



THE UNRWA DISPUTE TRIBUNAL

A Step-by-Step Guide
to the administration of justice process



united nations relief and works agency for palestine
refugees in the near east

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The purpose of this booklet is to give staff a better understanding and clearer picture of the formal administration of justice system at UNRWA and to guide staff through the process of appealing administrative decisions.



The footnotes contained in the Arabic text relate only to matters of translation. They are not text and therefore are not included in the English version.

Translated into Arabic by: Mohammad R. Sweidan

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I. Introduction

In 2007, the General Assembly decided to introduce a new system for handling internal disputes and disciplinary matters in the United Nations. This came as a result of extensive discussions on the issue of administration of justice, and a keen recognition by both management and staff that the existing system no longer met the needs of the Organization. The goal was to have a system that was independent, professionalised, efficient, transparent and decentralised, with a stronger emphasis on resolving disputes through informal means, before resorting to formal litigation. Accordingly, the Joint Appeals Board (JAB), the Joint Disciplinary Committee (JDC) and the United Nations Administrative Tribunal were abolished and the new system of administration of justice came into effect pursuant to General Assembly Resolution 63/253 on 1 July 2009.

In line with the new system of administration of justice, and in agreement with the Secretary-General of the United Nations, the United Nations Relief and Works Agency for Palestine Refugees in the Near East (UNRWA) established its own first instance Dispute Tribunal, which conforms to the General Assembly's requirements and is modelled after the United Nations Dispute Tribunal. The Judge of the UNRWA Dispute Tribunal was selected through a thorough recruitment process conducted by the Internal Justice Committee, which is comprised of seven members: one area staff member selected biennially by the Inter-Staff Union Conference; one international staff member elected biennially by ballot of the international staff; three distinguished external jurists; the Director of Human Resources and the Director of Legal Affairs.

The UNRWA Dispute Tribunal hears and decides on cases filed by or on behalf of current and former staff members appealing administrative decisions either (a) alleged to be in non-compliance with their terms of appointment or (b) relating to disciplinary measures. The Judge conducts hearings, issues orders and renders binding judgments. Both staff members and the Agency have a right to appeal the judgments of the UNRWA Dispute Tribunal to the United Nations Appeals Tribunal.

II. Why do we need an internal justice system?

Staff members are unable to file employment-related claims against the Agency in national courts, in view of the United Nations' status as an international organization with privileges and immunities. Accordingly, the internal justice system has been established. The internal justice system is also a pillar in the overall effort to strengthen accountability and ensure responsible decision-making.

III. Administration of justice

What kind of decisions can be appealed to the UNRWA Dispute Tribunal?

The authority of the UNRWA Dispute Tribunal is limited to cases involving an administrative decision by the Agency that is alleged not to comply with the terms of a staff member's appointment or that imposes a disciplinary measure.

The Tribunal may only deal with decisions affecting an employment situation, such as non-renewal, non-selection, disciplinary measures and any other contractual issues. More can be read about the requirements for the jurisdiction of the UNRWA Dispute Tribunal in the Statute and Rules of Procedure of the UNRWA Dispute Tribunal to be found in Area and International Staff Regulations 11.4-11.5.

A. Informal Dispute Resolution

Staff members are strongly encouraged to first try and resolve a dispute through informal channels, and avoid unnecessary litigation. Resolving disputes through negotiation, voluntary mediation and other alternative means is usually quicker, and often proves to be a less stressful and cumbersome process than litigation. Pursuing informal resolution of a dispute does not prevent a staff member from also bringing the matter to the formal system of justice, as set forth below. Indeed, pursuant to Article 10 of the Rules of Procedure (Reg. 11.5), the Tribunal may suggest to the parties to seek mediation and suspend the proceedings.

B. Formal Dispute Resolution

If a staff member considers that there has been an administrative decision that violates his or her terms of employment with the Agency or seeks to challenge the imposition of disciplinary measures, and is unable to resolve the matter informally, the staff member can contest such a decision through the formal mechanism.

Contesting a decision involves a number of steps, with specific time limits. It is important for anyone wishing to contest a decision to be aware of these steps and time limits.

Preliminary Step Prior to Filing an Application with the UNRWA Dispute Tribunal: Request for Review of an Administrative Decision

As a first step in the formal system and according to Area Staff Rule 111.2 and International Staff Rule 11.2, a staff member who wishes to contest an administrative decision will have to request a decision review. This has to occur within 60 calendar days of the staff member being notified of the decision he or she wishes to contest. This review, which should be concluded within 30 calendar days, will assess whether the contested decision was made in accordance with the Agency's regulatory framework. If it is determined that an improper decision has been made, the decision reviewer will ensure that the decision is changed or that an appropriate remedy is provided. In some cases, alternative means of arriving at a settlement, such as mediation, may be found.

The purpose of the decision review step is to give management a chance to correct itself or provide acceptable remedies in cases where there has been flawed decision-making, and to provide greater clarity regarding the decision to the staff member, thus reducing the number of cases that need to proceed to formal litigation.

To whom should request for decision review be submitted?

The request for review of the administrative decision must be done in the form of a written request. In the case of staff members of Field Offices, the request should be submitted to the Field Office Director; in the case of staff members of Headquarters, the request should be submitted to the Director of Human Resources.

For staff members of Field Offices where the contested administrative decision had not been made by the Field Office Director, the relevant Field Office Director will conduct the review. The decision review shall be carried out by the Deputy Commissioner General in the case of staff members of Headquarters, or staff members of Field Offices where the contested administrative decision had been made by the Field Office Director.

Time limit: The request for a decision review must be submitted within 60 calendar days of the date you received notification of the administrative decision you are contesting.

Substance of request: In your letter, explain clearly the decision you wish to contest, who made the decision and when, how it violates your rights and why you believe the decision was improper or unlawful. A form is available on the intranet entitled "Request for Decision Review", which contains relevant questions that the reviewer will need in order to conduct the review. Staff members requesting a review are strongly encouraged to seek the advice and assistance of the Legal Officer (Staff Assistance) ("LOSA") to become fully acquainted with their rights.

You should receive a response to the request for decision review within 30 calendar days. If you do not receive a response within this time limit, you can proceed with your application to the UNRWA Dispute Tribunal.

You must submit your application to the Tribunal within 90 calendar days from the date you receive the outcome of the decision review or upon the expiration of the 30-day response period, if no response was provided.

A Request for Decision Review form is available in Arabic and English on the intranet and also on the UNRWA Dispute Tribunal's site on the Agency's internet page at www.unrwa.org

The UNRWA Dispute Tribunal

When no resolution through informal means can be achieved and when the result of the decision review is not to the satisfaction of the staff member, the staff member can file an application to the UNRWA Dispute Tribunal as a court of first instance. The UNRWA Dispute Tribunal operates on a full-time basis with one professional Judge. A second professional Judge is assigned to adjudicate remands from the United Nations Appeals Tribunal (“UNAT”).

The UNRWA Dispute Tribunal will examine the facts of the case, and will conduct, where necessary, oral proceedings or hearings. These will normally be held in public.

The Judgments of the UNRWA Dispute Tribunal are binding unless vacated or remanded by the UNAT. Both the staff member and the Commissioner-General have the right to appeal a judgment rendered by the UNRWA Dispute Tribunal to the UNAT in accordance with the Statute and Rules of Procedure of the UNAT.

The full Statute and Rules of Procedure of the UNRWA Dispute Tribunal can be found at Chapter XI of the Area and International Staff Regulations, 11.4 and 11.5. You may also wish to consult Chapter XI of Area and International Staff Rules, respectively 111.1 to 111.5 and 11.1-11.5.

IV. Filing an Application: Step-by-step guide

Who may file an application with the UNRWA Dispute Tribunal?

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.

You may represent yourself in matters before the Dispute Tribunal or seek the representation of the LOSA or another representative of your choice, including a staff member or a former staff member of UNRWA.

What do I do first to file an application with the UNRWA Dispute Tribunal?

You should consider contacting the LOSA as he/she will be able to provide advice on filing your application in the formal system.

Time limit: An application to the UNRWA Dispute Tribunal must be filed within 90 calendar days of receipt of the decision review outcome, or, as noted above, within 90 calendar days of the date by which you should have received a response to your request for decision review.

The application to the UNRWA Dispute Tribunal can also be found in Arabic and English on the intranet and on the UNRWA Dispute Tribunal's site on the Agency's internet page at www.unrwa.org or by emailing the Registrar at registrar-unrwa.dt@unrwa.org

How do I file my Application?

You must submit your application on the standard UNRWA Dispute Tribunal Application Form. Your application, and any annexes, must be in compliance with Article 4 of the Rules of Procedure and Practice Direction No. 1, issued in General Staff Circular number GSC/04/2018 dated 31 May 2018. Remember that the Application Form should be submitted as one signed original document, together with annexed documents. Applications may be filed in English or Arabic. Please do not send original documents as annexes, but only copies (scanned or photocopied).

Where possible, your application should be submitted electronically (by e-mail) to the Registrar. If you cannot submit your application electronically, you may hand-deliver it directly to the office of the Registry located at the UNRWA Headquarters in Amman. Do not send it via an Agency Field Office or other Agency installations. Alternatively, you

can submit your application by the UNRWA pouch. If you are sending the application by pouch, please address the envelope as follows:

Registrar
UNRWA Dispute Tribunal
Headquarters, Amman

Next Steps

After you have sent your application and the Agency (Respondent) has submitted a reply, the Judge will decide how to further proceed.

As previously noted, the Judge may order the parties to meet in order to discuss whether the matter can be mediated or settled or whether agreement can be reached on certain factual and legal issues that are in contention. The Judge may also instruct that further written submissions are necessary.

In most cases the Judge will make a final ruling based on the documents presented to the UNRWA Dispute Tribunal by the Applicant and Respondent. Please note that unless measures of confidentiality have been imposed by the Tribunal, both parties will be provided with copies of all documents considered in the final determination of the case.

In cases where the Judge decides that the matter cannot be dealt with on paper, i.e. based on the case file, the Judge may decide to hold a hearing. The most common hearing is called a Case Management Hearing, which allows the parties to come before the Judge to present any new and relevant evidence. The Judge may also seek clarification from the parties on any issue related to the case. During this phase, the parties will be directed to provide a final list of documents or other evidence they propose to rely on to prove their case.

Alternatively, the Judge may hold a hearing on the merits of the case, which means that the parties are to present the substance of their case and witnesses may also be called. If one of the parties or a witness cannot participate in person, she/he may do so by telephone or video-conference.

Judgments of the UNRWA Dispute Tribunal are published on both the intranet and internet websites.

Can I still try mediation or other informal methods even if I have filed an application with the UNRWA Dispute Tribunal?

The option of seeking a solution through informal means remains open at any time, but it is important to remember that informal resolution is more effective before engaging with the formal justice system.

The time limit applicable to filing an application with the UNRWA Dispute Tribunal may be extended, upon the Applicant's request, to allow for informal dispute resolution, including mediation.

V. The UN Appeals Tribunal

As mentioned above, Judgments of the UNRWA Dispute Tribunal may be appealed, either by the Applicant or the Respondent, to the UNAT. The Statute of the UNAT permits an appeal in cases where it is alleged that the UNRWA Dispute Tribunal has either exceeded its jurisdiction or failed to exercise it; or that it has erred on questions of fact or law; or has committed an error in procedure.

See Area Staff Rule 111.4 and International Staff Rule 11.4 for more details on filing appeals to the UNAT.

The UNAT is composed of seven Judges, and its Registry is based in New York. It normally holds three sessions a year.

The full Statute of the UNAT can be found in annex II to General Assembly Resolution A/63/253 of 24 December 2008. For more information the website of UNAT can be found at: <http://www.un.org/en/oaj/appeals/>

To contact the Registrar of the UNAT, call or write to:

Registry of the United Nations Appeals Tribunal United Nations Secretariat
 2 United Nations Plaza
 Room DC2-2405
 New York, NY, 10017, USA
 Telephone: +1212 963 2293/9511; Email: UNAT1@un.org

Time limit: An appeal to the UNAT must be filed within 60 calendar days of the receipt of the Judgment of the UNRWA Dispute Tribunal (A/C.5/66/L.10, Resolution 66/237, on *Recommendation of the Fifth Committee*, 24 December 2011).

Any appeal to the UNAT should be directed to the Registry of the UNAT in New York. Do not send your appeal via the UNRWA Dispute Tribunal Registry, an Agency Field Office or other Agency installations.

Review of Time Limits

Submission	Time Limits	Reference
Request for a decision review	60 calendar days from the date on which the staff member received written notification of the decision to be contested	<ul style="list-style-type: none"> - Area Rule 111.2 and Int'l Rule 11.2 - Area & Int'l. Reg. 11.4 Statute of UNRWA Dispute Tribunal, Article 8.1 (c)
Administration to provide outcome of the decision review	30 calendar days of receipt of the request for decision review	<ul style="list-style-type: none"> - Area Rule 111.2 & Int'l. Rule 11.2
Application to the UNRWA Dispute Tribunal	90 calendar days from receipt of the outcome of the decision review or upon expiry of the relevant response period, i.e. 30 calendar days, if no response was provided	<ul style="list-style-type: none"> - Area Rule 111.2 & Int'l Rule 11.2 - Area & Int'l Reg. 11.4 Statute of UNRWA Dispute Tribunal, Article 8.1 (d) (i) & (ii) - Area & Int'l Reg. 11.5 Rules of Procedure Article 3.1 (a) & (b)
Agency Reply to UNRWA Dispute Tribunal	30 calendar days from the date of receipt of the application	<ul style="list-style-type: none"> - Area Rule 111.2 & Int'l Rule 11.2 - Area & Int'l Reg. 11.5 Rules of Procedure Article 6.1

VI. Legal assistance to staff

As mentioned above, in line with the UN reform, staff members who wish to appeal an administrative decision, or who are subject to disciplinary action, should have access to legal advice and representation. For this purpose, there is a LOSA, based at the West Bank Field Office and at Amman Headquarters.

The LOSA can assist the staff member in understanding Agency decisions and is tasked with advising staff members on options for resolving disputes, including mediation, decision review and applications, as well as assisting the staff member through the formal process. The LOSA may assist in preparing staff submissions to the Agency, the UNRWA Dispute Tribunal and the UNAT by giving legal advice on relevant legal authority, including the UNRWA Dispute Tribunal Statute and Rules of Procedure, Staff Regulations and Rules, Personnel Directives, other administrative issuances and the jurisprudence concerning the relationship between the staff members and the Agency. The LOSA can also assist the staff member in understanding the Agency's submissions to the UNRWA Dispute Tribunal and UNAT. The LOSA can appear on behalf of the staff members at hearings before the UNRWA Dispute Tribunal.

For any queries, contact the Registry of the UNRWA Dispute Tribunal at:

Registrar
 UNRWA Dispute Tribunal HQ Amman
 Bayader Wadi Seer, P.O. Box 140157 Telephone: +962 (0)6
 5808 638
 Email: registrar-unrwa.dt@unrwa.org
 Website: <http://www.unrwa.org/etemplate.php?id=1149>

Administration of Justice Process

