
Navigating into the UN Tribunals

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Navigating the UN Tribunals can be a complicated journey for staff members. If you plan to challenge a decision from your management, it is important to stay focused, because you can easily overlook the simplest steps.

This guide is designed to help you with the initial steps required to reach the Tribunal. It will walk you through the entry points, providing easy-to-understand information.

This is not a legal or procedural guide, as we don't intend to provide an extensive compilation of rules, but rather a simple overview of the basics of the two main jurisdictional systems in the United Nations.

Two Jurisdictional Systems

As a general rule, organizations of the United Nations Common System enjoy jurisdictional immunity, meaning that staff members cannot sue them in national courts. To fill this gap, the organizations have established different internal mechanisms for aggrieved staff to resolve their employment-related disputes.

There are two different systems of administration of justice and two jurisdictional systems where staff can submit their claims. The choice of which system to use depends on the Tribunal recognized by their organization.

ILOAT - The Administrative Tribunal of the International Labour Organization (ILOAT), which accepts appeals from decisions of the internal appeals boards of some UN specialized agencies and many other international organizations.

The United Nations Secretariat, United Nations funds and programmes, and other entities are subject to a legal system that comprises an internal administrative system, a Dispute Tribunal (UNDT), and an Appeals Tribunal (UNAT).

The UN Appeals Tribunal also acts as an appeal tribunal for certain organizations (UNRWA, ICAO, IMO, IFAD, UPU, etc.) and for all disputes involving the United Nations Joint Staff Pension Fund.

If you are not sure, you can consult which Tribunal has been recognized by your organization here:

ILOAT:

<https://www.ilo.org/ilo-administrative-tribunal/organizations-recognizing-jurisdiction>

UNDT and/or UNAT:

<https://www.un.org/en/internaljustice/overview/who-can-use-the-system.shtml>

ILOAT

The ILOAT is the oldest Tribunal and has jurisdiction over complaints from officials from the ILO and certain other specialized agencies of the United Nations Common System as well as other international organizations.

The Tribunal serves as the appeal system for these organizations, a place where you can challenge decisions made by the organization's executive head after review by the internal mechanism of justice.

What type of cases can you challenge in the Tribunal?

Complaints alleging non-observance, in substance or in form, of the terms of appointment of officials and of provisions of the Staff Regulations of your organization.

This means that a complaint will be accepted by the Tribunal only if you are challenging an administrative decision. An administrative decision is one taken by the administration in a unilateral way which has legal consequences for the person who is challenging that decision. The administrative decision must be linked with the terms of appointment of the complainant and/or the staff regulations.

Who can file a complaint?

- Serving officials (usually defined as staff members) of the international organisations that have recognised the jurisdiction of the Tribunal. The updated list of those organisations can be found on the Tribunal's website.
- Former officials of those organisations.
- Successors or heirs of an official, or any other person who can show that she or he is entitled to some right under the terms of appointment of a deceased official or under provisions of the Staff Regulations on which the official could rely.
- Any other person who had entered into a contract with an organization, if the terms of the contract provide for this – this depends on your contract and the organization's rules

When? Do not forget the time limit!

A complaint is only receivable if it challenges a **final decision** and the complainant has exhausted the means of redress open to her or him under the applicable Staff Regulations.

Most organizations have an internal appeals board, which has its own set of rules and procedures, and which makes a recommendation to the executive head of the organization. The executive head's decision is the subject of the appeal.

To be receivable, a complaint must also be filed within ninety days after the complainant is notified of the challenged decision or, in the case of a decision affecting a class of officials, after the decision was published.

You should be aware that filing a complaint does not stop the execution of the decision being appealed.

UNDT

The United Nations Dispute Tribunal was created in 2009 as part of a comprehensive system that includes an administrative management as an internal review system, and two tribunals. UNDT is the “first instance tribunal” of the UN’s internal justice system, the first entry point outside of the administration. Let’s review the essential points when you want to challenge a decision

What type of cases can you bring to the Tribunal?

Again, you need to challenge an administrative decision that is not compliant with the terms of the appointment of the contract of employment. This means that the administrative decision must adversely affect the staff member’s rights, privileges, obligations or duties arising under the provisions of staff regulations or the complainant’s terms of appointment. You can also challenge decisions imposing a disciplinary measure or request the enforcement of a related mediation agreement.

Who has the right to go to the Tribunal?

Staff members currently working at the UN, and also former staff members, or any person in the name of an incapacitated or deceased staff member.

Consultants, interns or contractors working for the United Nations can’t file a case with UNDT.

Do we have a time limit?

Yes. First, you need to have the final decision from the management evaluation, the first internal appeal system for the staff subject to the jurisdiction of UNDT.

Once you receive the result of the management evaluation, you have 90 calendar days to present your application to UNDT.

Remember that in case of disciplinary decisions, you don’t need to present a management evaluation, so you have just 90 days to present your case in the Tribunal from the date you received the final decision.

If you are challenging a decision on behalf of an incapacitated or deceased staff member, the time limit is extended to one calendar year to submit the application.

But...

The administration also has a time limit to respond to your management evaluation (the internal mechanism). This is 30 calendar days for disputes in HQ and 45 days for those originating in other offices. If they don't reply on time, you should go to the Tribunal anyway. You have 90 days from the date you should have received the management evaluation.

Staff members of the UN and its funds and programmes have the right to free legal assistance from the Office of Staff Legal Assistance (OSLA). This is also available for appeals of decisions of the Standing Committee acting on behalf of the UN Joint Staff Pension Board (UNJSPB).

UNAT

UNAT serves as an appeal tribunal for the decisions taken by the UN Dispute Tribunal. It also acts as the appeal tribunal from internal appeals bodies for the following organizations:

- International Civil Aviation Organization (ICAO);
- International Fund for Agricultural Development (IFAD);
- International Maritime Organization (IMO);
- International Seabed Authority (ISA);
- International Tribunal for the Law of the Sea (ITLOS); and
- Universal Postal Union (UPU).
- UNRWA

Additionally, UNAT is the only Tribunal where you can file a complaint against a decision made by the United Nations Joint Staff Pension Board (UNJSPB).

What type of cases?

Only final decisions from the UNDT, or from internal appeals bodies of the mentioned organizations and in both cases, related to the non-observance of the terms of appointment of the contract of employment.

In the case of decisions from the UNJSPB, the case must be related to the non-observance of the regulations of the UNJSPF.

Who can present a case?

Current UN staff members, former staff members, or any person in the name of an incapacitated or deceased staff member.

Be aware that for those organizations that joined the UNAT through a special agreement, it could be possible that the entitlement to file a case would be extended to other type of personnel. Check your Staff Rules!

In case you are filing a complaint against a decision of the UNJSPF, you can do so if you are a participant, beneficiary, or a person making claims on behalf of a deceased or incapacitated participant or beneficiary.

When?

Here, the time limit is 90 days if you are appealing a decision from your Head of Organization (ICAO, IMO, ISA, ITLOS, WMO) or a decision of the UNJSPF and 60 days if you are appealing a decision of the UNRWA Tribunal or a judgment of the UNDT.

Staff members of the UN and its funds and programmes have the right to free legal assistance from the Office of Staff Legal Assistance (OSLA). This is also available for appeals of decisions of the Standing Committee acting on behalf of the UN Joint Staff Pension Board (UNJSPB).

Toolkits

You have available toolkits for the different tribunals:

ILOAT:

<https://www.ilo.org/practical-guide-procedure-ilo-administrative-tribunal>

UNDT:

<https://www.un.org/en/internaljustice/undt/toolkit/#/>

UNAT:

<https://www.un.org/en/internaljustice/unat/toolkit/#/>
