessary for the functioning of the Dispute Tribunal, including provisions for the travel and related costs of staff whose physical presence before the Dispute Tribunal is deemed necessary by the Dispute Tribunal and for the judge to travel as necessary to hold sessions at other UNRWA duty stations.

2. The Registry of the Dispute Tribunal shall be established in Amman and consist of a Registrar and such other staff as necessary.

3. The expenses of the Dispute Tribunal shall be borne by UNRWA.

4. Compensation ordered by the Dispute Tribunal shall be paid by UNRWA.

Article 7

1. The Rules of Procedure of the Dispute Tribunal are set out in Staff Regulation 11.4. Subject to the provisions of the present statute, the Dispute Tribunal may adopt amendments to these Rules of Procedure which shall be submitted to the Commissioner-General for approval by the Commissioner-General in agreement with the Secretary-General.

2. The rules of procedure of the Dispute Tribunal shall include provisions concerning:

   (a) Organization of work;

   (b) Presentation of submissions and the procedure to be followed in respect thereto;

   (c) Procedures for maintaining the confidentiality and inadmissibility of oral or written statements made during the mediation process;

   (d) Intervention by persons not party to the case whose rights may be affected by the judgement;

   (e) Oral hearings;

   (f) Publication of judgements;

   (g) Functions of the Registry;

   (h) Procedure for summary dismissal of a case before the Dispute Tribunal;

   (i) Evidentiary procedure;
(k) Procedure for the recusal of a judge;

(l) Other matters relating to the functioning of the Dispute Tribunal.

**Article 8**

1. An application shall be receivable if:

   (a) The Dispute Tribunal is competent to hear and pass judgement on the application, pursuant to article 2 of the present statute;

   (b) An applicant is eligible to file an application, pursuant to article 3 of the present statute;

   (c) An applicant has previously submitted the contested administrative decision for decision review; and

   (d) The application is filed within the following deadlines:

      (i) Within 90 calendar days of the applicant’s receipt of the response by management to his or her submission; or

      (ii) Within 90 calendar days of the expiry of the relevant response period for the decision review if no response to the request was provided. The response period shall be 30 calendar days after the submission of the decision to decision review;

      (iii) The deadlines provided for in subparagraphs (d) (i) and (ii) of the present paragraph shall be extended to one year if the application is filed by any person making claims in the name of an incapacitated or deceased staff member of UNRWA;

      (iv) Where the parties have sought mediation of their dispute within the deadlines for the filing of an application under subparagraph (d) of the present paragraph, but did not reach an agreement, the application is filed within 90 calendar days after the mediation has broken down.

2. An application shall not be receivable if the dispute arising from the contested administrative decision had been resolved by an agreement reached through mediation.
3. The Dispute Tribunal may decide in writing, upon written request by the applicant, to suspend, waive or extend the deadlines for a limited period of time and only in exceptional cases. The Dispute Tribunal shall not suspend, waive or extend the deadlines for decision review.

4. Notwithstanding paragraph 3 of the present article, an application shall not be receivable if it is filed more than three years after the applicant’s receipt of the contested administrative decision.

5. The filing of an application shall not have the effect of suspending the implementation of the contested administrative decision.

6. An application and other submissions shall be filed in English or Arabic.

Article 9

1. The Dispute Tribunal may order production of documents or such other evidence as it deems necessary.

2. The Dispute Tribunal shall decide whether the personal appearance of the applicant or any other person is required at oral proceedings and the appropriate means for satisfying the requirement of personal appearance.

Article 10

1. The Dispute Tribunal may suspend proceedings in a case at the request of the parties for a time to be specified by it in writing.

2. At any time during the proceedings, the Dispute Tribunal may order an interim measure, which is without appeal, to provide temporary relief to either party, where the contested administrative decision appears prima facie to be unlawful, in cases of particular urgency, and where its implementation would cause irreparable damage. This temporary relief may include an order to suspend the implementation of the contested administrative decision, except in cases of appointment, promotion or termination.

3. At any time during the proceedings, including at the hearing, the Dispute Tribunal may suggest to the parties to seek mediation.

4. Prior to a determination of the merits of a case, should the Dispute Tribunal find that a relevant procedure prescribed in the Staff Regulations and Rules or applicable administrative issuances has not been observed, the Dispute Tribunal may, with the concurrence of the Commissioner-General, remand the case for institution or correction of the required procedure, which, in any case, should not exceed three months.
5. As part of its judgement, the Dispute Tribunal may order one or both of the following:

   (a) Rescission of the contested administrative decision or specific performance, provided that, where the contested administrative decision concerns appointment, promotion or termination, the Dispute Tribunal shall also set an amount of compensation that the respondent may elect to pay as an alternative to the rescission of the contested administrative decision or specific performance ordered, subject to subparagraph (b) of the present paragraph;

   (b) Compensation, which shall normally not exceed the equivalent of two years’ net base salary of the applicant. The Dispute Tribunal may, however, in exceptional cases order the payment of a higher compensation and shall provide the reasons for that decision.

6. Where the Dispute Tribunal determines that a party has manifestly abused the proceedings before it, it may award costs against that party.

7. The Dispute Tribunal shall not award exemplary or punitive damages.

8. The Dispute Tribunal may refer appropriate cases to the Commissioner-General for possible action to enforce accountability.

9. Cases before the Dispute Tribunal shall be considered by a single judge.

**Article 11**

1. The judgements of the Dispute Tribunal shall be issued in writing and shall state the reasons, facts and law on which they are based.

2. The deliberations of the Dispute Tribunal shall be confidential.

3. The judgements of the Dispute Tribunal shall be binding upon the parties, but are subject to appeal in accordance with the statute of the United Nations Appeals Tribunal. In the absence of such appeal, they shall be executable following the expiry of the time provided for appeal in the statute of the Appeals Tribunal.

4. The judgements of the Dispute Tribunal shall be drawn up in English and two originals shall be deposited in the archives of UNRWA.

5. A copy of the judgement shall be communicated to each party in the case. If requested, the applicant shall also receive a copy translated into Arabic if the application was submitted in Arabic.
6. The judgements of the Dispute Tribunal shall be published, while protecting personal data, and made generally available by the Registry of the Tribunal.

**Article 12**

1. Either party may apply to the Dispute Tribunal for a revision of an executable judgement on the basis of the discovery of a decisive fact which was, at the time the judgement was rendered, unknown to the Dispute Tribunal and to the party applying for revision, always provided that such ignorance was not due to negligence. The application must be made within 30 calendar days of the discovery of the fact and within one year of the date of the judgement.

2. Clerical or arithmetical mistakes, or errors arising therein from any accidental slip or omission, may at any time be corrected by the Dispute Tribunal, either on its own motion or on the application of any of the parties.

3. Either party may apply to the Dispute Tribunal for an interpretation of the meaning or the scope of the final judgement, provided that it is not under consideration by the Appeals Tribunal.

4. Once a judgement is executable under article 11, paragraph 3, of the present statute, either party may apply to the Dispute Tribunal for an order for execution of the judgement if the judgement requires execution within a certain period of time and such execution has not been carried out.

**Article 13**

The present statute may be amended by the Commissioner-General in agreement with the Secretary-General of the United Nations.