

2013 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. 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.
4. Since 2005 UNDP has been reporting on the outcome of cases involving UN Volunteers. In 2011, UNDP further expanded 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 and other personnel, leading to sanctions and other measures for the year under review.
5. In addition, this report identifies 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 indicated.
6. This annual report covers the period from 1 January to 31 December 2013.

A. Cases involving staff members

(1) Overview

7. This section contains a summary of cases considered by the Legal Support Office (“LSO/BOM”) involving staff members following allegations of wrongdoing.
8. 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”)².
9. 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

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

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

Organization, to the UN Appeals Tribunal. Both Tribunals make binding decisions following consideration of the cases.

10. 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 Staff Regulations and Staff 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.
11. 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 LSO/BOM, for review and further action. During the period under review, OAI submitted 25 investigation reports concerning staff members or former staff members to LSO/BOM.
12. During the period covered by this report, LSO/BOM considered a total of 43 cases concerning allegations of misconduct against staff members, including 11 cases resulting from investigation reports issued in previous years which continued to be dealt with during the period under review. The figure of 43 cases also includes 7 cases for which no final investigation report was received, and the matter was considered pursuant to paragraph 72 (b) of the Legal Framework³. Of these 43 cases:
 - a. 21 cases were concluded. 8 of these cases were concluded as a result of disciplinary sanctions being imposed. 13 cases were either concluded pursuant to paragraph 72 of the Legal Framework⁴ or as a result of exoneration from allegations of misconduct.
 - i. Of the 8 cases that were concluded as a result of the imposition of disciplinary sanctions:
 1. 6 cases led to the staff member's dismissal or separation from service.
 2. In the other two cases, the disciplinary sanctions imposed ranged from a written censure to loss of steps and deferment of promotion.

As of 31 December 2013, no case that gave rise to a disciplinary measure in 2013 had been appealed by the staff member concerned to the UN Dispute Tribunal.
 - ii. Of the 13 concluded cases that did not result in the imposition of disciplinary sanctions:
 1. 11 cases were concluded by the placement of a note to the staff member's Official Status File, because the concerned individual had resigned or otherwise separated from the Organization, either during the investigation or prior to a decision on the case.
 2. 2 of these cases resulted in exoneration of allegations of misconduct. 1 of those 2 cases resulted in a non-disciplinary written reprimand, as the facts established by the investigation report were found not to rise to the level of misconduct, but rather to indicate performance failings.
 - b. 22 additional cases were still under review at the end of 2013. Of these 22 cases, charge letters had been issued in 6 instances⁵.

³ See section 4 below.

⁴ See section 4 below.

⁵ The issuance of a charge letter initiates disciplinary proceedings. In a charge letter, the staff member is notified in writing of the formal charge(s). The staff member is given a specified period of time to answer the charge(s) and provide any countervailing evidence.

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

13. 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, 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.

Misuse of IT Resources

14. A staff member, Head of an ICT Unit, was found to have: (i) accessed and monitored the UNDP e-mail accounts of two other staff members without authorization; (ii) forwarded confidential information to another staff member; and (iii) provided that staff member with an unfair advantage in a recruitment process.

Sanction: *Separation from service with three months' compensation in lieu of notice and three weeks' termination indemnity*

Abuse of UN Privileges/Misuse of Office

15. A staff member was found to have abused UN privileges by fraudulently using the membership cards of other staff members to purchase large quantities of duty free alcohol for commercial resale. The staff member was also found to have misused the office by causing a non-staff member under contract to UNDP to participate in the fraudulent endeavour.

Sanction: *Separation from service with payment of three months' compensation in lieu of notice, without termination indemnities*

Fraud/Misrepresentation

16. A staff member was found to have fabricated UNDP documents and forged the signature of another staff member to facilitate an application to an external loan company and an application for a salary advance.

Sanction: *Separation from service with payment of thirty days' compensation in lieu of notice and three weeks' termination indemnity*

Theft/Misappropriation

17. A staff member was found to have misappropriated UNDP funds and to have created fraudulent ATLAS entries in an attempt to hide the misconduct.

Sanction: *Summary dismissal*

18. A staff member was found to have misappropriated UNDP property and forged various documents to facilitate the fraud.

Sanction: *Summary dismissal*

19. A staff member was found to have falsified payment vouchers, forged cheques and created a false procurement trail to facilitate the misappropriation of UNDP funds.

Sanction: *Summary dismissal*

Unauthorized Outside Activities

20. A staff member was found to have written and published articles that reflected adversely upon the independence and impartiality of the staff member.

Sanction: *Written censure, loss of two steps in grade and deferment of one year of eligibility for consideration for promotion*

Others

21. A staff member was found to have been grossly negligent in the exercise of management functions, allowing others to perpetuate procurement fraud.

Sanction: *Written censure*

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

22. A staff member was found to have failed to exercise due care and attention in submitting invalid medical insurance claims.

Sanction: *Written reprimand*

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

23. 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 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.

24. 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

- 25. A former staff member, overseeing the procurement process, was informed that, had the staff member remained in the employ of the Organization, a recommendation would have been made to charge the staff member with misconduct for having misappropriated fuel.
- 26. 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 the staff member with serious misconduct for having (i) falsified a medical claim; (ii) falsified visa applications purportedly on behalf of the Organization and (iii) engaged in import tax fraud. The facts of the case were referred to the Office of Legal Affairs, UN Secretariat (“OLA”) for referral to the relevant national authorities.

Unauthorized Outside activities

- 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 the staff member with misconduct for engaging in outside political activities, including abusing the UNDP office by soliciting funds and providing unauthorized comments to the press.
- 28. 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 the staff member with misconduct for engaging in an unauthorized outside activity and for failing to cooperate with an investigation. The staff member had admitted to being concerned in the importation of licensed pharmaceutical drugs without authorization.

Other

- 29. A former staff member was informed that, in the context of fraud committed in a project under the staff member’s supervision, had the staff member remained in the employ of the Organization, a recommendation would have been made to exonerate the staff member and the matter would have been addressed from a work management standpoint.
 - (ii) Cases in which a staff member separated and no report was completed by OAI pursuant to paragraph 72 (b) where some further action was taken
- 30. LSO/BOM issued letters pursuant to paragraph 72 (b) of the Legal Framework in 5 instances during the reporting period.

B. Disciplinary cases involving United Nations Volunteers

- 31. During the period covered by this report, there were 10 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 UNDP Legal Framework. They are subject to disciplinary procedures under the UNV Conditions of Service.

32. Of these 10 disciplinary cases involving UN Volunteers, 3 resulted in exonerations, 3 in a letter of censure, 1 in separation with notice, and 3 in summary dismissal.

C. Cases involving other personnel

(1) Overview

33. 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 directly to the concerned Country Offices (CO) 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. 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.
34. Country Offices consulted LSO/BOM during the period covered by this report, regarding 14 cases; 9 cases resulted in contract termination by UNDP, 4 cases resulted in the non-renewal of contracts and one person's contract was ended due to unrelated events before the investigation report could be issued.

(2) Description of cases

Fraud/Misrepresentation

35. A Service Contract holder was found to have committed procurement fraud and gross negligence in the performance of duties. The contract was terminated.
36. A Service Contract holder's gross negligence was found to have facilitated procurement fraud. The contract was not renewed.
37. A Service Contract holder was found to have committed medical insurance fraud. The contract was terminated.
38. Three Service Contract holders were found to have committed procurement fraud by altering technical scores and submitting fraudulent documentation to favour certain NGOs. The contracts were terminated.
39. A Service Contract holder was found to have facilitated procurement fraud and to have engaged in outside activities that represented a conflict of interest without disclosing the same. The contract was terminated.
40. A Service Contract holder was found to have forged a hotel receipt. The contract was not renewed.

Theft and Misappropriation

41. A Service Contract holder was found to have misappropriated UNDP project funds. The contract was terminated.
42. A Service Contract holder was found to have stolen funds from petty cash. The contract was not renewed.

Outside activities

43. A Service Contract holder was found to have engaged in an unauthorized outside activity which was a conflict of interest and to have committed forgery. The contract was not renewed.
44. A Service Contract holder was found to have been involved in an unauthorized outside activity. The contract was terminated.

Others

45. A Service Contract holder was found to have engaged in sexual relations with a minor, coerced two adults to engage in sexual relations and paid three victims to remain silent. The contract was terminated.

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

46. A Service Contract holder was found to have committed medical insurance fraud. The contract was ended due to unrelated events before the report could be issued.

D. Possible criminal behaviour

47. 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*”.
48. 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 OLA for its review and action as necessary.
49. During the reporting period covered by this report, UNDP referred 2 cases related to staff members and 4 cases related to non-staff members involving serious fraud and procurement misconduct to OLA.
50. OLA had, as of the end of the reporting period, referred 2 cases to the competent national authorities.

E. Vendor Sanctions

51. The Vendor Review Committee (VRC) makes recommendations to the Chief Procurement Officer in rendering the final decision on the eligibility of a UNDP vendor. The VRC considers cases referred to it by OAI, which investigates and substantiates allegations concerning involvement by actual or prospective UNDP vendors in proscribed practices (corruption, fraud, coercion, collusion, unethical practices, and obstruction).
52. During the period covered by this report, the VRC considered 11 cases, including 3 which were referred by OAI in late 2012, and 8 which were referred in 2013. Of these 11 cases,
 - a. 1 was not opened, and resulted in a letter of caution to the Vendor;
 - b. 2 are being reviewed and have yet to be opened;
 - c. 8 were opened.
53. The VRC has opened 8 cases in the period under review, of which:
 - a. 5 are ongoing, with Interim Suspensions⁶ requested by OAI against 32 vendors;
 - b. 3 cases⁷ were concluded and resulted in the debarment of 7 vendors for 4 years⁸, and 1 vendor for 5 years;
 - c. 5 cases were opened and are ongoing,

⁶ While a vendor is under interim suspension, it cannot bid on UNDP procurement actions. Interim suspensions are not published, are only mandatory for UNDP, and remain in place until a case is concluded.

⁷ Typically, an investigation report covers multiple vendors.

⁸ When recommending a time period for a debarment, the VRC considers the seriousness of the charge. A particular vendor may also be accused of various counts of proscribed practices in a single case, thus resulting in a longer debarment.