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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.



JOINT INSPECTION UNIT
of the United Nations System

CORPS COMMUN d'INSPECTION
du Système des Nations Unies

30 September 2024

Ref.: JIU/ES/2024/1

Subject : JIU/REP/2023/2 - Review of the internal pre-tribunal-stage appeal mechanisms available to staff of the United Nations system organizations

Dear Ms. Jansen,

Thank you for conveying the comments of the United Nations System Chief Executives Board for Coordination (CEB) 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) as contained in A/9/301/Add.1 (8 August 2024). The JIU appreciates the time and effort of the CEB Secretariat in consolidating comments and responses to the Unit's reports from JIU participating organizations.

Following their careful review of the comments of the CEB, the authors of the report, Inspectors Gönke Roscher and Jesús S. Miranda Hita, asked me to convey their reaction with regard to the formal recommendations made in the above-mentioned report. The Inspectors find it necessary to address specific paragraphs in the Secretary-General's Note as it contains information that if left unaddressed, could distort the record regarding the acceptance of the report's recommendations. In this context, I wish to draw your attention to the recently issued JIU/REP/2024/2 where in its paragraphs 150 to 166 the terminology used by the CEB secretariat to classify JIU recommendations is discussed.

- Paragraph 6 of the CEB comments states: *"Organizations partly support this recommendation." (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.)*

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Ms. Maaike Jansen
Secretary of CEB
and Director of the CEB Secretariat
United Nations System Chief Executives Board for Coordination
New York

Cc: Ms. Federica Pietracchi
Senior Programme Management Officer

This recommendation was addressed to the executive heads of 16 JIU participating organizations. As of 27 August 2024, eight organizations had accepted the recommendation, one considered it not relevant, in two organizations the acceptance was under consideration, and for five organizations there was no information available yet. With regard to implementation, six organizations reported that the recommendation had already been implemented and another two organizations reported that implementation was in progress.

Furthermore, with regard to paragraphs 7 and 8 of the CEB comments, the Inspectors point out that they were well aware that the authority for such changes may be with the legislative organs or governing bodies, which is why the recommendation clearly states that executive heads should propose the harmonization of time limits for their administrations for decision by their legislative organs or governing bodies.

- Paragraph 16 of the CEB comments states: *“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 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.)

This recommendation was addressed to the legislative organs and governing bodies of 13 JIU participating organizations. As of 27 August 2024, eight organizations had accepted the recommendation; in two organizations the acceptance was under consideration, and for three organizations there was no information available yet. In three organizations, the recommendation had reportedly been implemented; in another three organizations implementation was in progress; and two had not started yet.

The Inspectors disagree that the timing for the review should be left to the discretion of executive heads, precisely because they have already assessed the relevant regulatory frameworks and found that they merit review by the organizations to which the recommendation is addressed. In this connection, recommendation 4 is based on the findings and conclusions set out in paragraphs 246 to 249 in the report. In the view of the Inspectors there is sufficient evidence for it to be considered necessary and timely that legislative organs and governing bodies request their executive heads to undertake such a review and report to them thereon not later than 2025.

- Paragraph 22 of the CEB comments states: *“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.”*

(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.)

This recommendation was addressed to the executive heads of 14 JIU participating organizations. As of 27 August 2024, six organizations had accepted the recommendation, one organization did not accept it; in two organizations the acceptance was under consideration and for five organizations there was no information available yet. In two organizations, the recommendation had already been implemented, in another three organizations implementation was in progress, and in one it had not started yet.

The Inspectors indicate that it is unclear why this recommendation is described as partly supported and its implementation is made conditional on a review of the overall internal appeals process in the organizations concerned. Recommendation 7 is based on the findings and conclusions detailed from paragraphs 379 to 384 in the report, where the purpose of removing all restrictions with regard to legal representation of staff in internal justice processes is clearly stated, that is, to ensure "equality of arms" and freedom of choice in legal representation as the persisting restrictions fail to adapt to the times and the changing landscape of internal justice in the United Nations system. The Inspectors are convinced that these modifications can be implemented without having to wait for a more comprehensive reviews of the relevant regulatory framework. Furthermore, the Inspectors deem these changes essential to uphold one of the fundamental principles related to the right of defence for those who are contesting decisions.

Yours sincerely,



Uren Pillay
Executive Secretary



**Secretariat of the United Nations System
Chief Executives Board for Coordination (CEB)**

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15 October 2024

Dear Mr. Pillay,

Thank you for your letter of 30 September 2024, conveying the reactions of Inspectors Gönke Roscher and Jesús S. Miranda Hita, authors of 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), to the Note by the Secretary-General on said report as contained in document A/79/301/Add.1.

Regarding the Inspectors’ comments related to paragraphs 6, 16, and 22 of the Note by the Secretary-General and the acceptance of their report’s respective recommendations 1, 4 and 7, as recorded in the JIU web-based tracking system as of 27 August 2024, we can confirm that the content of the Secretary-General’s note accurately reflects the views of CEB member organizations as submitted to the CEB Secretariat in late 2023/early 2024. The CEB Secretariat initiated, in line with established practice, the process to prepare document A/79/301/Add.1 on 25 October 2023, following the release of the English version of JIU/REP/2023/2. The Secretary-General’s Note was finalized in the first quarter of 2024 and pending authorization by DGACM, submitted for processing/editing and translation, and issued on 8 August 2024.

As you know, the purpose of the Secretary-General’s notes containing CEB member organizations comments, as per article 11 e) of the JIU Statute, is to provide general joint comments. Its contents are owned by CEB member entities and reflect the diversity of views, as collected and consolidated by the CEB Secretariat. On the other hand, the accountability of each participating organization to the Unit is through the formal indication of the level of acceptance of specific recommendations, status of implementation, status comment, and tracking through the JIU web-based tracking system, which is ongoing and may take a number of years from the year of publication, to be fully processed by all the participating organizations and their respective legislative organs and governing bodies.

Mr. Uren Pillay
Executive Secretary
Joint Inspection Unit
of the United Nations System
Geneva

With regard to the report on the “Review of consideration of and action taken on the reports and recommendations of the Joint Inspection Unit by United Nations system organizations” (JIU/REP/2024/2) issued on 9 September 2024, I am pleased to inform you that we are in the process of collecting inputs from CEB member organizations for the upcoming Secretary- General’s note.

We will share your letter and our response with the JIU focal points for their information.

Yours sincerely,

A handwritten signature in black ink, reading "Maaïke Jansen". The signature is written in a cursive, flowing style.

Maaïke Jansen
Secretary of CEB