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# COMMITTEE ON CONSTITUTIONAL AND LEGAL MATTERS

**Hundred and Thirteenth Session**

**Rome, 25-27 October 2021**

**Proposed amendments to the Staff Regulations -  
FAO internal appeal procedure**

## I. Introduction

1. Under Rule XL (4) of the General Rules of the Organization, the Director-General is responsible for promulgating such general staff regulations as may be necessary, with the approval of the Council. The FAO Staff Regulations first became effective on 1 July 1952 and have since been supplemented and amended by the Council upon recommendation by the Director-General.<sup>1</sup>

2. These Staff Regulations provide that the Director-General shall establish a Committee within the Organization to advise him in cases of appeal lodged by staff members regarding a grievance arising out of disciplinary action or arising out of an administrative decision alleged to be in conflict with the terms of their appointment or with any pertinent Staff Regulation, Staff Rule or administrative directive.<sup>2</sup> They also establish a recourse to the International Labour Organization Administrative Tribunal for staff members who are not satisfied with a decision made by the Director-General on the recommendation of the Appeals Committee,<sup>3</sup> and a recourse to the United Nations Administrative Tribunal (as it was known) for staff members alleging non-observance of the Regulations of the United Nations Joint Staff Pension Fund.<sup>4</sup>

3. In line with these basic provisions, an internal appeal procedure was promulgated by the Director-General. It comprises Staff Regulations 301.11.1 to 301.11.3, supplemented by Staff Rules and other administrative provisions adopted by the Director-General. This internal appeal procedure is codified as Section 331 of the FAO Administrative Manual.

<sup>1</sup> Staff Regulation 301.12.1. Pursuant to the same provision, the Director-General has authority to issue Staff Rules within the framework of the Staff Regulations.

<sup>2</sup> Staff Regulation 301.11.1.

<sup>3</sup> Staff Regulation 301.11.2.

<sup>4</sup> Staff Regulation 301.11.3.

## II. Background

4. In March 2021, the FAO Legal Office began a review of the appeal procedure provided for under Administrative Manual Section 331. This review aims at developing recommendations for the Director-General towards updating and improving certain aspects of the internal appeal procedure currently in place.
5. To this end, consultations are being conducted with internal stakeholders to gather comments and observations on their experience with the current procedure. In addition to FAO units directly concerned like the Human Resources Division (CSH), the Office of the Ombudsman (OMB), the Ethics Office (ETH) and the Office of the Inspector General (OIG), discussions are being held with the Staff Representative Bodies and the Chairperson, alternate Chairpersons, members and alternate members of the Appeals Committee. The World Food Programme (WFP) is also being consulted, given that appeals lodged by WFP staff members are reviewed by the FAO Appeals Committee. As appropriate, the review will also consider developments that have taken place in other UN entities, while keeping to the model of an advisory Appeals Committee foreseen under Staff Regulation 301.11.1.
6. Among the areas where improvements or adjustments to the current appeal procedure might be desirable, the following have been identified:
  - a) introducing mediation as a means of alternate dispute resolution;
  - b) strengthening the structure of the Appeals Committee Secretariat;
  - c) facilitating legal representation; and
  - d) ensuring timeliness, notably by increasing the membership of the Appeals Committee.
7. This review of the internal appeal procedure is still on-going. It is expected that a revised Administrative Manual Section 331 will be submitted to the consideration of the Director-General by December 2021.
8. In this context, it is considered that amendments to Staff Regulation 301.11.1 are needed to increase from five to ten the number of alternate members of the Appeals Committee nominated by the Director-General and elected by the staff as a whole. Consultations held thus far have revealed that delays are often incurred due to the difficulty faced by the Secretariat of the Appeals Committee in identifying members or alternate members that are readily available to hear a case, a function which members and alternate members undertake on a voluntary basis in addition to their regular duties. Enlarging the pool of eligible alternate members will help expediting the scheduling and hearing of appeal cases.
9. In addition, it is proposed to update Staff Regulation 301.11.1 by making it gender neutral.
10. Amendments to Staff Regulations 301.11.2 and 301.11.3 are also required, because the references in these provisions to the United Nations Administrative Tribunal are obsolete. Since 2009, the United Nations Appeals Tribunal is competent to hear applications from staff members of the Organization alleging non-observance of the Regulations of the United Nations Joint Staff Pension Fund. Hence, it is proposed to replace the reference to the “United Nations Administrative Tribunal” by the “United Nations Appeals Tribunal” in these two provisions.
11. These amendments are submitted to the consideration of the CCLM to allow approval by the Council at its 168th Session in November/December 2021. This would facilitate the implementation of a revised Administrative Manual Section 331 in early 2022, rather than waiting for the 169th Session of the Council in June 2022.

### III. Proposed Amendments

12. Based on the foregoing, the proposed amendments would be as follows:

**301.11.1** The Director-General shall establish a Committee within the Organization to advise him in cases of appeal by individual staff members regarding a grievance arising out of disciplinary action or arising out of an administrative decision which staff members allege to be in conflict, either in substance or in form, with the terms of their appointment or with any pertinent Staff Regulation, Staff Rule or administrative directive. At the request of the staff member, the Director-General may render a final decision without recourse being made to the said Committee. The Committee shall consist of two members and ~~five~~ **ten** alternate members nominated by the Director-General, two members and ~~five~~ **ten** alternate members elected by the staff as a whole, and an independent ~~Chairman~~ **Chairperson** appointed by the Council. The Council shall appoint two alternate ~~Chairmen~~ **Chairpersons** to serve when the ~~Chairman~~ **Chairperson** is unavailable; if the ~~Chairman~~ **Chairperson** and alternate ~~Chairmen~~ **Chairpersons** are unavailable, the remainder of the Committee may select an ad hoc ~~Chairman~~ **Chairperson**, who shall not be a staff member.

**301.11.2** The International Labour Organisation Administrative Tribunal shall, under conditions prescribed in its Statute (except for cases dealt with by the ~~United Nations Administrative Tribunal~~ **United Nations Appeals Tribunal** under Staff Regulation 301.11.3), hear and pass judgement upon applications from staff members alleging non-observance of their terms and conditions of appointment, including all pertinent Regulations and Rules.

**301.11.3** The ~~United Nations Administrative Tribunal~~ **United Nations Appeals Tribunal** shall, under conditions prescribed in its Statute, hear and pass judgement upon applications from staff members of the Organization alleging non-observance of the Regulations of the United Nations Joint Staff Pension Fund, in which staff members of the Organization participate in accordance with [Staff Regulation 301.6.1](#).

### IV. Suggested actions by the Committee

13. The Committee is invited to:
- a) review the proposed amendments to Staff Regulations 301.11.1 to 301.11.3, as highlighted in paragraph 12 above; and
  - b) endorse these proposed amendments for approval by the Council at its 168th Session (Rome, 29 November to 3 December 2021).