

2016 UNDP ANNUAL REPORT OF THE ADMINISTRATOR ON DISCIPLINARY MEASURES

And Other Actions Taken in Response to Fraud,
Corruption and Other Wrongdoing

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2016 UNDP Annual Report of the Administrator on Disciplinary Measures and Other Actions Taken in Response to Fraud, Corruption and Other Wrongdoing

I. Introduction

1. Article 101, paragraph 3 of the Charter of the United Nations states that the *“paramount consideration in the employment of the staff and in the determination of the conditions of service shall be the necessity of securing the highest standards of efficiency, competence and integrity”*. UN Staff Regulation 1.2 (b) provides that *“[t]he concept of integrity includes, but is not limited to, probity, impartiality, fairness, honesty and truthfulness in all matters affecting their work and status”*.
2. In observance of the above principles, UNDP is committed to preventing, identifying, and addressing all breaches of the required standards of conduct whether committed by UNDP staff members, other personnel¹ or third parties such as vendors or implementing partners.
3. Since 2001, UNDP has been reporting on the results of cases concerning allegations of misconduct involving staff members of UNDP, including staff members of other agencies and entities serving under UNDP Letters of Appointment.

¹ Personnel include UN Volunteers and contractors such as Service Contract holders and Individual Contractors.

4. Since 2011, UNDP has reported on the results of cases of violations of standards of conduct by other personnel as well as vendors. This report identifies cases involving allegations of wrongdoing against UNDP staff members and other personnel or entities, leading to sanctions and other measures for the calendar year 1 January to 31 December 2016.
5. In addition, this report identifies action taken to ensure recovery of moneys owed to the Organization associated with disciplinary cases involving sanctions and other measures. Cases involving referral to national authorities pursuant to General Assembly Resolution 62/63 are also indicated.

II. Cases involving staff members

A. [Overview](#)

6. This section contains a summary of cases considered by the Legal Office, Bureau for Management Services (LO/BMS) involving staff members following investigations by the Office of Audit and Investigations (OAI) concerning allegations of wrongdoing.
7. The Administrator imposes disciplinary measures following a thorough process as defined in the “UNDP Legal Framework for Addressing Non-Compliance with United Nations Standards of Conduct” (the “Legal Framework”).²
8. Appeals against the Administrator’s decision to impose a disciplinary or an administrative measure following an investigation and/or a disciplinary process are heard by the UN Dispute Tribunal. Decisions by the UN Dispute Tribunal may be

² The Legal Framework may be found on the UNDP internet website.

appealed, either by staff members or by the Organization, to the UN Appeals Tribunal. The decisions of both Tribunals are binding on UNDP.

9. Disciplinary proceedings within the UN system are administrative, not criminal, in nature. Proof beyond reasonable doubt is not a requirement. What is required is the identification of clear and convincing evidence that an intentional, grossly negligent or reckless violation of the UN Regulations and Rules, including the standards of conduct applicable to staff members, has occurred. Throughout such proceedings, staff members have the right to due process as detailed in the Legal Framework.
10. In UNDP, OAI is responsible for investigating all allegations of wrongdoing. Investigation reports relating to staff members completed by OAI are submitted to LO/BMS for review and further action. During the period under review, 22 new investigation reports were considered.
11. During the period covered by this report, LO/BMS considered a total of 48 cases concerning allegations of misconduct against staff members, including 26 cases issued in previous years which continued to be dealt with during the period under review.
12. Of these 48 cases, 32 were concluded, of which:
 - a. 13 resulted in the imposition of a disciplinary sanction. Of these 13 cases,
 - i. Five cases led to the staff member's dismissal or separation from service;
 - ii. One case led to demotion;
 - iii. Five cases led to a loss of steps;
 - iv. Two cases led to written censure.

- b. 19 cases were concluded through other administrative action, whether through exoneration from allegations of misconduct, or because the staff member separated. Of these 19 cases,
 - i. 13 cases were concluded with the placement of a note on the staff member's Official Status File pursuant to paragraph 72 (a) of the Legal Framework following completion of the investigation, because the staff member had resigned or otherwise separated from the Organization during the investigation or prior to a decision on the case;
 - ii. Six cases were concluded as a result of exoneration of the staff member from allegations of misconduct. Three of these six cases resulted in issuance of a written reprimand, which constitutes a non-disciplinary measure, as the facts established by the investigation report were not found to rise to the level of misconduct but rather to indicate performance failings.
13. 16 cases were still under review at the end of 2016.
14. As of 31 December 2016, two cases that had given rise to a disciplinary measure in 2016 had been appealed by the staff member concerned to the UN Dispute Tribunal.

B. Description of the 13 cases that resulted in the imposition of disciplinary measures

15. In assessing what disciplinary measure to impose, if any, the Administrator or her delegated representative takes into account all the particulars of the case, including

aggravating and mitigating factors, which cannot be reflected in the present report for reasons of confidentiality. For this reason, the disciplinary measures may vary despite apparent similarities in the misconduct at issue.

Unauthorized Outside Activities

16. A staff member at the G-5 level had outside remunerated activities whilst in the employ of UNDP, without obtaining prior authorization or disclosing the outside activities. The staff member concealed the unauthorized employment and utilized leave to fulfill outside activities. The staff member knowingly provided medical certificates misrepresenting unfitness for service owing to illness to carry on outside remunerated activities.

Sanction: Separation from service with payment in lieu of notice and payment of three weeks' termination indemnity.

Fraud

17. A staff member at the G-7 level misused his official position and authority to engage in fraud to the detriment of UNDP and unduly transferred UNDP funds to several personal bank accounts. As a result of this conduct, UNDP incurred a loss. The staff member also failed to cooperate with an official UNDP investigation.

Sanction: Dismissal

18. A staff member at the G-2 level submitted a false document to a government authority in order to fraudulently lower the duty in an imported vehicle and accepted money from colleagues as a fee to assist in the importation of vehicles. The staff member also engaged in misuse of ICT resources to collude in defrauding the government..

Sanction: Separation from service with notice served and payment of five months' termination indemnity

Failure to Adhere to the UN Standards of Conduct

19. A staff member at the P-4 level was found to have provided improper assistance to an external applicant in preparing answers to a written recruitment test.

Sanction: Written censure and loss of one step

Workplace Harassment

20. A staff member at the G-6 level misused his official position and abused his authority to administer the contract of an external vendor on behalf of UNDP by creating a hostile and coercive working environment where the employees of the vendor feared losing their jobs if they did not participate in activities of a religious nature outside the workplace.

Sanction: Written censure

21. A staff member at the D-1 level engaged in workplace harassment by improperly using physical force against another staff member, to oblige the staff member to go into another colleague's office in front of other colleagues while speaking in an aggressive manner.

Sanction: Written censure with a loss of three steps in grade and deferment of eligibility for within grade increment for two years

Conflict of Interest

22. A staff member at the D-2 level engaged in a conflict of interest and failure to uphold procurement procedures by instructing UNDP staff to contract a company in which the staff member was a partner without disclosing his partnership in this company, abuse of authority by instructing UNDP staff to assist a close friend in drafting a financial proposal in a procurement and failure to comply with the standards of conduct expected of international civil servants at a senior level..

Sanction: Separation from service with 30 days' notice served and without termination indemnity

23. A staff member at the P-5 level requested and accepted a substantial amount of money (i.e. USD25 500) from a UNDP donor and failed to disclose the receipt of such funds to the Organization.

Sanction: Dismissal

Improper Interference with a Decision of the Secretary-General

24. A staff member at the NO-C level with managerial responsibilities signed a petition to solicit the intervention of the government of a Member State to alter a decision made by the Secretary-General of the United Nations. The staff member also solicited the participation of several more junior staff members in the petition, which also threatened to take action against a Member State should it not heed the petition. The staff member's actions were viewed as inappropriate by the Member State.

Sanction: Demotion of one grade with deferment for two years of eligibility for consideration for promotion

25. A staff member at the G-6 level signed a petition to solicit the intervention of the government of a Member State to alter a decision made by the Secretary-General of the United Nations. The petition also threatened to take action against a Member State should it not heed the petition. The staff member's actions were viewed as inappropriate by the Member State. The staff member recognized that her actions constituted a violation of the UN Staff Regulations and Rules.

Sanction: Written censure

26. Three staff members, at the G-5 and G-7 levels signed a petition to solicit the intervention of the government of a Member State to alter a decision made by the Secretary-General of the United Nations. The petition also threatened to take action against a Member State should it not heed the petition. The staff members' actions were viewed as inappropriate by the Member State. While two of the staff members claimed that their signature was appended to the petition without consent, evidence demonstrated that they deliberately signed the petition.

Sanction: Written censure and loss of six steps in grade

C. [Description of the three cases that resulted in the imposition of administrative measures](#)

27. A staff member at the NO-B level failed to disclose to the Ethics Office or to management that he was a partner in an NGO with the Executive Director of a vendor with which he was involved in the awarding of contracts. He failed to request a recusal from the selection process of the vendor to avoid a potential conflict of interest between personal and professional activities.

Measure: Written reprimand

28. A staff member at the G-7 level with procurement responsibilities failed to ensure full compliance of procurement activities with UNDP Regulations and Rules, by accepting revised bids after the closing dates.

Measure: Written reprimand

29. A staff member at the NO-D level failed to disclose to the Ethics Office or to management that he was a member of an independent charitable association that received funds from UNDP for multiple projects. The staff member also provided advisory services to the association whilst at the employ of UNDP without seeking formal approval for involvement in an outside activity..

Measure: Written reprimand

D. Action taken where the subject of an investigation separated from UNDP while under investigation

1) Actions taken pursuant to paragraph 72 (a) of the Legal Framework:

30. Pursuant to paragraph 72 of the Legal Framework, if an investigation subject resigns or otherwise separates prior to the completion by OAI of an investigation report, the investigation report may be finalized at OAI's discretion despite the investigation subject's resignation or separation.

31. Notwithstanding a staff member's separation, when the investigation report is finalized, OAI sends the draft investigation report to the former staff member providing him or her with the opportunity to submit his or her comments on the factual findings and conclusions in the draft report. If the investigation report does not need amendment, the investigation report and comments are sent to LO/BMS for review. Following review, the Director of LO/BMS places a letter in the former staff

member's Official Status File indicating whether, if he or she had remained employed: (i) a recommendation would have been made for charges of misconduct to be initiated against him or her, or (ii) he or she would have been exonerated from the allegations of misconduct, or (iii) the matter would have been dealt with from a work performance standpoint, and if so how (e.g. by a letter of reprimand). The letter also indicates whether the former staff member resigned while under investigation, or whether his or her contract expired while under investigation. The former staff member is invited to comment on the letter, and the letter, and his or her comments, are placed in his or her Official Status File. In the period under review, 13 such cases were closed under paragraph 72 (a).

Damage to UN Property

32. A former staff member at the G-3 level was informed that a recommendation would have been made to charge the former staff member with misconduct for having intentionally damaged the property of another United Nations Agency while on official duty.

Sexual Harassment

33. A former staff member at the P-4 level was informed that a recommendation would have been made to charge the former staff member with misconduct for having sexually harassed a female staff member and for having engaged in a conflict of interest in participating in the recruitment of another female staff member with whom the former staff member had a consensual intimate relationship which was not disclosed to senior management.

Conflict of Interest

34. A former staff member at the P-5 level was informed that a recommendation would have been made to charge the former staff member with misconduct for: 1) soliciting or accepting, while still in the employ of UNDP, a promise or offer of future employment from a vendor which conducted business with the Organization or sought to do so, and with whom the former staff member had been personally involved in previous years; 2) engaging in an apparent conflict of interest by soliciting employment with this vendor while still engaging in procurement processes with the vendor on UNDP's behalf; and 3) exceeding the authority vested in the former staff member when authorizing the transfer of assets to government authorities in violation of financial rules and Project Documents.
35. A former staff member at the NO-B level was informed that a recommendation would have been made to charge the former staff member with misconduct for having given an unfair advantage to a vendor run by a relative of the staff member by sharing information with the vendor before such information was made available to the vendor community.
36. A former staff member at the NO-B level was informed that a recommendation would have been made to charge the former staff member with serious misconduct for engaging in procurement collusion, sharing confidential information, encouraging improper relations between vendors, providing a vendor with an unfair advantage during an ongoing procurement process, engaging in a conflict of interest and disregarding management's instructions.
37. A former staff member at the NO-B level was informed that a recommendation would have been made to charge the former staff member with misconduct for having: 1) provided information to a potential candidate during a recruitment process for which

the former staff member was on the selection panel, thereby allowing the candidate to have an unfair advantage over other candidates; 2) breached confidentiality by sharing internal and confidential documents with third parties; 3) failed to follow an instruction to keep an investigation confidential; and 4) acting with an extreme disregard in several procurement processes.

Fraud

38. A former staff member at the G-5 level was informed that a recommendation would have been made to charge the former staff member with misconduct for fraud and forgery in relation to the submission of false medical claims and false medical certificates.
39. A former staff member at the NO-B level was informed that a recommendation would have been made to charge the former staff member with misconduct for having used his position to falsify and forge documents in order to open an unauthorized bank account in the name of an NGO and for knowingly approving payment requests for the NGO on the basis of documentation he knew to be fraudulent. As a result of this conduct, UNDP incurred a loss.
40. A former staff member at the P-4 level was informed that a recommendation would have been made to charge the former staff member with misconduct for: 1) the misuse of UNDP's ICT resources by accessing and storing pornographic images on the hard drive allocated to the former staff member by UNDP; 2) the falsification of a lease agreement to obtain a higher rental subsidy to which the former staff member was not entitled; and 3) the creation of a false email address purportedly belonging to a landlord to submit false information to UNDP. As a result of this conduct, UNDP incurred a loss.

41. A former staff member at the P-5 level was informed that a recommendation would have been made to charge the former staff member with misconduct for submitting fraudulent medical invoices for reimbursement.

Improper Interference with a Decision of the Secretary-General

42. A former staff member at the G-6 level was informed that a recommendation would have been made to charge the former staff member with misconduct for soliciting the support and influence of the government of a Member State regarding a decision of the Secretary-General by sending a petition to the government opposing a decision made by the Secretary-General.

Disclosure of Confidential Information

43. A former staff member at the P-5 level was informed that a recommendation would have been made to charge the former staff member with misconduct for failing to keep matters pertaining to an OAI investigation confidential and for breaching confidentiality and fiduciary obligations to the Organization by intentionally sharing with third parties internal sensitive and confidential documents and information that came into the former staff member's possession by virtue of the former staff member's official functions.

Embezzlement of Project Funds

44. A former staff member at the G-4 level was informed that a recommendation would have been made to charge the former staff member with misconduct for having knowingly removed, without authorization, and disbursed to personal friends, a large

amount of money belonging to the Organization. As a result of this conduct, UNDP incurred a loss.

2) Actions taken pursuant to paragraph 72 (b) of the Legal Framework

45. When OAI decides that the investigation report cannot be finalized, the Director of LO/BMS places a letter in the former staff member's Official Status File, indicating that he or she: (i) resigned or, (ii) his or her contract expired while under investigation. In both instances, the former staff member is given an opportunity to present comments, and the letter and his or her comments are placed in his or her Official Status File. In the period under review, one case was closed under paragraph 72 (b).

III. Cases involving United Nations Volunteers

46. UN Volunteers are not staff members and are not subject to the disciplinary process provided in the UN Staff Regulations and Rules or in the UNDP Legal Framework. They are subject to disciplinary procedures under the respective UNV Conditions of Service for International and National UN Volunteers.

47. During the period under review, 23 disciplinary cases were concluded involving UN Volunteers. Of these 23 disciplinary cases, 18 resulted in dismissal, one resulted in early separation, one resulted in a letter of reprimand and three resulted in exoneration.

IV. Cases involving other personnel

A. [Overview](#)

48. UNDP has zero tolerance for fraud, corruption and other wrongdoing by any personnel. During the period covered by this report, OAI submitted investigation reports directly to the concerned Country Offices (COs) in a number of cases where the investigation revealed evidence of wrongdoing by personnel other than staff members and UN Volunteers. As these individuals are not UNDP staff members, their contract with UNDP constitutes the legal framework governing their employment with UNDP, and subscribers are only subject to the explicit terms and conditions provided therein. The violation of the standards of expected conduct may lead to the termination or non-renewal of their contracts. Such decisions are within the competence and authority of the CO for which the non-staff personnel is working, further to the CO's accountability for such non-staff personnel.
49. During the period covered by this report, LO/BMS is aware that OAI sent investigation reports involving 13 Service Contract (SC) holders directly to nine COs, including three reports involving three SC holders on UNDP contracts issued for services for another UN Agency. In addition to the 13 cases investigated by OAI, LO/BMS was contacted directly by four COs regarding cases where there was evidence of wrongdoing involving a total of five SC holders. In preparing this report, LO/BMS followed up on the outcome of all 18 cases and was advised by the COs that ten cases resulted in termination, six cases resulted in non-renewal and two SCs resigned. The results are as described below.

B. [Description of cases](#)

Fraud

50. Six SC holders were found to have engaged in entitlement fraud as follows:

- i. Five SC holders were found to have engaged in medical insurance fraud, including three SC holders on a UNDP contract issued for services for another UN agency which resulted in the termination of two contracts. One SC holder resigned. The other SC holders' contracts were terminated.
- ii. One SC holder engaged in fraud concerning Daily Subsistence Allowance. The SC holder's contract was terminated.

51. Three SC holders were found to have engaged in procurement fraud, misrepresentation and misuse of UNDP resources and duplicate payments. All three SC holders' contracts were terminated.

Theft and Embezzlement

52. Two SC holders were found to have engaged in theft and embezzlement. Both contracts were not renewed. As a result of this conduct, UNDP incurred a loss.

Misrepresentation, False Certification and Forgery

53. Three SC holders were found to have engaged in misrepresentation, false certification and forgery. Two SC holders' contracts expired and were not renewed. One SC resigned.

Misconduct

54. One CO reported misconduct by an SC holder directly to LO/BMS. The SC holder's contract was terminated for unauthorized use of office equipment.

Other Failure to Comply with Obligations

55. One CO reported to LO/BMS that an SC holder failed to inform the CO about criminal charges filed against the SC holder and the eventual conviction of the charges by the national authorities of the country, which did not result in physical incarceration. The SC holder's contract was not renewed. One CO reported to LO/BMS that an SC holder failed to disclose a conflict of interest during a procurement process. The SC holder's contract was terminated.

Sexual Exploitation and Sexual Abuse

56. A SC holder was found to have intended and attempted to have sexual relations with an adult in exchange for payment. The SC holder's contract was not renewed.

V. Possible criminal behavior

57. In its resolution 59/287, the General Assembly requested the Secretary-General to take action expeditiously in cases of "proven [...] criminal behaviour" and ensure that Member States are informed of the actions taken. Further, in its resolution 62/63, the General Assembly requested the Secretary-General "to bring credible allegations that reveal that a crime may have been committed by United Nations officials and experts on mission to the attention of the States against whose nationals such allegations are made, and to request from those States an indication of the status of their efforts to

investigate and, as appropriate, prosecute crimes of a serious nature [...]”. The UN Under-Secretary-General for Management reports on such cases in the yearly “Information Circular” entitled “Practice of the Secretary-General in disciplinary matters and possible criminal behaviour”.

58. When an OAI investigation reveals credible evidence that a violation of law has occurred to warrant referral to the law enforcement authorities of a Member State, UNDP recommends referral of such matters to the UN Office of Legal Affairs (OLA) for its review and appropriate action.

59. During the reporting period covered by this report, UNDP referred four cases to OLA. Three cases related to staff members and one related to a non-staff member. At the conclusion of the reporting period, OLA had referred two of the four cases to the competent national authorities.³

VI. Vendor sanctions

60. The VRC was re-staffed and re-launched in 2015. Throughout 2016, the VRC has focused on addressing and closing 2014-2015 cases.

- 19 new investigation reports were received, all of which are currently open and under review;
- One case has ongoing settlement negotiations;
- Interim suspensions in four cases were requested and approved against a total of four Non-Governmental Organizations;
- Six cases from 2014 and 2015 were closed resulting in debarments against six vendors and 12 individuals;
- One case was closed resulting in a letter of reprimand.

³ This figure does not include referrals made by OLA in prior years.