

## **2012 UNDP Annual Report of the Administrator on Disciplinary Measures and Other Actions Taken in Response to Fraud, Corruption and Other Wrongdoing**

1. Article 101, paragraph 3 of the Charter of the United Nations states that the “*paramount consideration in the employment of 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 “*the concept of integrity includes, but is not limited to, probity, impartiality, fairness, honesty and truthfulness in all matters affecting their work and status*”.
2. Furthermore, Article 100, paragraph 1 of the Charter provides that “[i]n the performance of their duties, the Secretary-General and the staff shall not seek or receive instructions from any Government or from any other authority external to the Organization. They shall refrain from any action which might reflect on their position as international officials responsible only to the Organization”.
3. 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 personnel<sup>1</sup> or third parties such as vendors or implementing partners.
4. 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 Appointments.
5. In 2011, UNDP decided to expand the scope of such reports to encompass administrative and disciplinary measures taken with regards to cases of violation of the UN standards of conduct, not only of staff members, but also of other personnel and to publicize the report on its website with due regard for the protection of the privacy of the concerned individuals or entities. This report identifies cases involving allegations of wrongdoing against UNDP staff members, contractors and UN Volunteers, leading to sanctions and other measures for the year under review.
6. In addition, this report indicates cases in which action was 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 discussed.
7. This annual report covers the period from 1 January to 31 December 2012.

### **A. Cases involving staff members**

#### (1) Overview

8. This section contains a summary of the cases which resulted in the imposition of measures following an investigation into allegations of wrongdoing and/or disciplinary process.
9. 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” of January 2010 (“the Legal Framework”)<sup>2</sup>.

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<sup>1</sup>Personnel include contractors such as Service Contract holders, Individual Contractors and private entities selling goods or services to UNDP.

<sup>2</sup> [The Legal Framework](#) may be found on the UNDP internet website.

10. 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 appealed, either by staff members or by the Organization, to the UN Appeals Tribunal. Both Tribunals make binding decisions following consideration of the cases.
11. 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 sufficient facts to reasonably conclude that an intentional, grossly negligent or reckless violation of the UN Regulations and Rules, including the standards of conduct, has occurred. Throughout such proceedings, staff members have the right to due process as detailed in the Legal Framework.
12. In UNDP, the Office of Audit and Investigations (OAI) is responsible for investigating all allegations of wrongdoing. Investigation reports relating to staff members issued by OAI are submitted to the Legal Support Office, Bureau of Management (LSO/BOM), for review and further action. During the period under review, OAI submitted 21 investigation reports and/or recommendations for referral to national authorities concerning staff members or former staff members to LSO/BOM.
13. During the period covered by this report, LSO/BOM dealt with a total of 31 reports concerning allegations of misconduct against staff members and/or recommendations for referral to national authorities, including 10 cases which were initiated in previous years and continued to be dealt with during the period under review. Of these 31 cases:
  - a. During the period, 10 charge letters were issued<sup>3</sup>. 6 of these cases were completed, and 3 were pending assessment of what disciplinary measure, if any, would be appropriate. In 1 case a response to the charge letter had not yet been received.
    - i. All 6 completed cases resulted in the imposition of disciplinary measures.
      1. in 2 of those cases, the outcome was dismissal or separation from service of the staff member.
      2. In the other 4 cases, the disciplinary measures imposed ranged from "written censure" to "demotion".
  - b. 9 of the 31 investigation reports did not result in a charge letter but rather administrative action was taken.
    - i. 4 of these investigation reports resulted in notes to the staff members' Official Status File, because the concerned individuals had resigned or otherwise separated by the time the case was completed.
    - ii. 5 of these investigation reports were concluded with an exoneration from allegations of misconduct; in 1 of these 5 cases a written reprimand was issued to the staff member as facts established by the investigation were not considered to constitute misconduct but rather performance issues.
  - c. 12 additional cases were still under review at the end of 2012 for the possible initiation of disciplinary proceedings and/or referral to national authorities.

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<sup>3</sup> The issuance of a charge letter initiates the disciplinary process. In a charge letter, the staff member is notified in writing of the formal charge(s) and given a specified period of time to answer the charge(s) and produce countervailing evidence, if any.

## (2) Description of cases which resulted in the imposition of disciplinary measures

14. In assessing what disciplinary measure to impose, if any, the Administrator or her delegated authority takes into account all the particulars of the case, including aggravating and mitigating factors, which, in order to ensure confidentiality, cannot be reflected in the present report. For this reason, the disciplinary measures may vary despite apparent similarities in the misconduct at issue.

### **Computer related**

15. A staff member was found to have (i) misused Information and Communication Technology (ICT) resources by storing, receiving and distributing pornographic material utilizing UNDP equipment and resources; and (ii) to have acted in an unprofessional manner in interacting with another staff member.  
Sanction: *Written censure and loss of two steps in grade*
16. A staff member, Head of an ICT Unit, was found to have asked a supervisee to access the private e-mail account of another staff member.  
Sanction: *Written censure and loss of three steps in grade*

### **Fraud/Misrepresentation**

17. A staff member was found to have solicited the payment of funds from two Non-Governmental Organizations (NGOs) in return for the award of contracts with UNDP.  
Sanction: *Separation from service without termination indemnities.*

### **Theft/Misappropriation**

18. A staff member was found to have (i) misused their function as custodian of the petty cash by falsely certifying the veracity of a number of vouchers; (ii) forged invoices; and (iii) misappropriated Organization funds.  
Sanction: *Summary dismissal*

### **Others**

19. A staff member was found to have (i) acted in an inappropriate manner in interacting with massage therapists while staying at a hotel; (ii) talked with an outside party about the investigation after being instructed by OAI not to do so; and (iii) lied to the OAI investigators.  
Sanction: *Written censure and loss of four steps in grade*
20. A staff member failed to comply with the standards of conduct expected of an international civil servant by posting a controversial picture and statement online.  
Sanction: *Written censure and deferment of one year of eligibility for consideration for promotion*

## (3) Description of cases which resulted in the imposition of administrative measures

21. A staff member was found to have removed documents from the official leave file without authorization. There was no finding of intent to cause harm or to violate the rules.  
Sanction: *Written reprimand*



#### (4) Action taken where the subject of an investigation separated while under investigation

22. Pursuant to paragraph 72 of the Legal Framework, if the investigation subject resigns or otherwise separates prior to the completion by OAI of an investigation report, the investigation report may be finalised at OAI's discretion notwithstanding the investigation subject's resignation or separation:
- (a) When the investigation report is finalised, OAI sends the draft investigation report to the former staff member providing him or her with the opportunity to submit his or her comments. These comments are reviewed in accordance with the Legal Framework, and the Director of LSO/BOM 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) whether or not he or she would have been exonerated from the allegations of misconduct, or (iii) whether 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;
  - (b) When the investigation report is not finalised, the Director of LSO/BOM 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.
23. Following is a list of cases disposed of pursuant to paragraph 72 of the Legal Framework.
- (i) *Cases in which a staff member separated and a completed report was issued by OAI pursuant to paragraph 72 (a)*

#### **Fraud/Misrepresentation**

24. A former staff member, overseeing the procurement process, was informed that, had they remained in the employ of the Organization, a recommendation would have been made to charge them with misconduct for having (i) entered into a contract and approved a Purchase Order (PO) on behalf of UNDP with another company with which a conflict of interest existed; (ii) acted in breach of fiduciary obligations vis-à-vis UNDP; and (iii) approved and issued cheques to an individual based on POs issued in the name of different individuals or companies. The former staff member's final emoluments were withheld pending receipt of comments and a final determination in the matter of recovery.
25. A former staff member was informed that, had they remained in the employ of the Organization, a recommendation would have been made to charge them with misconduct for having (i) falsified a selection process record; and (ii) knowingly breached UNDP procurement and financial rules by issuing contracts based on false justification.
26. A former staff member was informed that, had they remained in the employ of the Organization, a recommendation would have been made to charge them with misconduct for submitting fraudulent education grant claims for dependents for which funds were received. The amount disbursed was fully recovered through the staff member's final emoluments and payment of the residual amount.

### **Threats and insubordination**

27. A former staff member was informed that, had the staff member remained in the employ of the Organization, a recommendation would have been made to charge them with misconduct for (i) intimidation and threats to non-UN personnel in a work-related situation; and (ii) insubordination towards UNDP senior management.

### **B. Disciplinary cases involving United Nations Volunteers**

28. During the period covered by this report, there were 15 disciplinary cases involving UN Volunteers. UN Volunteers are not staff members and are not subject to the disciplinary process provided in the Staff Regulations and Rules or the Legal Framework. They are subject to disciplinary procedures under the Conditions of Service promulgated by the United Nations Volunteers.
29. Of these 15 disciplinary cases involving UN Volunteers, 5 resulted in exonerations, 1 in a “letter of censure”, 5 in “separation with notice”, and 4 in “summary dismissal”.

### **C. Cases involving other personnel**

#### **(1) Overview**

30. UNDP has zero tolerance for fraud, corruption and other wrongdoing by any personnel. During the period covered by this report, OAI submitted the investigation reports to concerned Country Offices in a number of cases where the investigation revealed evidence of wrongdoing by personnel other than staff members or volunteers. As the individuals are not UNDP staff members, their contract with UNDP constitutes the legal framework governing their employment, 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.
31. During the period covered by this report, 16 cases resulted in contract termination by UNDP and 2 persons terminated their contracts while under investigation.

#### **(2) Description of cases**

### **Fraud/Misrepresentation**

32. 2 Service Contract holders were found to have submitted fraudulent medical insurance claims. The contracts were terminated.
33. 3 Service Contract holders were found to have been involved in procurement fraud and abuse of authority. The contracts were terminated.
34. A Service Contract holder was found to have engaged in procurement fraud by demanding kickbacks from an NGO. The contract was terminated.

## **Theft and Misappropriation**

35. A Service Contract holder was found to have misappropriated UNDP project funds. The individual was also found to have committed gross negligence and engaged in unauthorized outside activity which resulted in conflicts of interest. The contract was terminated.
36. 2 Service Contract holders were found to have been involved in theft and embezzlement of funds related to the contingency funds of UNDP projects. Both Service Contract holders refunded the funds to the Organization. The contracts were terminated.

## **Outside activities**

37. A Service Contract holder was found to have committed gross negligence and engaged in an unauthorized outside activity which was a conflict of interest. The contract was terminated.
38. A Service Contract holder was found to have been involved in an unauthorized outside activity by being employed by a local NGO, which was also an implementing partner with UNDP. The contract was terminated.
39. A Service Contract holder was found to have committed gross negligence, failed to disclose a conflict of interest and misused ICT resources. The contract was not renewed.

## **Others**

40. 2 Service Contract holders were found to have used their positions to obtain confidential information about proposals made by NGOs to UNDP, and attempted to use this information for personal gain. The contracts were terminated.
41. A Service Contract holder was found to have been involved in misuse of UNDP resources, abuse of authority and misuse of position to access unauthorized communications. The contract was terminated.
42. A Service Contract holder was found to have misused their position by providing a Government with a list bearing names of national UNDP staff members, claiming they were non-nationals living illegally in that country, which resulted in threats, assault, and the detention of some of the staff members. The contract was terminated.

### (4) Cases where the subject of an investigation separated while under investigation

43. A former Service Contract holder was found to have forged his service contract with UNDP while applying for another position. The contractor terminated the contract while under investigation.
44. A former Service Contract holder was found to have misused the diplomatic privileges for personal use. The contractor terminated the contract upon notification of the investigation.

#### **D. Possible criminal behaviour**

45. 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 its yearly “Information Circular” entitled “*Practice of the Secretary-General in disciplinary matters and possible criminal behaviour*”.
46. As such, when an OAI investigation involves a serious matter, and that investigation reveals credible evidence of criminal conduct to warrant referral to the law enforcement authorities of a Member State, UNDP transmits such matter to the Office of Legal Affairs (OLA) for its review and action as necessary.
47. In the present reporting period, UNDP referred 3 cases related to staff members and 4 cases related to non-staff members involving serious fraud and procurement misconduct to OLA. OLA had, at the end of the reporting period, referred all of them to the competent national authorities.

#### **E. Vendor Sanctions**

48. The Vendor Review Committee is technical advisory body, chaired and convened by the Bureau of Management that was established after the Vendor Sanctions Policy became effective in November 2011, and is responsible for reviewing allegations of proscribed practices (such as fraud, corruption, collusion, coercion, unethical practices and obstruction) by vendors as defined in the Vendor Sanctions Policy, which was approved by the Operations Group (OPG) in August 2011. The Vendor Review Committee reviews notices of administrative action as well as replies from vendors, and on the basis of a written record recommends sanctions to the Chief Procurement Officer, who takes the decision on the imposition of sanction(s), if appropriate, which include, but are not limited to, debarment for upwards of 7 years.
49. During the period under review, there were three cases referred to the Vendor Review Committee. There were no cases involving the imposition of sanctions against vendors during this period.