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Joint Inspection Unit

Review of the internal pre-tribunal-stage appeal mechanisms available to staff of the United Nations system organizations

Note by the Secretary-General

The Secretary-General has the honour to transmit to the members of the General Assembly his comments and those of the United Nations System Chief Executives Board for Coordination on the report of the Joint Inspection Unit entitled “Review of the internal pre-tribunal-stage appeal mechanisms available to staff of the United Nations system organizations” ([JIU/REP/2023/2](#)).

* [A/79/150](#).



I. Introduction

1. The report of the Joint Inspection Unit entitled “Review of the internal pre-tribunal-stage appeal mechanisms available to staff of the United Nations system organizations” (JIU/REP/2023/2) maps the diversity of internal appeal mechanisms available to staff of the United Nations system organizations to formally challenge administrative decisions on employment-related matters, before resorting to the external administrative tribunals that are part of the system of administration of justice of United Nations system organizations. The objective of the review is to compare the strengths and weaknesses of the prevailing models of formal internal appeal mechanisms across the system and highlight good practices and, where possible, opportunities for increased effectiveness and coherence through adjustments to existing mechanisms and procedures.

II. General comments

2. Organizations welcome the report, noting that it provides a comprehensive review of the internal pre-tribunal-stage appeal mechanisms within different organizations and an overview of how these mechanisms function. The review contains findings and recommendations that inform entities about current strengths, weaknesses and potential areas of improvement in the United Nations system’s internal appeal mechanisms. The Joint Inspection Unit also identifies good practices in terms of impartiality and the legality of the contested decision review process and the efficiency of the performance appraisal rebuttal process.

3. Organizations are committed to ensuring that the internal appeal mechanisms available to their staff provide adequate recourse and due process safeguards and inspire confidence in the organizational capacity to meet legislative objectives.

4. In reference to paragraphs 129 and 130 of the report, and the Inspectors’ characterization of the practice of reviewing the merits of non-receivable requests for management evaluation as “a departure from the requirements of the law” and as “open[ing] the door to arbitrariness, favouritism and bias” and as “undermin[ing] the integrity of the system”, the Office of the United Nations High Commissioner for Refugees (UNHCR) reiterates that under no circumstances does it arbitrarily waive any receivability requirements. In all such cases, UNHCR specifies that the request is not receivable and expressly reserves the right to invoke receivability at a later stage. UNHCR notes that the management evaluation process has been designed – among other things – as an opportunity for the administration to correct itself and to ensure accountability. Moreover, it allows the administration to provide relief and/or satisfactory explanations to aggrieved staff, including unrepresented and/or locally recruited staff in deep field locations. UNHCR considers that it is in the interest of the organization that the administration does not defend unlawful decisions at all costs, and on technicalities. In addition, UNHCR considers that administrative efficiency may require immediately addressing deficiencies before a final contestable administrative decision is taken. Finally, UNHCR notes that staff have expressed satisfaction with the comprehensive explanations they receive, which reassures them that their grievance is taken seriously by senior management and that oversight mechanisms are working. This is an important factor in the efforts of UNHCR to further a “speak up” culture.

5. Organizations are generally supportive of the proposed recommendations, while drawing attention to annex VI of the review of the Joint Inspection Unit, which provides an overview of actions to be taken by participating organizations on the proposed recommendations and a list of those that are exempt from acting on them.

III. Comments on specific recommendations

Recommendation 1

The executive heads of United Nations system organizations who have not yet done so should, by the end of 2025, harmonize the time limits for their administrations' response to requests for management evaluation or administrative review to a minimum of 45 calendar days and a maximum of 60 calendar days, irrespective of whether the request originates from a staff member at headquarters or in a field location; or propose this harmonization for decision by their legislative organs or governing bodies.

6. Organizations partly support this recommendation.

7. In many organizations, the timelines for management evaluation are set out in the staff rules and are the result of discussions with and decisions by their respective governing/legislative bodies.

8. For the organizations that have accepted the jurisdiction of the United Nations Dispute Tribunal, it is noted that the recommendation would need to be taken up by the General Assembly rather than by the relevant executive heads of United Nations system organizations. The time limits for responding to requests for management evaluation are included in article 8 (d) (i) (b) of the statute of the United Nations Dispute Tribunal, which states: "The response period shall be 30 calendar days after the submission of the decision to management evaluation for disputes arising at Headquarters and 45 calendar days for other offices." The statute of the United Nations Dispute Tribunal was adopted by the Assembly in resolution [63/253](#), and any amendments to the statute of the Dispute Tribunal similarly require adoption by the Assembly.

9. In reference to paragraph 40, in which the Inspectors question whether the final decision-making authority of the Director General of the Food and Agriculture Organization of the United Nations (FAO) over appeals lodged by staff members of the World Food Programme (WFP) is still appropriate or needs adjusting, given "the considerable growth of WFP in terms of staff, operations and budget since its inception", FAO underscores that the provisions about recourses lodged by WFP staff members were developed in the context of the status of WFP as an autonomous joint subsidiary programme of the United Nations and FAO. Notwithstanding the growth of WFP over the years, the legal framework governing the relationships among WFP, FAO and the United Nations has not changed. The suggested "adjustments" seem to touch upon the foundations of this legal framework and raise issues falling outside the scope of the review.

Recommendation 2

The executive heads of United Nations system organizations who have not yet done so should, by the end of 2025, introduce into their regulatory frameworks a provision for suspension of action of contested decisions at the pre-tribunal stage, ex officio or upon the appellant's request, in cases of prima facie unlawfulness of the decision, error of fact, particular urgency or when implementation of the decision could cause irreparable damage; or propose the introduction of this provision for decision to their legislative organs or governing bodies.

10. Organizations generally support this recommendation.

11. Several organizations report having recently introduced the proposed provisions in their legal frameworks. Organizations whose current administrative review processes already address the above do not envision modifying their current approaches.

Recommendation 3

The executive heads of United Nations system organizations should, where applicable and by the end of 2025, establish terms of reference or similar instruments for the Chairs and secretaries of their peer review bodies that set out the required qualifications, including legal expertise, their functions and reporting lines, in order to provide the safeguards necessary for their structural independence and impartiality.

12. Organizations generally support this recommendation, as it is intended to increase the process's professionalism, even if some do not have such peer review bodies.

13. A few express their preference for retaining certain specific aspects of their peer review bodies, given the specificities of such an internal social dialogue system. Others envision further examining this recommendation, bearing in mind the availability of staff with relevant legal expertise not involved in the organization's legal representation, and the possible resource implications associated with the engagement of a legally qualified external chair.

Recommendation 4

The legislative organs and governing bodies of the United Nations system organizations should request their respective executive heads who have not yet done so to undertake a thorough review of their regulatory frameworks and practices concerning internal specialized recourse mechanisms, with a view to assessing their continued utility and adequate functioning within the broader framework of internal appeal mechanisms, including eliminating duplicative or ambiguous process paths in the interest of procedural efficiency, and to report to them thereon, no later than 2025.

14. Organizations note that this recommendation is addressed to their legislative organs and governing bodies.

15. Some organizations would have preferred the recommendation to be addressed to the executive heads, as their internal recourse mechanisms are part of the terms and conditions of service of staff and their periodic updating falls within the remit of executive heads and does not originate from an organization's legislative organ or governing body.

16. Regarding the substance of the recommendation, organizations partly support it, noting that the timing of reviews should be left to the discretion of the executive heads, who are best placed to consider the need for such reviews.

Recommendation 5

The legislative organs and governing bodies of the United Nations system organizations should request their respective executive heads who have not yet done so to report to them annually, starting in 2025, on the functioning of their formal internal appeal mechanisms, including the specialized recourse mechanisms. The reports should include details on the number, subject matter and outcome of appeals, including cases deemed irreceivable, information on the demographics of applicants and information on whether the appealed decisions were upheld or revised, disaggregated by type of procedure, as applicable.

17. Organizations note that this recommendation is addressed to the legislative organs and governing bodies.

18. Organizations recall that there are already existing reporting mechanisms in place, including the annual report of the Secretary-General to the General Assembly on the administration of justice (see, for example, [A/78/156](#)). It is worth noting that the practice of reporting data regarding the number of management evaluation requests found irreceivable in the United Nations Secretariat has been reinstated and will be included in future reports.

19. While recognizing the value of transparency embedded in the proposed recommendation, organizations deem it important that the statistics included in the reports on the functioning of the formal internal appeal mechanisms include privacy and data-protection considerations, and note that information about demographics or subject matter could prejudice the confidentiality of the appeals process without giving any meaningful information.

20. Finally, organizations refer to the database on case law jurisprudence of the Office of Administration of Justice, which offers the jurisprudence of the United Nations Dispute Tribunal and the United Nations Appeals Tribunal on public judgments covering various workplace disputes related to misconduct, performance management, harassment, appointments and benefits and entitlements, among others. Similar information can also be found on Triblex, the case law database of the Administrative Tribunal of the International Labour Organization.

Recommendation 6

The executive heads of United Nations system organizations who have not yet done so should, by the end of 2025, review the procedural rules governing formal internal appeal mechanisms regarding the time limits applicable to the administrations' responses at different stages of the internal appeal processes, and specify the conditions for extending the time limits, with a view to reducing associated delays and fostering legal certainty and accountability.

21. Organizations support this recommendation. Organizations that have not already implemented the recommendation are in the process of reviewing their procedural rules.

Recommendation 7

The executive heads of the United Nations system organizations who have not yet done so should, by the end of 2025, adjust the regulatory frameworks of their organizations and remove all restrictions regarding legal representation of their staff in internal justice processes, with the aim of allowing staff to choose their legal counsel freely and without restriction.

22. Organizations partly support this recommendation. A few note that further examination will be necessary, together with the review of the overall internal appeals process, to determine what would be the best fit best for their entity.