



2024 Annual Report of the WIPO Appeal Board

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I. Introduction

1. This Annual Report provides an overview of the appeals submitted to the WIPO Appeal Board (“WAB”) as well as the recommendations formulated by the WAB during the period January 1 – December 31, 2024.

II. The Right to an Internal Appeal: Basis for Decision

2. Staff members¹ have the right to appeal to the WAB against an adverse administrative decision, which normally precedes their right of appeal to the Administrative Tribunal of the International Labour Organization (“ILOAT”).
3. The ILOAT recognizes that, as part of the right to challenge administrative decisions, staff members must have access to all evidence on which the authority bases or intends to base its decision affecting them and, under normal circumstances, such evidence cannot be withheld on grounds of confidentiality. It follows that a decision based on a material document that has been withheld from the staff concerned will be considered procedurally flawed.
4. In addition, affected staff members must be given sufficiently clear, precise, and intelligible reasons in support of any adverse administrative decision. This is to safeguard the staff members’ rights to understand and evaluate whether the decision should be contested, or if there are other options to explore short of initiating the internal appeal process.

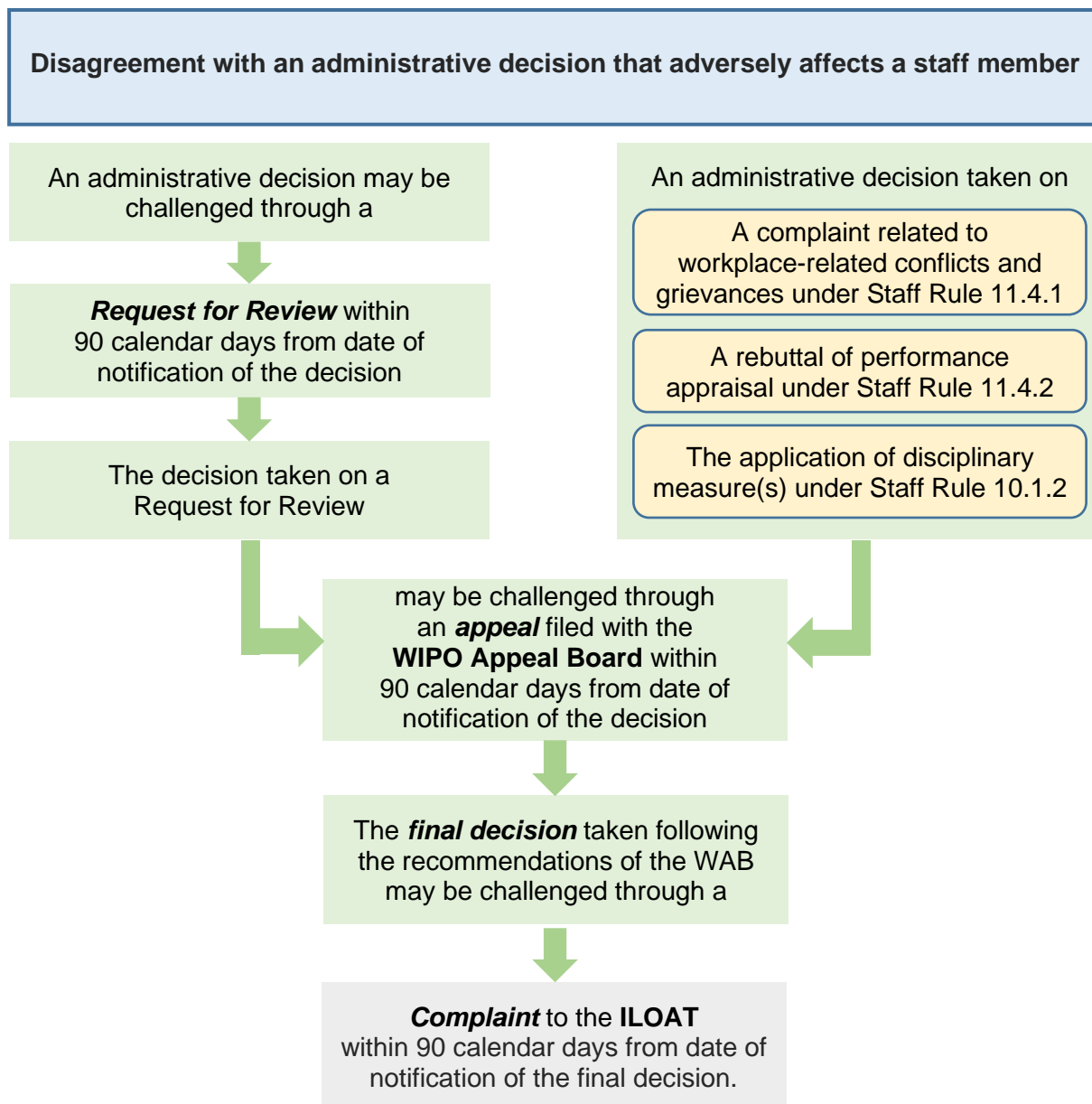
III. Formal Internal Appeal Mechanisms

5. Work-related disputes cannot be brought before national courts due to WIPO’s legal status. For this reason, staff members can avail themselves of either informal or formal mechanisms established by the Organization to resolve their work-related disputes.
6. The WAB is an independent administrative body and represents the ultimate formal internal appeal mechanism available to officials for raising disputes that have not been settled through previous stages of conflict resolution.²
7. An appeal may be filed with the WAB against a decision with respect to:
 - a complaint concerning workplace-related conflicts and grievances;
 - a rebuttal of a performance appraisal;
 - a request for review of an administrative decision; and
 - the application of disciplinary measure(s).

¹ Pursuant to Staff Regulation 11.5, staff members, former staff members, or duly qualified beneficiaries with respect to the rights of a deceased staff member, are entitled to file an appeal.

² The composition of the WAB is available on the Intranet Homepage “Appeal Board”.

The chart below shows the **formal conflict resolution process**



IV. Appeals filed in 2024

8. In 2024, four *Statements of Appeal* were filed with the WAB. One of them was found to be premature for failure to exhaust previous means of redress and was thus transmitted to the Director General for consideration as a request for review under Staff Rule 11.4.3. They are summarized as follows:

(i) Decision to advertise a position

A staff member challenged the decision to create and advertise a new temporary position in her work area, following the redistribution of assignments. She argued that the new post was established with the intent to remove her from her duties and claimed that the decision was made without prior consultation, violating her right to be heard and effectively stripping her of her previous responsibilities.

In seeking relief, the staff member requested the annulment of the selection process, reinstatement in her former position, and compensation for both material losses and moral injury.

(ii) Decision to recover the overpayment made in the form of an education grant

A staff member contested the decision requiring her to reimburse the Organization for the education grant received for her child. She deemed the decision unfair, stating that she had followed instructions from the Human Resources Management Department, which had approved the grant despite being aware that her child had turned 25 before the start of the new school year. She further argued that the Organization's right to recover the overpayment had expired, as two years had passed since the payment was made and could no longer be claimed.

Seeking relief, the Appellant requested the annulment of the decision and compensation for moral injury.

(iii) Decision to amend the job description

The staff member contested the redefinition of her job description following the redistribution of assignments within her area of work. She argued that the changes amounted to a *de facto* functional demotion in terms of both her responsibilities and reporting line, violating the Organization's duty of care, particularly its obligation to respect her dignity. She further claimed that she was not given an opportunity to provide feedback on the revised job description, thereby infringing on her right to be heard.

Seeking relief, the Appellant requested the annulment of the decision, reassignment to her previous post, and compensation for moral injury.

(iv) Decision not to grant two additional weeks of parental leave under the new “Parental Leave and Related Arrangements” policy

The staff member contested the decision denying her two additional weeks of parental leave for gestational parents, as stipulated in the Final Provisions of the policy which entered into force on May 1, 2024. She argued that the Administration had failed to provide valid justification for the refusal. Moreover, she contended that the decision contradicted the International Civil Service Commission’s intent to harmonize parental leave provisions and eliminate disparities among beneficiaries of this entitlement.

Seeking relief, the Appellant requested the granting of the additional two weeks of parental leave.

V. Conclusions & Recommendations of the WAB

9. In 2024, the WAB reviewed three appeals and transmitted its conclusions and recommendations to the Director General.³ The WAB’s conclusions are summarized in the following paragraphs:

I. Decision to place adverse material in the Appellant’s personnel file and to disclose confidential information to the Appellant’s new employer

The Appellant challenged the adverse administrative actions stemming from an investigation into alleged misconduct. He argued that placing adverse material in his personnel file – despite the lack of a formal process guaranteeing due process – carried serious implications for his reputation. Additionally, the disclosure of confidential information to his new employer was both legally unfounded and unjustified, particularly since no finding of misconduct had been established.

The WAB analyzed two key issues: (1) the legality of placing potentially adverse material in the Appellant’s personnel file and (2) the legality of transmitting reputationally damaging information to his new employer. Based on its assessment, the WAB concluded that the Administration’s actions were unlawful for the following reasons.

The WAB found that adverse material related to allegations of misconduct was placed in the Appellant’s personnel file without proper safeguards. Normally, such allegations would be addressed through disciplinary proceedings, allowing the accused to respond and present counter evidence. However, no such process was initiated, depriving the Appellant of procedural fairness.

³ Pursuant to Staff Rule 11.5.3(k), “[t]he opinions and recommendations of the Appeal Board shall be advisory in character. The Director General shall give them full consideration when taking the final decision. In cases where the Director General departs from the recommendations of the Appeal Board, the decision shall indicate the reasons for any such departure.”

Disciplinary proceedings are meant to provide clear charges, relevant legal provisions, and evidence, ensuring the right of defense. Without this formal process, it could not be determined whether misconduct had occurred. The Appellant was allowed to comment on the investigation report, but this did not meet the standards of due process.

Since the Administration did not initiate disciplinary proceedings against the Appellant – who was no longer a staff member – the latter was never able to challenge the investigation’s findings and conclusions. Despite this, the Administration included adverse material in his personnel file and shared information with his new employer, potentially harming his reputation. In the WAB’s view, the absence of disciplinary action should not result in prejudice against the Appellant.

Based on its findings, the WAB determined that placing adverse material in the Appellant’s personnel file was unlawful, as it failed to uphold fundamental safeguards protecting his rights of defense. As noted in Judgment No. 3478, the ILOAT has cautioned against filing documents in staff members’ personnel files without proper regard for their rights. Consequently, the WAB recommended the removal of the adverse material from the Appellant’s file.

Regarding the disclosure of confidential information to the Appellant’s new employer, the WAB observed that while specialized UN agencies have a general duty to cooperate in ensuring accountability among international civil servants, this obligation must not override staff members’ rights to due process and personal data protection. In this case, the Appellant was denied the procedural safeguards he would have been entitled to under a properly conducted disciplinary process.

The WAB concluded that the disclosure of confidential information to the Appellant’s new employer was clearly prejudicial, as it relied on investigative findings that the Appellant had no opportunity to challenge through a formal disciplinary process. This decision was deemed unlawful, having been made without adherence to fundamental safeguards of due process. Consequently, the WAB recommended granting the Appellant moral damages.

II. Decision not to recognize the Appellant’s resignation as constructive dismissal

The Appellant appealed against the decision to reject her request to treat her resignation as constructive dismissal with all consequential rights.

The concept of “constructive dismissal” has been defined by the ILOAT in Judgment No. 4383 as a situation in which an employer behaves in a way that undermines the continuation of the employment relationship. This entitles the employees, should they choose, to treat the employer’s actions as a termination of their employment. If the employee decides to

resign in response, the resulting rights and obligations are assessed as though the employer – not the employee – terminated the employment.

The WAB observed that the Appellant's claim of constructive dismissal was primarily based on alleged workplace harassment. It noted, as the Tribunal held in a similar case leading to Judgment No. 2745, that when a claim of constructive dismissal is linked to a claim of harassment, constructive dismissal only applies if the harassment claim is upheld. Since the Appellant's harassment allegations against her colleagues and claims of abuse of authority by her supervisor were reviewed by the WAB and deemed unsubstantiated – findings accepted by the Director General – they did not support her claim of constructive dismissal.

Furthermore, the WAB noted that the Administration's exceptional and favorable measures towards the Appellant contradicted her claim of institutional harassment. Given these undisputed facts, it was not demonstrated that the Administration had acted in a manner inconsistent with maintaining the employment relationship with the Appellant. The WAB thus concluded that the Appellant's claim lacked merit and that the Director General's decision not to recognize her resignation as constructive dismissal was justified.

III. Decision to dismiss the Appellant's complaint of harassment

The Appellant challenged the summary dismissal of his harassment complaint as time-barred and devoid of merit, arguing that a series of unlawful incidents collectively amounted to institutional harassment, thereby waiving the (then) applicable 90-day statutory time limit.

Referring to ILOAT Judgment No. 4345, the WAB emphasized that "institutional harassment" occurs when repeated mismanagement or omissions, lacking reasonable explanation, significantly harm a staff member's dignity and career. However, after reviewing the case, the WAB found that each challenged action taken by WIPO was managerially justified, reasonable, and lawful. The alleged incidents did not constitute institutional harassment, nor was there evidence of deliberate collusion or animus against the Appellant. The Appellant also failed to provide concrete evidence of repeated mismanagement that adversely affected his dignity and career.

Thus, the WAB concluded that incidents predating 90 days before the complaint's filing were correctly deemed time barred. Regarding the claims considered timely, they lacked sufficient legal or factual basis. It was therefore not improper to summarily dismiss the complaint or for the competent authority to decline to refer the matter for an independent investigation, given that the required conditions were unmet.

Nevertheless, the WAB acknowledged that while the Administration's actions were not unlawful and did not constitute institutional harassment, various aspects of the Administration's treatment of the Appellant exhibited errors, carelessness, and insensitivity, breaching the Organization's duty of care towards the Appellant. In the WAB's view, such breaches caused moral injury to the Appellant warranting adequate compensation.

Annex

Flowchart of the Appeal Process

(The procedure before the WAB is described under Staff Rule 11.5.3)

