REGULATION 11.4

RULES OF PROCEDURE OF THE UNRWA DISPUTE TRIBUNAL

Article 1        Venue

The judge of the UNRWA 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 2        Filing of cases

An application shall be filed at the Registry of the Dispute Tribunal.
Article 3  Time limits for filing applications

1. An application shall be filed with the Tribunal through the Registrar within:

   (a) 90 calendar days after the Applicant received the decision review, as appropriate; or

   (b) 90 calendar days after the expiry of the relevant response period for the decision review, i.e., 30 calendar days.

2. Any person making claims in the name of an incapacitated or deceased staff member of UNRWA shall have one calendar year to file an application.

3. Where the parties have sought mediation of their dispute, the application shall be receivable if filed within 90 calendar days after mediation has broken down.

4. In exceptional cases, an Applicant may submit a written request to the Dispute Tribunal seeking suspension, waiver or extension of the time limits referred to in Article 3.1, above. Such written request shall succinctly set out the exceptional reasons that, in the view of Applicant, justify the request. Such written request shall not exceed two pages in length.

5. In accordance with Article 8.4 of the Statute of the Dispute Tribunal, no application shall be receivable if filed more than three years after the Applicant's receipt of the contested administrative decision.

Article 4  Applications

1. An application may be filed on an application form to be prescribed by the Registrar.

2. The application should include the following information:

   (a) Applicant's full name, date of birth and nationality;

   (b) Applicant's employment status (including UNRWA index number, post title, duty station and Department) or relationship to the staff member if relying on his or her rights;

   (c) Name of the Applicant's legal representative (attach authorization);

   (d) Physical and electronic address for service of documents;

   (e) Date and place of the contested decision (attach contested decision if any);

   (f) Action and remedies sought;
3. The application form and all annexes shall be filed in one signed original together with annexed documents, which may be electronically transmitted.

4. After ascertaining that the requirements of this Article are complied with, the Registrar shall transmit a copy of the application to the Respondent and to any other party a judge considers appropriate. If the formal requirements of the Article are not fulfilled, the Registrar may require the Applicant to comply with the requirements of this Article within a specified time-limit. Once the corrections have been properly made, the Registrar shall transmit a copy of the application to the Respondent.

**Article 5 Summary judgement**

A party may move for summary judgement when there is no dispute as to the material facts of the case and a party is entitled to judgement as a matter of law. The Tribunal may determine, on its own initiative, that summary judgement is appropriate.

**Article 6 Reply**

1. The Respondent's reply shall be submitted within 30 calendar days from the date of receipt of the application by the Respondent in one signed original together with annexed documents, which may be electronically transmitted. The Respondent who has not submitted a reply within the requisite period shall not be entitled to take part in the proceedings except with the leave of the Tribunal.

2. After ascertaining that the requirements of this Article are complied with, the Registrar shall transmit a copy of the response to the Applicant and to any other party a judge considers appropriate. If the formal requirements of the Article are not fulfilled, the Registrar may require the Respondent to comply with the requirements of this Article within a specified time-limit. Once the corrections have been properly made, the Registrar shall transmit a copy of the reply to the Applicant.

**Article 7 Joining of a party**

The Tribunal may, at any time, either on the application of a party or of its own initiative join another party if it appears to the Tribunal that that party has a legitimate interest in the outcome of the proceedings.

**Article 8 Representation**

1. A party may present his or her case before the Dispute Tribunal in person, or may be represented by outside counsel.
2. A party may also be represented by a staff member or a former staff member of UNRWA, the United Nations Secretariat or other United Nations agencies, or one of the specialized agencies.

**Article 9  Suspension of action during the proceedings**

1. At any time during the proceedings, the Dispute Tribunal may order an interim measure to provide temporary relief, 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.

2. The Registrar shall transmit the application to the Respondent.

3. The Tribunal shall consider an application for interim measures within five working days of the receipt by the Respondent of the application.

4. The decision of the Dispute Tribunal on such an application shall not be subject to appeal.

**Article 10  Mediation**

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

2. Where parties decide to seek mediation, either on their own initiative or following a suggestion by the judge, they shall promptly inform the Registry in writing.

3. Except for any agreement reached through mediation, all documents prepared for – and oral statements made during – any mediation are absolutely privileged and confidential and shall never be disclosed to the Dispute Tribunal. No mention shall be made of any such mediation efforts in documents or written pleadings submitted to the Tribunal or in any oral arguments made before the Dispute Tribunal.

**Article 11  Hearing**

1. The Judge hearing a case may hold oral hearings.

2. The Registrar shall notify the date and time of a hearing to the parties in advance, and confirm the names of witnesses or expert witnesses for the hearing of a particular case.

3. In case of an oral hearing, the parties or their duly designated representatives must be present either in person or by video-link, telephone or any other electronic means.
4. If the Tribunal requires the physical presence of a party or any other person at the hearing, the necessary costs associated with the travel and accommodation of the party shall be borne by UNRWA.

**Article 12  Oral evidence at oral hearings**

1. The parties may call witnesses and experts to testify. The opposing party may cross-examine any witnesses and experts. The Tribunal may examine any witnesses or experts called by either party and may call any other witnesses or experts it deems necessary. The Tribunal may make an order requiring the presence of any person and to produce any document.

2. The Tribunal may, if it considers it appropriate in the interest of justice to do so, proceed to determine a case in the absence of a party.

3. Each witness shall make the following declaration before giving his or her statement: "I solemnly declare upon my honour and conscience that I will speak the truth, the whole truth and nothing but the truth".

4. Each expert shall make the following declaration before giving his or her statement: "I solemnly declare upon my honour and conscience that my statement will be in accordance with my sincere belief".

5. Any party may object to the testimony of a given witness or expert, stating reasons for such objection. The Tribunal shall decide on the matter. Its decision shall be final.

6. The Tribunal shall decide whether the personal appearance of a witness or expert is required at oral hearings and determine the appropriate means for satisfying the requirement of personal appearance. Evidence may be taken by video-link, telephone or any other electronic means.

**Article 13  Evidence**

1. The Tribunal shall determine the admissibility of any evidence.

2. The Tribunal may order production of evidence from either party at any time and may require any person to disclose any document or provide information that appears to the Tribunal to be necessary for a fair and expeditious disposal of the proceedings.

3. A party wishing to submit evidence which is in the possession of the opposing party, or of any other entity may, in the initial application or at any stage of the proceedings, request the Tribunal to order the production of the evidence.

4. The Tribunal may, at the request of either party, impose measures to preserve the confidentiality of evidence, where warranted by security interests or other exceptional circumstances.
5. The Tribunal may exclude evidence which it considers irrelevant, frivolous, or lacking in probative value. The Tribunal may also limit the oral testimony as it deems appropriate.

Article 14 Case management

The Tribunal may, at any time, either on an application of a party or of its own initiative make any order or give any direction which appears to the judge to be appropriate for a fair and expeditious disposal of the case and to do justice to the parties.

Article 15 Remand of case for institution or correction

Prior to a determination of the merits of a case, should the Tribunal find that a relevant procedure prescribed in the Staff Regulations and Rules or applicable administrative issuances has not been observed, the 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.

Article 16 Registry

1. The Tribunal shall be supported by the Registry, which shall provide all necessary administrative and support services to it.

2. The Registry shall be established in Amman and shall be headed by a Registrar appointed by the Commissioner-General and such staff as necessary.

3. The Registrar shall discharge the duties set out in these Rules of Procedure and shall support the work of the Dispute Tribunal at the direction of the judge. In particular, the Registrar shall:

   (a) Transmit all documents and make all notifications required in these Rules of Procedure, or by the judge, in connection with proceedings before the Tribunal;

   (b) Establish for each case a master Registry file which shall record all actions taken in connection with the preparation of the case for hearing, the dates thereof, and the dates on which any document or notification forming part of the procedure is received in or dispatched from his or her office; and

   (c) Perform any other duties that are required by the judge for the efficient functioning of the Tribunal.

4. The Registrar, if unable to act, shall be replaced by an official appointed by the Commissioner-General.
Article 17  Intervention by persons not party to the case

1. Any person to whom the Tribunal is open under article 2.3 of the Statute may apply to intervene on an application form to be prescribed by the Registrar, in a case at any stage thereof, on the ground that he or she has a right which may be affected by the judgment to be issued by the Tribunal.

2. After ascertaining that the requirements of the present article are complied with, the Registrar shall transmit a copy of the application for intervention to the Applicant and to the Respondent.

3. The Tribunal shall decide on the admissibility of the application to intervene. Such decision shall be final and shall be communicated to the Intervener and the parties by the Registrar.

4. The Tribunal shall set the modalities of the intervention. If admissible, the Tribunal shall decide which documents, if any, relating to the proceedings are to be transmitted to the Intervener by the Registrar and shall fix a time by which any written submissions must be submitted by that Intervener. It shall also decide whether the Intervener shall be permitted to participate in any oral hearing.

Article 18  Intervention procedure

An application to intervene and any subsequent intervention shall be submitted on a form to be prescribed by the Registrar, in one signed original, which may be electronically transmitted.

Article 19  Application to file friend-of-court brief

1. A staff association may submit a signed application to file a "friend-of-court" brief on a form to be prescribed by the Registrar, which may be transmitted electronically. The Registrar shall forward a copy of the application to the parties who shall have three days to file any objections.

2. The judge hearing the case may grant the application if he or she considers that the filing of the brief would assist the Dispute Tribunal in its deliberations. The decision will be communicated to the Applicant and the parties by the Registrar.

Article 20  Judgements

1. Judgements shall be issued in writing in English and shall state the reasons, fact and law, including decisions of the United Nations Dispute Tribunal and Appeals Tribunal on which they are based.

2. Judgements shall be drawn up in English in two originals, and shall be deposited in the archives of UNRWA.
3. The Registrar shall transmit a copy of the judgement to each party. If requested, an Applicant or Respondent shall also receive a copy of the judgement translated into Arabic if the application was submitted in Arabic.

4. The Registrar shall send to the Registrar of the United Nations Dispute Tribunal copies of all the judgements of the UNRWA Dispute Tribunal.

**Article 21 Publication of judgements**

1. The Registrar shall arrange for publication of the judgements of the Dispute Tribunal on the web site of the Tribunal or other appropriate web site after they are delivered.

2. The judgements of the Tribunal shall protect personal data and are available at the Registry of the Tribunal.

**Article 22 Conflict of interest**

1. The term "conflict of interest" means any factor which may impair or reasonably give the appearance of impairing the ability of a judge to independently and impartially adjudicate a case.

2. A conflict of interest arises where a case involves any of the following:

   (a) A person with whom the judge has a personal, familiar or professional relationship;

   (b) A matter in which the judge has previously served in another capacity, including adviser, counsel, expert or witness; or

   (c) Any other circumstances which would make it appear to a reasonable and impartial observer that the judge's participation in adjudication of the matter would be inappropriate.

**Article 23 Recusal**

1. A judge of the Dispute Tribunal who has, or appears to have, a conflict of interest as defined in Article 22 of these Rules shall recuse himself or herself from the case.

2. A party may make a reasoned request for the recusal of a judge, on the grounds of a conflict of interest, through the Registrar to the UNRWA Internal Justice Committee who, after seeking comments from the judge, shall decide on the request and shall inform the party of the decision in writing.

3. The Registrar shall communicate the decision to the parties concerned.
Article 24  Revision of judgements

1. Either party may apply to the Dispute Tribunal through the Registrar 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 Tribunal and to the party applying for revision, always provided that such ignorance was not due to negligence.

2. The application for revision must be made within 30 calendar days of the discovery of the fact and within one year of the date of the judgement.

3. The application for revision shall be sent by the Registrar to the other party, who has 30 days after receipt to submit comments to the Registrar.

Article 25  Interpretation of judgements

Either party may apply to the Dispute Tribunal through the Registrar for an interpretation of the meaning or scope of a judgement provided it is not under consideration by the United Nations Appeals Tribunal. The application for interpretation shall be sent by the Registrar to the other party who shall have 30 days after receipt to submit comments on the application. The Dispute Tribunal will decide whether to admit the application for interpretation and, if so, shall issue its interpretation.

Article 26  Correction of judgements

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.

Article 27  Execution of judgements

1. The judgement of the Dispute Tribunal shall be binding upon the parties, but is subject to appeal in accordance with the Statute of the United Nations Appeals Tribunal. In the absence of such appeal, it shall be executable following the expiry of the time provided for appeal in the Statute of the Appeals Tribunal.

2. Once a judgement is executable under article 11.3 of the 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 28  Titles

The titles to the Articles in these Rules of Procedure are for reference purposes only and do not constitute an interpretation of the Article concerned.
Article 29  Calculation of time limits

The time limits prescribed in these Rules:

(a) Refer to calendar days and shall not include the day of the event from which the period runs;

(b) Shall include the next working day of the Registry when the last day of the period is not a working day; and

(c) Shall be deemed to have been met if the documents in question were dispatched by reasonable means on the last day of the period, except if the time limit runs from the time of receipt.

Article 30  Waiver of time limits

Subject to the Statute of the Dispute Tribunal, including in particular articles 8.3 and 8.4, the Judge hearing a case may shorten or extend a time limit fixed by these Rules or waive any rule when the interests of justice so require.

Article 31  Transitional measures

1. 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 Statute of the Dispute Tribunal and article 3 of the present Rules of Procedure.

2. The Commissioner-General shall notify the Tribunal, through the Registrar, of the cases to which the present article and article 2.5 of the Statute apply.

Article 32  Procedural matters not covered in Rules

1. All procedural matters which are not expressly provided for in the present Rules shall be dealt with by decision of the Dispute Tribunal upon the particular case, in accordance with the Statute and consistent with the relevant rules of international law and the principles of the rule of law and due process.

2. The Dispute Tribunal or Registrar may issue Practice Directions related to the implementation of these Rules.

Article 33  Amendment of Rules

1. 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 amendments shall operate provisionally until approved by the Commissioner-General in agreement with the Secretary-General or until they are amended or withdrawn by the Dispute Tribunal on its own motion or in accordance with a decision of the Commissioner-General in agreement with the Secretary-General.

3. The judge of the Dispute Tribunal may instruct the Registrar to revise any form from time to time in the light of experience, provided such modifications are consistent with the Rules of Procedure.

**Article 34 Entry into force**

The Rules shall enter into force on the date of approval by the Commissioner-General in agreement with the Secretary-General.