

ADMINISTRATIVE REVIEW
STATISTICAL OVERVIEW 2021
**Update on strategic human
resources management issues**

UNAIDS INTERNAL JUSTICE SYSTEM
ADMINISTRATIVE REVIEW STATISTICAL
OVERVIEW 2021

PART I

Introduction

This report is the 4th annual statistical overview providing statistical analysis as well as anonymized aggregated data on administrative review cases in the UNAIDS/WHO Internal Justice System (IJS) (Part I). This report covers the period from **1 January to 31 December 2021**.

Part II of the report summarizes lessons learned, recommendations and further comments regarding the process of administrative review in UNAIDS.

The statistics and descriptions in this report are based on data collected internally by the HR Policy and Legal Unit (“HPL”), People Management department (“HRM”), which is responsible for centrally addressing requests for administrative review at UNAIDS.

Requests for administrative review are received and acknowledged through the Director, HRM¹ email address and a dedicated email inbox (hrmlegal@unaidso.org), which is independently overseen and managed by HPL. All requests are logged and closely monitored by the responsible Legal Officer of the unit.

To recall the functioning of the mechanisms of the UNAIDS Internal Justice System (IJS) and statistical data for previous reporting periods, please refer to the following documents:

- UNAIDS Internal Justice System. Administrative Review Statistical Overview 2020, available on the webpage of the 48th UNAIDS Programme Coordinating Board²;
- UNAIDS Internal Justice System. Administrative Review Statistical Overview 2019, available on the webpage of the 46th UNAIDS Programme Coordinating Board³;
- UNAIDS Internal Justice System. Administrative Review Statistical Overview 2018, available on the webpage of the 44th UNAIDS Programme Coordinating Board⁴.

Reference is also made to the 2021 Annual Report of the WHO Global Board of Appeal⁵.

Highlights and trends in 2021

Some trends and key indicators worth highlighting in respect of the 2021 reporting year include:

- In 2021, as in 2020, a total of 7 (seven) AR requests were received, continuing the downward trend (by almost 50%), compared to 31 new AR requests which were received in both 2018 and 2019.

1 In accordance with paragraph 14 of HRM/IN 2019-7 on Internal Justice System, a signed and dated request for administrative review in UNAIDS must be submitted to Director, HRM.

2 This document is accessible following the link: https://www.unaids.org/sites/default/files/media_asset/PCB_48_Agenda_Item_6_CRP2.pdf

3 This document is accessible following the link: https://www.unaids.org/sites/default/files/media_asset/UNAIDS%20Administrative%20Review%20Statistical%20Overview%202019_En.pdf

4 This document is accessible following the link: https://www.unaids.org/sites/default/files/media_asset/UNAIDS_PBC44_HR_Mgt_Issues_update_EN.pdf

5 <https://intranet.who.int/homes/gba/>

- All 7 AR requests were submitted by staff members holding fixed-term contracts. 4 (four) AR requests originated from serving staff members and 3 (three) AR requests from former staff members.
- 5 (five) requests were submitted by female staff members, maintaining the same trend as in 2020, when the majority of AR requests were received from female staff members. In 2021, 2 (two) requests were submitted by male staff members.
- As in previous years, the majority of AR requests (4) in 2021 originated from staff members at UNAIDS Global Centre in Geneva, Switzerland, in which less than 1/3 of UNAIDS staff members are based. Requests were predominantly submitted by staff members in the Professional and higher categories (6 AR requests). Further details on the case distribution by originating structural unit and other statistical data can be found in Figures 3–4 (below).
- The average review time of an AR request was 55 calendar days, which is in compliance with Staff Rule 1225.4.
- Out of the 7 AR requests received in 2021, 2 (two) were challenged before the Global Board of Appeal (GBA), as at 31 December 2021.
- In total, 5 (five) new appeals were submitted before the GBA by UNAIDS staff members in 2021 (compared to 12 in 2020 and to 15 in 2019) demonstrating a decrease compared to the two previous years.

AR requests by category

Below is a detailed breakdown of the 7 AR requests received in 2021 in 5 categories:

- Alignment – 1;
- Contract Status – 1;
- Entitlements – 1;
- Separation – 1;
- Confidentiality/Investigation – 3.

Figure 1. 7 AR requests received from 1 January to 31 December 2021

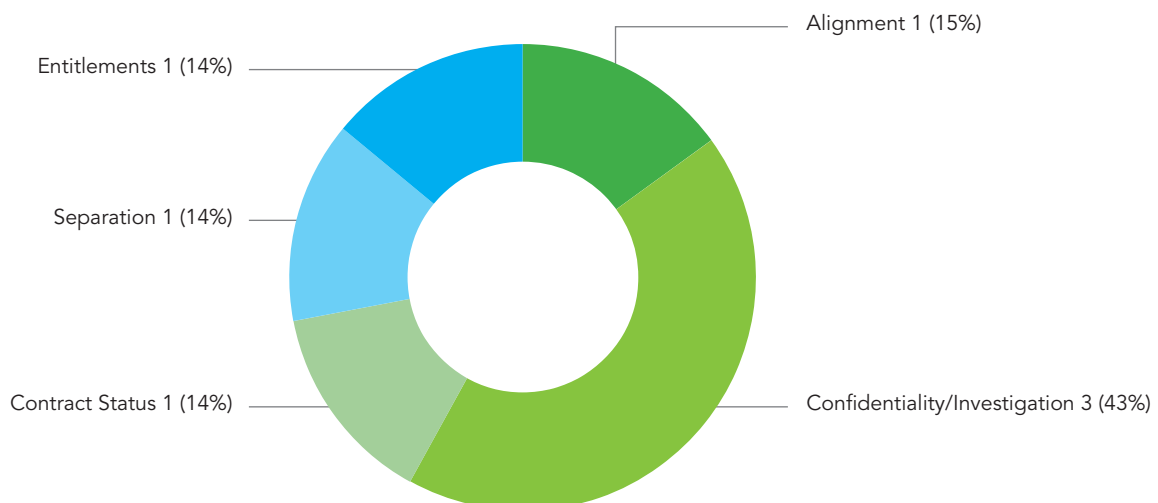
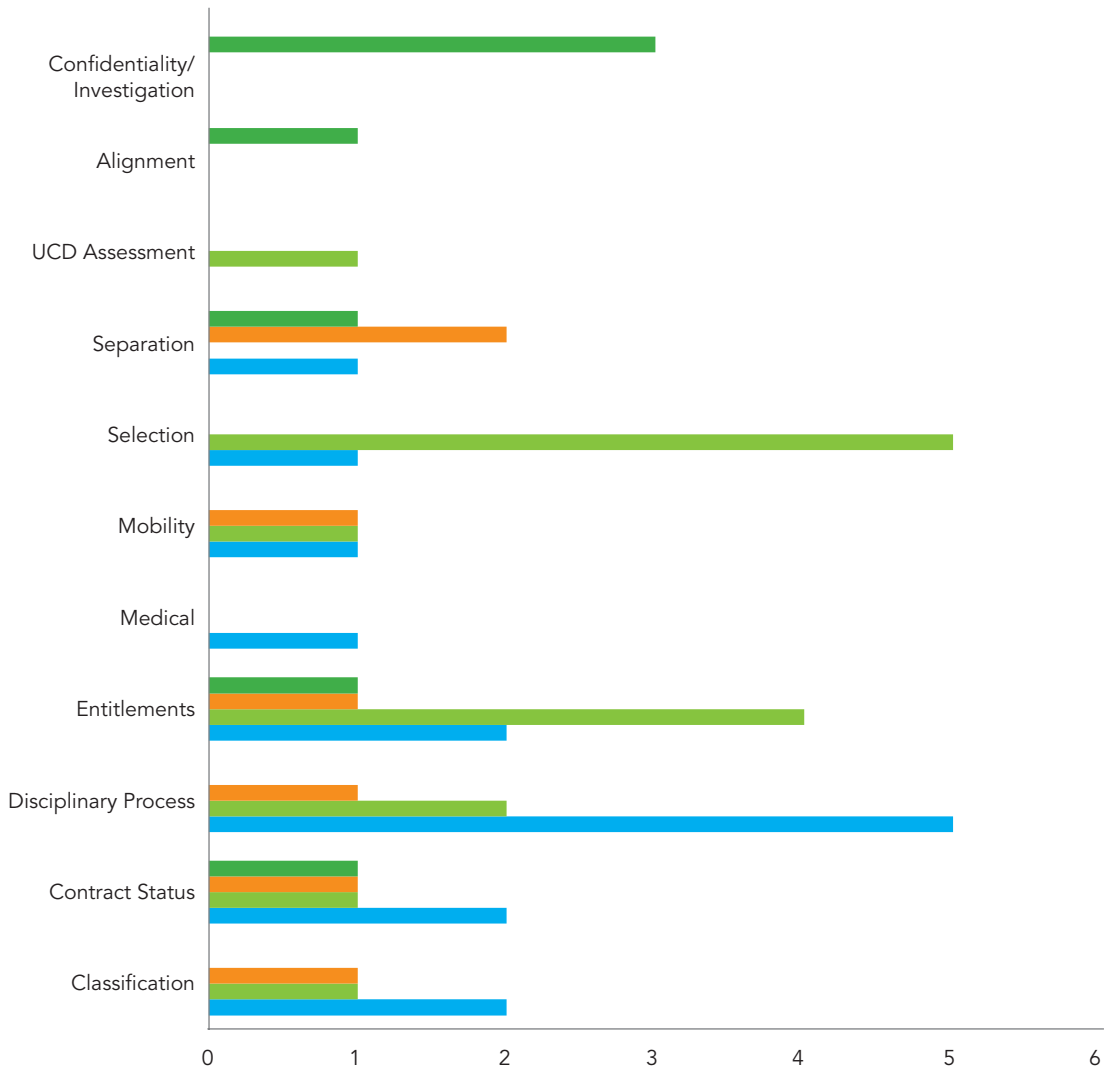


Figure 2. Categories of AR requests in 2018–2021

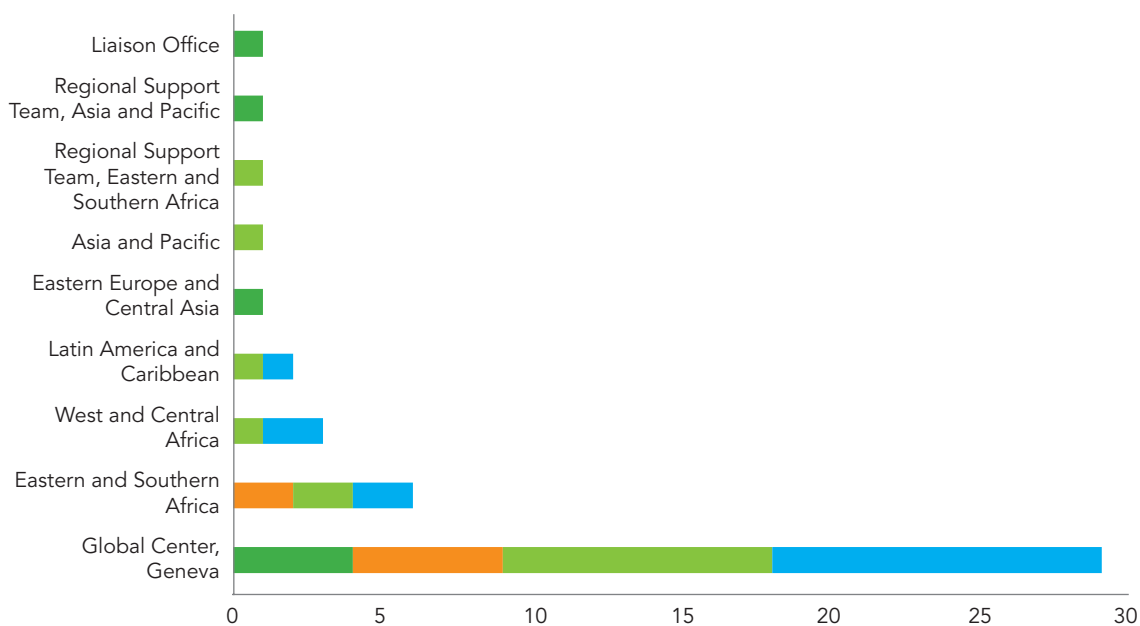


	Classification	Contract Status	Disciplinary Process	Entitlements	Medical	Mobility	Selection	Separation	UCD Assessment	Alignment	Confidentiality/Investigation
■ 2021		1		1				1		1	3
■ 2020	1	1	1	1		1		2			
■ 2019	1	1	2	4		1	5		1		
■ 2018	2	2	5	2	1	1	1	1			

AR requests by location and structural unit

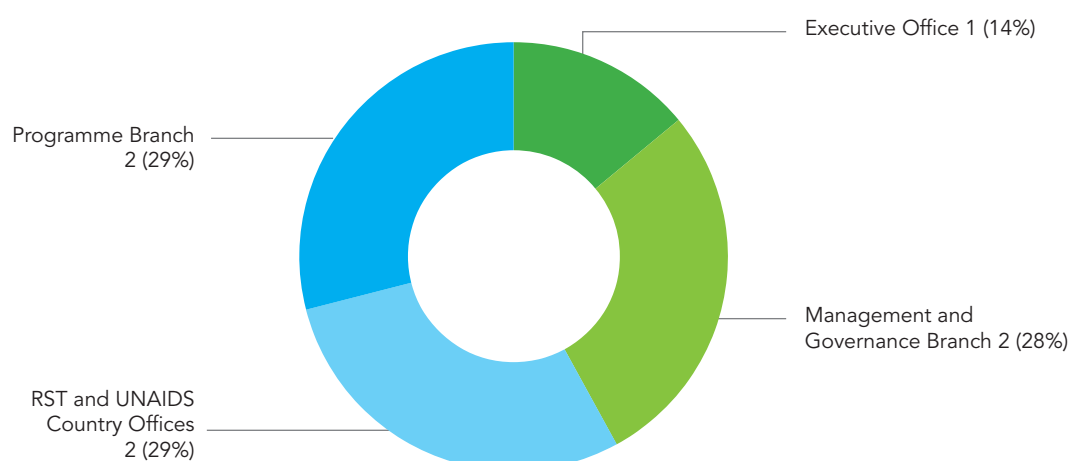
The majority of AR requests in 2020 originated from the UNAIDS Global Centre (five requests representing 71% of the total number of AR requests submitted) and this flow of AR requests emerging from the Global Centre continued **in 2021** when four of the seven requests (57%) were submitted by staff members based in Geneva, Switzerland.

Figure 3. AR requests by location in 2018–2021



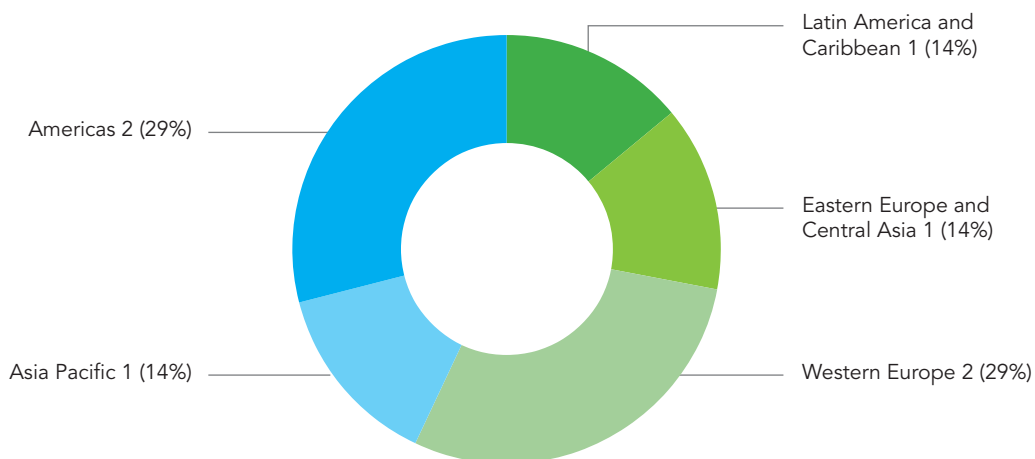
	Global Center, Geneva	Eastern and Southern Africa	West and Central Africa	Latin America and Caribbean	Eastern Europe and Central Asia	Asia and Pacific	Regional Support Team, Eastern and Southern Africa	Regional Support Team, Asia and Pacific	Liaison Office
2021	4				1			1	1
2020	5	2							
2019	9	2	1	1		1	1		
2018	11	2	2	1					

Figure 4. AR requests in 2021 by department/office/unit



AR requests by region of nationality of staff members

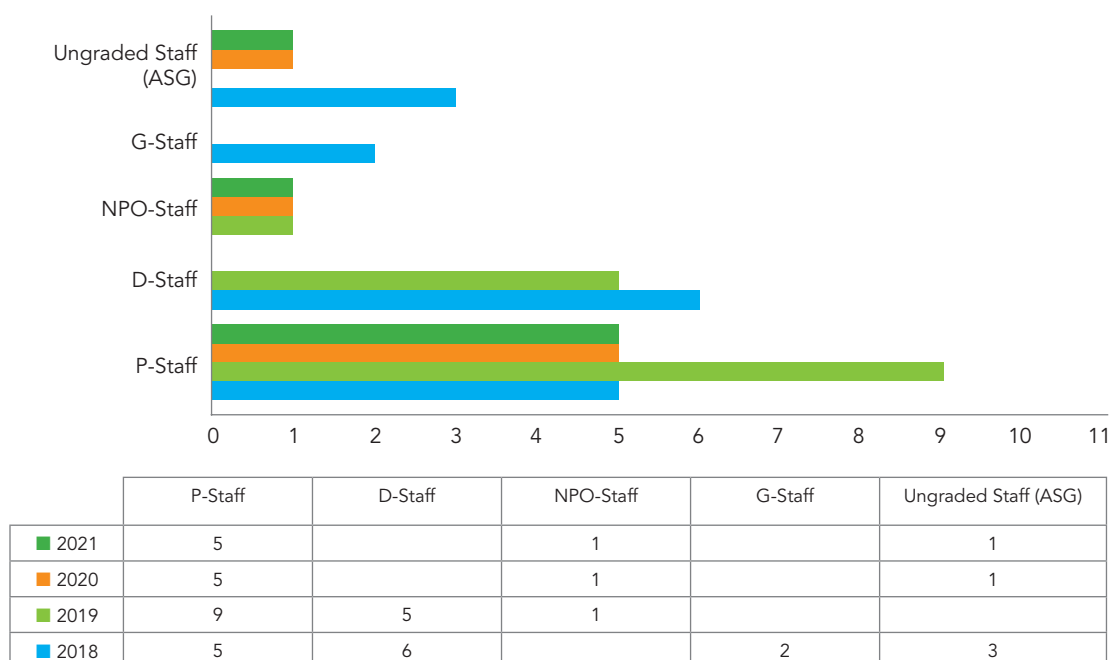
Figure 5. AR requests in 2021 by region of nationality of UNAIDS staff members



AR requests by type of appointment, contract status and category

In 2021, all 7 AR requests originated from former and current staff members of UNAIDS who have previously held, or are currently holding, fixed-term appointments. This trend of requests being submitted by fixed-term staff members has persisted for the last four reporting periods. Requests were predominately submitted by staff members in the Professional category (5 out of 7 AR requests). Of the remaining cases, one was submitted by a staff member in the National Professional Officer category and one by an Ungraded staff member. In 2021, no AR request was submitted by a staff member at the Director level or by a staff member in the General Service category.

Figure 6. AR requests by staff category in 2021

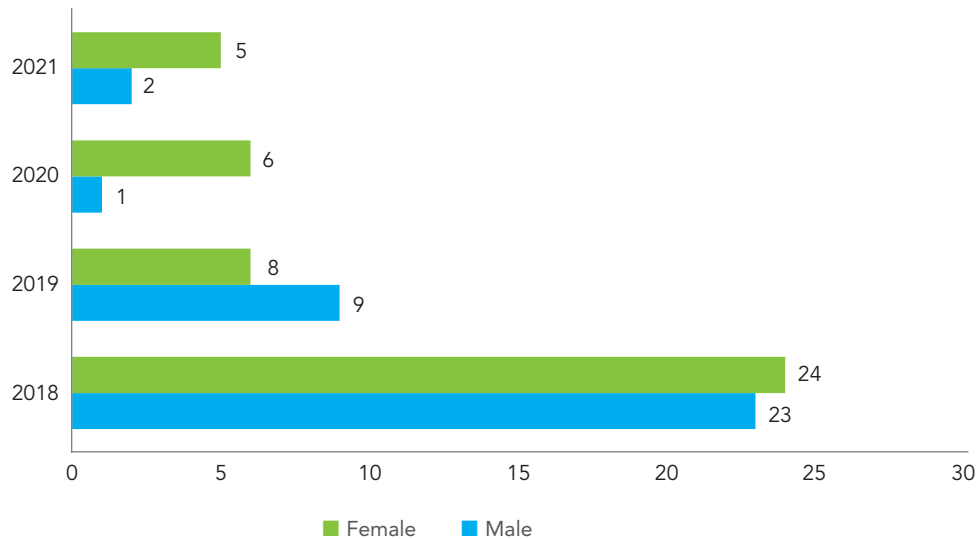


	P-Staff	D-Staff	NPO-Staff	G-Staff	Ungraded Staff (ASG)
■ 2021	5		1		1
■ 2020	5		1		1
■ 2019	9	5	1		
■ 2018	5	6		2	3

All AR requests by gender

71% of all AR requests were submitted in 2021 by female staff members and 29% by male staff members.

Figure 7. AR requests by Gender in 2019–2021



Representation at the stage of administrative review

An administrative review is an internal formal process of administrative nature aimed at determining whether the contested final administrative decision has resulted in the non-observance of the staff member's terms of appointment and the applicable regulatory framework, and also assessing whether the matter at issue can be resolved. As a general rule, it does not require legal representation although staff members may also be self-represented in the administrative review process. In 2021, 3 (three) staff members were self-represented, and 4 (four) staff members were represented by external legal practitioners.

Status of review of AR requests submitted in 2021 at 31 december 2021

One case (related to benefits and entitlements) was resolved informally.

During the reporting period 4 (four) final administrative review decisions were issued where the requests for administrative review were submitted in 2021.

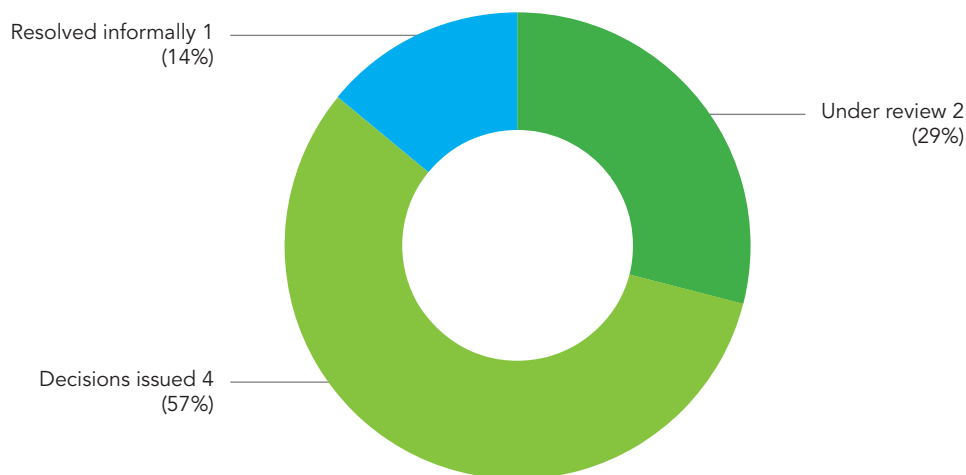
In two (2) cases the original administrative decision was upheld, although one of the cases was found to be filed prematurely. In other two (2) cases, the original decisions were partially upheld. In the latter cases the review established that the relevant AR requests were either moot in part, irreceivable or filed prematurely on certain aspects. Whilst the two latter cases resulted in the original decisions being partially upheld, solutions were proposed partially meeting the requests for relief and therefore were partially in favour of the staff members concerned.

Two of the four final administrative review decisions issued were subsequently challenged before the GBA as at 31 December 2021.

One administrative review request received in late October 2021 and one request received in late December 2021 remained under review at the end of the year.

In 2021, the average time span for review and issuance of the final administrative review decision was 55 calendar days⁶.

Figure 8. Status of AR requests as of 31 December 2021



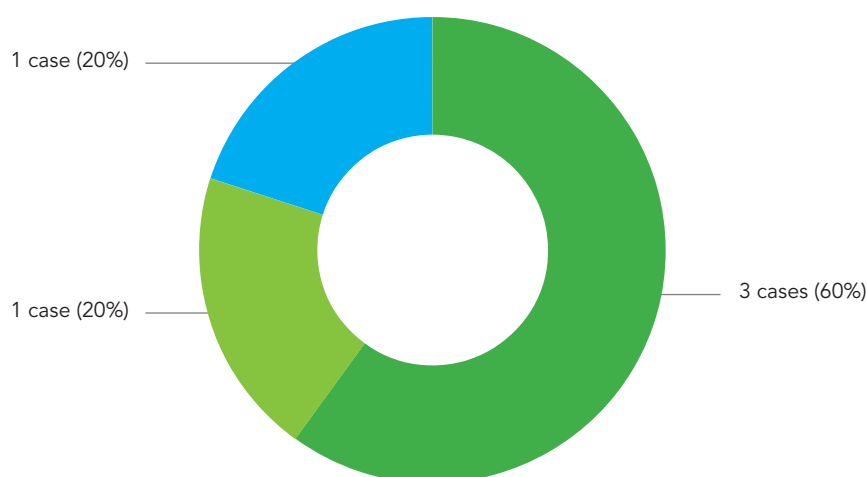
⁶ In accordance with Staff Rule 1225.4, the final decision on a request for administrative shall be communicated in writing to the staff member within sixty (60) calendar days of receipt of the complete request for administrative review.

Decisions further appealed

Appeals to the Global Board of Appeal in 2021

In 2021, the GBA received a total of 5 new appeals in respect of UNAIDS staff (compared to 12 appeals received in 2020 and 15 received in 2019). Two appeals were filed challenging the final administrative review decisions issued in 2021. One appeal was filed challenging the final administrative review decision issued in 2020. In one case the appeal was filed directly before the GBA in accordance with paragraph III.12.3.45(iii)⁷ where the final administrative decision was not subject to administrative review under Staff Rule 1225. In one case a staff member submitted an appeal before the GBA directly without submitting an administrative review request and thus failed to comply with the requirement to first exhaust all internal remedies. This failure became the primary reason for the recommendation of dismissal of the appeal in its entirety by the GBA.

Figure 9. Decisions appealed to the GBA in 2021



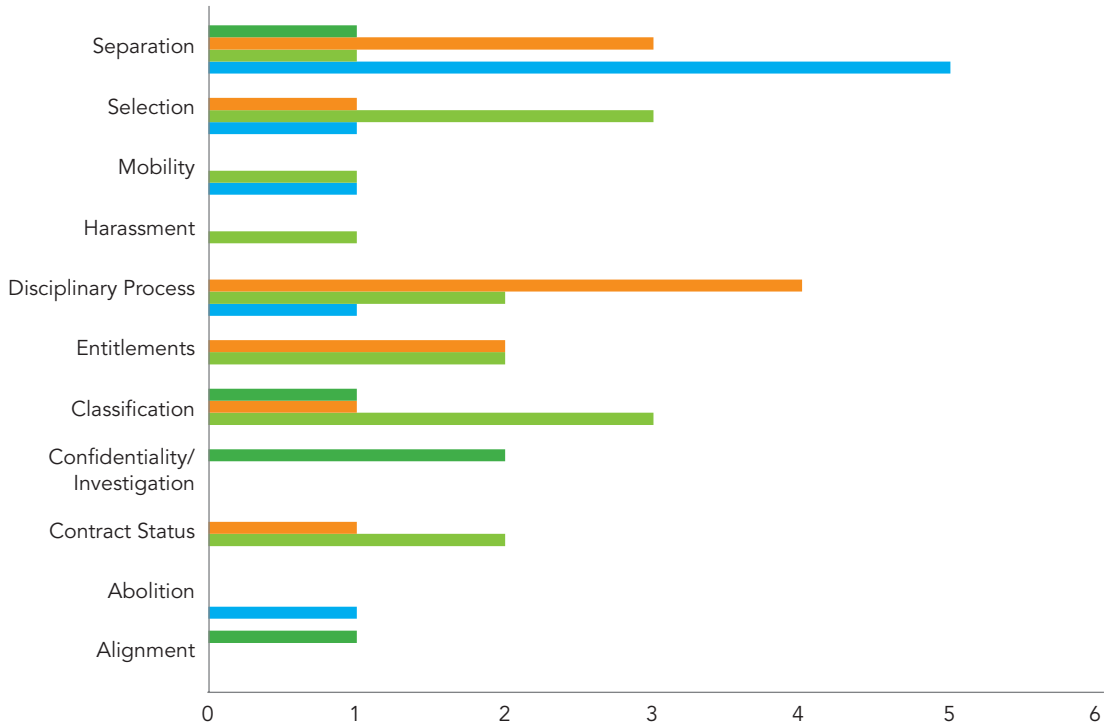
- Final administrative review decision (ARD)—after AR stage.
- Decisions taken pursuant to the Policy on Preventing and Addressing Abusive Conduct (direct appeal to GBA).
- Final administrative decision appealed by staff member without exhausting all internal remedies.

⁷ In accordance with paragraph 45 of the WHO eManual (III.12.3) pursuant to Staff Rule 1225.1, the following final administrative decisions shall not be subject to administrative review under Staff Rule 1225 and shall be appealable directly before the GBA under Staff Rule 1230:

- i. decisions based on recommendations of the Advisory Committee on Compensation Claims (ACCC);
- ii. decisions based on recommendations of a Classification Review Standing Committee, or otherwise taken under the applicable Procedures;
- iii. decisions taken pursuant to the WHO policy on Preventing and Addressing Abusive Conduct; and
- iv. decisions imposing disciplinary measures or written reprimands pursuant to Staff Rule 1110 or Staff Rule 1115.

The appeals were submitted in the following categories:

Figure 10. Appeals by category in 2018 (9), 2019 (15), 2020 (12) and 2021 (5)



	Alignment	Abolition	Contract Status	Confidentiality/Investigation	Classification	Entitlements	Disciplinary Process	Harassment	Mobility	Selection	Separation
■ 2021	1			2	1						1
■ 2020			1		1	2	4			1	3
■ 2019			2		3	2	2	1	1	3	1
■ 2018		1					1		1	1	5

As at 31 December 2021 3 (three) appeals were pending before the GBA or were under review by the UNAIDS Executive Director (or “EXD”) following issuance of the GBA recommendations. In 2021, the EXD made 2 (two) decisions following issuance of the GBA recommendations in accordance with Staff Rule 1230.6.1⁸. In both cases the EXD decided to uphold the recommendations of the GBA and to dismiss the appeals in their entirety. The average time for the EXD to review the report of the GBA and to provide the appellants and/or their representatives with the final decision was 34.5 calendar days in full compliance with Staff Rule 1230.6.2.⁹

⁸ In accordance with Staff Rule 1230.6.1 the UNAIDS Executive Director shall make the final decision on appeals.

⁹ In accordance with Staff Rule 1230.6.2 the UNAIDS Executive Director shall inform the parties to the appeal and the chair of the Board of her/his decision within sixty (60) calendar days of the date of the receipt of the findings and recommendations of the GBA Panel.

Representation at the stage of appeals before the GBA

In accordance with paragraph III.12.4.180 of the WHO eManual the Appellant may be self-represented during the appeal process or may be represented by another person, including an external legal counsel at the Appellant's own expense. If he/she is being represented by another person, the Appellant must submit to the Board a duly signed and dated Power of Attorney appointing his or her representative.

In 2021, 1 (one) staff member was self-represented and 4 (four) staff members were represented by external legal practitioners before the GBA.

For further details on GBA cases in 2021, reference is made to the 2021 annual report of the GBA¹⁰.

Complaints filed before the ILO Administrative Tribunal (ILOAT)

In 2021, eleven (11) new complaints were lodged with the ILOAT challenging the final decisions of the UNAIDS Executive Director made in 2020 and 2021.

As at 31 December 2021, 19 (nineteen) outstanding personnel matters (complaints), submitted during the period of 2019-2021, were pending with the ILOAT.

¹⁰ <https://intranet.who.int/homes/gba/>

PART II

Trends and lessons learned

Prevention and informal resolution with focus on processes within Alignment:

Conflict resolution efforts undertaken by the People Management Department (“HRM”) in close collaboration with various in-house stakeholders resulted in contentious matters being frequently resolved at an early stage and informally, before escalating further. Informal resolution efforts including after the submission by the staff member of a formal request for review or appeal also continued throughout 2021. As a result, the number of formal litigation cases at the AR and appeals stages in 2021 remained at the 2020 level, and considerably below previous years, with a reduction in cases by almost 40 % compared to the total cases received in 2019 and 2018. It is recommended that informal resolution efforts continue including with a particular focus on processes related to the implementation of Alignment-related decisions.

Awareness and information sharing on informal dispute settlement mechanisms and formal requisite requirements in submissions of administrative review requests:

The outcomes of the administrative review process in 2021 showed that formulating a request for review in accordance with the requirements of relevant regulations and rules, policies and procedures is crucial. Specifically, staff members should make efforts, where possible, to resolve disputes informally first with support from HRM and other in-house stakeholders, including through the UNAIDS Ethics Office, Ombudsman, WHO Staff Health and Wellbeing Services (SHW), UNAIDS Staff Counsellor, and UNAIDS Secretariat Staff Association. Furthermore, the importance of the requirements relating to applicable time limits, receivability of an administrative review request and specific formulation of requests for relief should be emphasized.

Transparency, clear reasoning and accountability:

Presentation of reasons underlying administrative decisions, disclosure of relevant documentation (e.g. in recruitment-related cases), rapid collaboration (i.e. between UNAIDS departments, units and offices) and response to staff member’s concerns through available channels as well as full cooperation of relevant decision-makers in the review process contributed to fairness, transparency and accountability.

Accountability, compliance and consequence management outcomes:

In 2021, as in 2020, an analysis of the AR requests and appeals received showed a continued increase in the number of litigious matters related to conduct and different aspects of investigation and disciplinary proceedings. This appears to be a direct result of the strengthened function of accountability, compliance and consequence management as well as awareness raising efforts regarding different channels of dispute resolution.

