UPDATE ON HUMAN RESOURCES MANAGEMENT ISSUES
UNAIDS Administrative Review Statistical Overview 2019 report
UNAIDS INTERNAL JUSTICE SYSTEM
ADMINISTRATIVE REVIEW STATISTICAL OVERVIEW 2019
PART I

Introduction

The purpose of this overview is to provide statistical analysis and aggregated data on cases in the administrative review process of the UNAIDS/WHO Internal Justice System (IJS). This report covers the period from 1 January 2019 to 31 December 2019 and, in addition to statistical data, contains lessons learned and recommendations in Part II of the document. The statistics and descriptions in this report are based on data collected internally by the HR Policy and Legal Unit, HRM department, Geneva, HQ, which is mandated to address requests for administrative review at UNAIDS.

Prior to moving into details on data and statistics, it is opportune to recall the mechanisms of the UNAIDS IJS. Reference is made to Annex A and figure 1, which illustrate the steps of informal and formal dispute resolution. The administrative review is the first stage in the formal conflict resolution process (Figure 2). It is governed by Staff Rule 1225, and by the provisions of the WHO eManual III.12.3 as adapted for UNAIDS. The purpose of the administrative review is to determine whether the contested final administrative decision has resulted in the non-observance of the staff member’s terms of appointment, including all pertinent Staff Regulations and Staff Rules, and to assess whether the matter can be resolved.

Figure 1. Stages of formal dispute resolution
Within UNAIDS, requests for administrative review (AR request/s) are received, overseen and managed by the Director, Human Resources Management in UNAIDS, with the Deputy Executive Director, Management and Governance (DXD, MER) making a final decision on the matter. The administrative review procedure comprises the following stages:

**Figure 2. The administrative review procedure**

1. Administrative review request
   - **60 CALENDAR DAYS AFTER THE ADMINISTRATIVE DECISION OR DEEMED REJECTION**

2. Review of AR request
   - Director, HRM provides recommendation to DXD, MER
   - **60 CALENDAR DAYS AFTER RECEIPT OF THE ADMINISTRATIVE REVIEW REQUEST**

3. Decision by DXD, MER

The procedure before the GBA includes the stages outlined in figure 3, below.

**Figure 3. The procedure before the GBA**

1. Appeal
   - **90 CALENDAR DAYS AFTER THE ADMINISTRATIVE REVIEW**

2. Rejoinder
   - **30 CALENDAR DAYS AFTER RECEIPT OF THE ADMINISTRATION’S REPLY**

3. Administration’s reply
   - **60 CALENDAR DAYS AFTER RECEIPT OF THE STATEMENT OF APPEAL**

4. Surrejoinder
   - **30 CALENDAR DAYS AFTER RECEIPT OF THE REJOINDER**

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1 Please refer to the 2019 Annual GBA Report, available on the WHO and UNAIDS Intranet. Please also see: https://intranet.vconnect.who.int/homes/gba/timelines/. The appeals process before the GBA is governed by Staff Rule 1230 and GBA Rules (Section III.12.4 of the WHO eManual).
Highlights and trends

Some trends and key indicators worth highlighting in respect of the 2019 date include:

- In 2019, a total of 15 AR requests were received (compared to 16 in 2018), resulting in 9 final administrative decisions being issued. One submission was withdrawn, and one case was settled amicably. Four (4) AR requests received in 2019 remained in progress as of 31 December 2019.

- 60% of the overall 2019 AR requests filed originated from staff members based at UNAIDS, HQ, in Geneva, where less than 1/3 of UNAIDS staff are based.

- 14 out of the 15 AR requests, i.e. 93%, were submitted by staff members in the Professional and higher category.

- 60% of all 2019 AR requests were submitted by male staff members, which represents an increase from 2018\(^2\), where the data were divided almost 50–50.

- On average, a decision was issued within 55 days of receipt of a complete AR request.

AR requests by category

Below is a detailed breakdown of the 15 AR requests received in 2019, by category:

- Classification 1
- Contract Status 1
- Disciplinary Process 2
- Entitlements 4
- Mobility 1
- Selection 5
- UCD Assessment 1

**Figure 4.** 15 AR requests received from 1 January 2019 to 31 December 2019

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\(^2\) In 2018 the number of all AR requests by category of gender included the cases of the ICSC compensation review.
**Figure 5.** Categories 2018 vs. 2019

![Category Bar Chart]

### AR requests by location:

The majority of AR requests (60%) originated from Headquarters (HQ).

**Figure 6.** 15 AR requests by location in 2018 and 2019

![AR Request Bar Chart]
All AR requests by language:

The WHO Staff Regulations and Rules are available in both English and French, as are the provisions of the WHO eManual governing Administrative Review Policy. In 2019, all 15 AR requests were submitted in English.

AR requests by staff category (2018 and 2019):

Requests were predominately submitted by staff members in the Professional category (P staff) (9 AR requests, 60%). The remainder of all AR requests were submitted as follows: by staff members in Director positions (D staff) (5 AR requests, 34%) and by staff members in National Professional Officer positions (NPO staff) (1 AR request, 6%). No AR requests were submitted by Ungraded staff members (USG) or by staff members in the General Service (G-staff) category in 2019.

Figure 7. 15 AR Requests by Staff category

<table>
<thead>
<tr>
<th>Ungraded Staff (USG)</th>
<th>G-Staff</th>
<th>NPO-Staff</th>
<th>D-Staff</th>
<th>P-Staff</th>
</tr>
</thead>
<tbody>
<tr>
<td>2019</td>
<td>1</td>
<td>0</td>
<td>1</td>
<td>9</td>
</tr>
<tr>
<td>2018</td>
<td>3</td>
<td>6</td>
<td>0</td>
<td>5</td>
</tr>
</tbody>
</table>
All AR requests by gender:

Examining requests by gender, in 2019 40% of all AR requests were submitted by female staff members and 60% by male staff members, compared to 51% of all AR requests submitted by women and 49% submitted by men in 2018³.

**Figure 8.** 15 AR requests by Gender in 2019

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**AR requests status at 31 December 2019:**

As of 31 December 2019, a total of 4 AR requests received in 2019 remained under review, representing following categories:

- Classification 1
- Disciplinary Process 1
- Entitlements 2

Decisions issued in AR requests as of 31 December 2019: 9, compared to the same period in question in 2018, where 13 ARDs were issued.

- Disciplinary process 2
- Selection 3
- Entitlements 2
- UCD Assessment 1
- Mobility 1

One case (Selection) was resolved amicably after a decision had been issued on the AR request.

Another AR request, also pertaining to a selection issue, was withdrawn by the staff member following mutually agreeable resolution of the matter.

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³ In 2018 the number of all AR requests by category of gender included the cases of the ICSC compensation review.
Decisions further appealed:

1. Appeals to the Global Board of Appeal in 2019

In May 2019, an amendment to the WHO eManual excluded disciplinary decisions from administrative review, allowing for an appeal directly before the GBA.

In 2019, the EXD waived the requirement to launch an administrative review in one case concerning separation, and thus enabled the staff member to proceed directly to the GBA.

In 2018 all 9 appeals had been filed before the GBA against final administrative review decisions following the AR stage under Staff Rule 1225.

In 2019, the GBA received a total of 15 new appeals in respect of UNAIDS staff, contesting final administrative review decisions issued in 2018 and 2019, and—in two instances— contesting final administrative decisions\(^5\). One appeal was filed against a decision made pursuant to the WHO Policy on the Prevention of Harassment and Sexual Harassment as adapted for UNAIDS.

\(^4\) In accordance with paragraph 45 of the WHO eManual (III.12.3) pursuant to Staff Rule 1225.1, the following final administrative decisions are not be subject to administrative review under Staff Rule 1225 and shall be appealable directly before the GBA under Staff Rule 1230:

- a. decisions based on recommendations of the Advisory Committee on Compensation Claims (ACCC);
- b. decisions based on recommendations of a Classification Review Standing Committee, or otherwise taken under the applicable Procedures;
- c. decisions taken pursuant to the WHO Policy on the Prevention of Harassment and Sexual Harassment; and
- d. decisions imposing disciplinary measures or written reprimands pursuant to Staff Rule 1110 or Staff Rule 1115. (emphasis added)

\(^5\) Where appeals against final administrative decisions were received, the administrative review was either not procedurally required, or such requirement had been waived by the Executive Director.
The appeals were submitted in the following categories:

**Figure 10.** Decisions appealed to the GBA in 2019

- Final administrative review decision (ARD) – after AR stage
- Decision taken pursuant to the WHO Policy on the Prevention of Harassment and Sexual Harassment (direct appeal to GBA)
- Decisions imposing disciplinary measures or written reprimands (direct appeal to GBA)
- Express waiver to proceed directly to the GBA
- Deemed rejection

**Figure 11.** Appeals submitted to the GBA in 2018 (9) and 2019 (15)

<table>
<thead>
<tr>
<th>Year</th>
<th>Abolition</th>
<th>Contract Status</th>
<th>Classification</th>
<th>Entitlements</th>
<th>Disciplinary Process</th>
<th>Harassment</th>
<th>Mobility</th>
<th>Selection</th>
<th>Separation</th>
</tr>
</thead>
<tbody>
<tr>
<td>2019</td>
<td>0</td>
<td>2</td>
<td>3</td>
<td>2</td>
<td>2</td>
<td>1</td>
<td>1</td>
<td>3</td>
<td>1</td>
</tr>
<tr>
<td>2018</td>
<td>1</td>
<td>0</td>
<td>0</td>
<td>1</td>
<td>0</td>
<td>1</td>
<td>1</td>
<td>1</td>
<td>5</td>
</tr>
</tbody>
</table>
Of the 15 appeals filed before the GBA in 2019, 6 were submitted contesting the ARDs issued in 2019. The breakdown of these cases by category is illustrated in the following chart:

**Figure 12. 6 appeals to the GBA received contesting ARDs issued in 2019**

(to 31 December 2019)

As of 31 December 2019, the GBA already issued its recommendations to the EXD for 3 appeals lodged in 2019. The EXD decisions were issued in early 2020. 11 appeals were under review by the Board as of 31 December 2019. One (1) case was settled by informal resolution.

For further detail on GBA cases in 2019, reference is made to the 2019 annual report of the GBA.

2. **Complaints filed before the ILO Administrative Tribunal (ILOAT)**

Two Judgements were delivered by the ILOAT at its 127th and 128th sessions in 2019 concerning former and serving UNAIDS staff members. In one case, concerning a reassignment, the ILOAT ordered that moral and material damages be paid to the former staff member, as well as costs.

The second judgment was issued in relation to the ICSC determination of post adjustment, where *inter alia* the Tribunal decided to set aside the impugned decisions on the reduced post adjustment for the duty station Geneva resulting from the 2016 cost-of-living survey. The Tribunal ordered that each complainant and each intervener be paid an amount equivalent to the difference between the remuneration actually paid to them since February 2018 and the remuneration that would have been paid to them during the same period but for the implementation of the ICSC decisions, with interest at the rate of 5% per annum from February 2018 until the date of final payment.

Both judgments were fully implemented without delay.

As at 31 December 2019, six (6) outstanding personnel matters (complaints) concerning UNAIDS staff remained pending with the ILO Administrative Tribunal.

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PART II

Lessons learned and recommendations

Reinforcing prevention and informal resolution efforts

In order to prevent time and resource-intensive formal conflict and to preserve fruitful working relations to the extent possible, early intervention and mechanisms to resolve matters informally should be strengthened to prevent and resolve conflict to the satisfaction of staff members and in the interest of UNAIDS. Clear understanding and rationale of policies and processes in place, transparency in decision-making as well as consistent adherence by the Organization and staff to its own rules improves trust, relationships and mutual accountability.

Consideration should be given to assessing, exploring and prioritizing informal settlement efforts and early reach out to staff members on issues arising to prevent or resolve formal conflict resolution processes. In parallel, HRM will continue to focus on outreach and awareness-raising activities to improve understanding of compliance with relevant rules, policies, processes and best practices. These approaches will be reinforced and supported by culture-change initiatives towards improving transparency, respectful communication and staff trust.

Simplifying internal conflict resolution avenues

Administrative decisions in certain specialized areas are not subject to the administrative review stage, in the interests of procedural efficiency. These special procedures include decisions taken by technical bodies, such as the Global Advisory Committee (GAC), Classification Review Standing Committee (CRSC), Advisory Committee on Compensation Claims (ACCC), and the Global Rebuttal Panel (GBP). UNAIDS welcomed recent procedural changes to the WHO eManual towards further simplifying processes, by exempting disciplinary decisions from the administrative review stage.

Consideration will be given to further exempting certain administrative decisions from processing through the stage of administrative review to expedite formal conflict resolution. Adaptations should be considered to the WHO Administrative Review policy to accommodate the special needs of UNAIDS in this regard.

Promoting knowledge of the Internal Justice System in UNAIDS and dispute resolution process in UNAIDS

In June 2019, a seminar was delivered for all UNAIDS staff members, providing staff with access to experts and resources of different institutional bodies related to the WHO/UNAIDS system of Administration of Justice. The session captured administrative review and appeals policies, ILOAT, other grievances reporting mechanisms and bodies such as Ombudsman, WHO Office of Internal Oversight Services and UNAIDS Secretariat Staff Association. In March 2019, a dedicated HRM Intranet page was created on the Internal
Justice System\(^7\). It is accessible to all staff and contains information materials on the overall UNAIDS dispute resolution system and processes, as well as annual statistical overviews and reports, including on disciplinary and related matters\(^8\). It also contains a repository of the relevant regulatory framework, including updates to policies on dispute resolution, which are communicated to all UNAIDS staff members on a regular basis.

Consideration should be given to continuing awareness raising and communication to all staff on the processes and procedures of the internal dispute resolution, including through live sessions, webinars and/or seminars for better visibility, enhancing enabling and trust-based relationships in the Organization. These components will be gradually rolled out further, e.g. by embedding them into relevant induction and orientation programmes for new and serving staff, and HRM will strengthen efforts to make relevant information in this regard more accessible to all UNAIDS staff.

\(^7\) UNAIDS Intranet – HRM – Internal Justice System page.

DISPUTE RESOLUTION PROCESS IN UNAIDS

I. INFORMAL RESOLUTION (STAFF RULE 1215 and WHO eManual III.12.2 as adapted for UNAIDS)*: Mediation (Ombudsman), Supervisor(s), Director HRM, USSA, UNAIDS Senior Ethics Officer

II. ADMINISTRATIVE REVIEW (STAFF RULE 1225, WHO eManual III.12.3 as adapted for UNAIDS)* – UNAIDS HQ, Geneva, Switzerland

III. GLOBAL BOARD OF APPEAL (STAFF RULE 1230 and WHO eManual III.12.4 as adapted for UNAIDS) – Budapest, Hungary

IV. ILO ADMINISTRATIVE TRIBUNAL (STAFF RULE 1240) – ILO HQ, Geneva, Switzerland

* Adaptations to the Staff Rules are published on the HRM Intranet in the Introduction to the Staff Regulations and Staff Rules for Staff Members of UNAIDS and, for the purposes of the policy related to the Administrative Review and Appeals policy as adapted by Internal Justice System policy (HRM/IN 2018-2).

** Pursuant to Staff Rule 1225.1, the following final administrative decisions shall not be subject to administrative review under Staff Rule 1225 (Administrative Review) and shall be appealable directly before the Global Board of Appeal under Staff Rule 1230 (Global Board of Appeal):
- decisions based on recommendations of the Advisory Committee on Compensation Claims (ACCC);
- decisions based on recommendations of a Classification Review Standing Committee, or otherwise taken under the applicable Procedures;
- decisions taken pursuant to the Policy on the Prevention of Harassment and Sexual Harassment in UNAIDS (HRM/IN 2016-2); and decisions imposing disciplinary measures or written reprimands pursuant to Staff Rule 1110 or Staff Rule 1115.

Pursuant to the Introduction to the Staff Regulations and Staff Rules for Staff Members of UNAIDS and its adaptation, inter alia, to Staff Rule 1225.1, UNAIDS has a rebuttal process in place to address disagreements regarding unsatisfactory performance ratings. Thus, the rebuttal process shall replace Administrative Review in whole or in part, as applicable, for such cases. The Rebuttal Decision may be appealed directly to the Global Board of Appeal.