

**2014 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 publicized 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 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.
6. This annual report covers the period from 1 January to 31 December 2014.

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

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 action by the Office of Audit and Investigations (OAI) concerning 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 Organization, to the UN Appeals Tribunal. The decisions of both Tribunals are binding on UNDP.
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 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.
11. In UNDP, 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 28 investigation reports or notices concerning staff members or former staff members to LSO/BOM.

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

12. During the period covered by this report, LSO/BOM considered a total of 49 cases concerning allegations of misconduct against staff members, including 21 cases issued in previous years which continued to be dealt with during the period under review.

13. Of these 49 cases, 18 were concluded, of which:

- a. 5 were concluded as a result of the imposition of a disciplinary sanction. Of these 5,
 - i. 4 cases led to the staff member's dismissal or separation from service;
 - ii. in the remaining case, the disciplinary sanction imposed was a written censure.
- b. 10 were concluded through other administrative action whether through exoneration of allegations of misconduct or because the staff member separated. Of these 10,
 - i. 7 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. 3 cases were concluded as a result of exoneration of the staff member from allegations of misconduct and the 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.
- c. 2 cases were concluded pursuant to paragraph 72(b) of the Legal Framework³ as OAI decided it was unable to conclude an investigation report.
- d. 1 case was concluded as a result of the transfer of the case to another UN agency that the staff member had joined.

³ See section 4 below

14. 31 cases were still under review at the end of 2014.
15. As of 31 December 2014, one case that had given rise to a disciplinary measure in 2014 had been appealed by the staff member concerned to the UN Dispute Tribunal.

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

16. 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.

Fraud- Procurement

17. A staff member with management responsibility was found to have engaged in procurement fraud and misuse of authority by directing the procurement of goods to vendors the staff member knew were not qualified for such awards under UNDP rules and policies, and purposely splitting procurement contracts with the same vendors to avoid exceeding thresholds and oversight.

Sanction: *Separation with compensation in lieu of notice and no termination indemnity.*

Fraud - Travel entitlement

18. Two staff members in travel services were found to have conspired together and colluded with private travel companies and personnel from other UN agencies to facilitate the unauthorized travel of ineligible individuals on UNHAS flights, falsified official UNDP and UN travel requests, forged the signature of UN officials; and misused their office for private gain.

Sanction: *Dismissal*

Misuse of resources/ Use of offensive and derogatory speech

19. A staff member used his/her UNDP email account to send an offensive and derogatory email to friends and UN colleagues concerning members of a certain religious community.

Sanction: *Written censure.*

Theft – Office equipment

20. A staff member with security responsibilities was found to have taken a laptop from the office and have taken it to their home without authorization or excuse.

Sanction: *Dismissal.*

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

21. A senior staff member with security functions addressed colleagues in an unprofessional and threatening manner.

Sanction: *Written reprimand.*

22. A staff member disclosed confidential information they received in the performance of their functions to a third party without authorization.

Sanction: *Written reprimand.*

23. A staff member with management functions signed documentation without the proper authority to do so validating a procurement action providing an incorrect description of their job title in the process.

Sanction: *Written reprimand*

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

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

24. 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 notwithstanding the investigation subject's resignation or separation.

25. Notwithstanding a staff member's separation, when the investigation report is finalized, OAI sends the draft investigation report to the former staff member(s) providing them with the opportunity to submit their comments on the factual findings and conclusions in the draft report. The draft report and 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) 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, six such cases were closed under paragraph 72(a).

26. Following is a list of cases disposed of pursuant to paragraph 72(a) of the Legal Framework.

Fraud- Corruption and collusion

27. A former staff member with procurement functions was informed that, had the staff remained in the employ of the Organization, a recommendation would have been made to charge the staff member with fraud and misuse of office as the staff member colluded with vendors in repeated procurement exercises to rig and falsify bids, enabling these vendors to obtain contracts. Recovery of funds lost and ascribed to the former staff member's conduct was initiated.

Fraud- Misuse of ICT resources

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 having engaged in fraudulent conduct by forging the signatures of two other staff members, misrepresenting information on what purported to be UNDP official documentation and for misusing UNDP resources to carry out the fraudulent acts.

Gross Negligence

29. A former staff member with managerial responsibilities 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 from allegations of misconduct, and address the matter from a performance management standpoint.

Misuse of ICT resources - Gross negligence

30. A former senior staff member was informed that, had the staff remained in the employ of the Organization, a recommendation would have been made to charge the staff member with misconduct for gross negligence in the performance of duties, insofar as the staff member failed to exercise the required oversight on a project and disregarded procurement rules, as well as for inappropriate use of the UNDP ICT resources.

Misuse of ICT resources- Misuse of authority

31. A former staff member with ICT functions was informed that, had the staff remained in the employ of the Organization, a recommendation would have been made to charge the staff member with misconduct for inappropriate use of the UNDP ICT resources and their failure to comply with obligations set forth by the UNDP country office.

Sexual harassment and Misuse of ICT resources

32. A former staff member with managerial responsibilities was informed that, had the staff remained in the employ of the Organization, a recommendation would have been made to charge the staff member with misconduct for having sexually harassed a colleague and for misusing UNDP's ICT resources.

Unauthorized outside activities

33. A former professional 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 having engaged in unauthorized remunerated outside activities.

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

34. When OAI decides that the investigation report cannot be finalized, 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. In the period under review, two cases were closed under paragraph 72(b).

c) Transfer of cases to other UN Entities

35. As noted, in the period under review, one case concerning a former UNDP staff member was transferred to the UN entity that the individual joined.

B. Disciplinary cases involving United Nations Volunteers

36. 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 respective UNV Conditions of Service for International and National UN Volunteers.

37. During the period under review, 18 disciplinary cases were concluded involving UN Volunteers. Of these 18 disciplinary cases involving UN Volunteers, 11 resulted in summary dismissal, 1 resulted in separation with notice, 3 resulted in a letter of censure, and 3 resulted in exonerations.

C. Cases involving other personnel

(1) Overview

38. 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 UN 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.

39. During the period covered by this report, OAI sent investigation reports involving 6 Service Contract (SC) holders directly to 3 COs. Of these 6 cases, the COs contacted LSO/BOM on only 2 cases for advice on implementation of the OAI report findings. In preparing this report, LSO/BOM followed up on the outcome of all 6 cases and was advised by the COs that 1 case resulted in contract termination, 4 cases resulted in non-renewal of contract and 1 case resulted in the SC holder's quartile lowered from a 4 to a 3.

(2) Description of cases

Assault and threats

40. A Service Contract holder was found to have been provoked into physically assaulting a colleague. The contract quartile was lowered from 4 to 3, effectively demoting him/her.

Misrepresentation and attempted Fraud

41. A Service Contract holder was found to have requested bribes from senior staff in a local NGO in return for award of UNDP contract. The contract was terminated.

Entitlement Fraud

42. A Service Contract holder was found to have committed medical fraud. The contract was not renewed.

43. A Service Contract holder was found to have committed medical fraud. The contract was not renewed.

44. A Service Contract holder was found to have committed medical fraud. The contract was not renewed.

Theft and Embezzlement

45. A Service Contract holder was found to have made unauthorized withdrawals of project funds and falsified bank statements and financial reports in order to conceal theft from the petty cash. The contract was not renewed and the misappropriated funds recovered.

D. Possible criminal behavior

46. 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*”.
47. As such, when there is 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.
48. During the reporting period covered by this report, UNDP referred 1 case related to a staff member and 2 cases related to UN Volunteers and non-staff members were referred to OLA⁴. At the conclusion of the reporting period, OLA had referred 1 of the 3 cases to the competent national authorities⁵.

E. Vendor Sanctions

49. During the period under review, 15 cases were referred to the Vendor Review Committee, which is responsible for recommending whether sanctions should be imposed, and if so, what those

⁴ This figure does not include referrals by OLA in previous years for cases that continued to be considered in 2014.

⁵ This figure does not include referrals in prior years for cases that continued to be considered in 2014.

sanctions should be. During this reporting period, no sanctions were made against any vendors. However, 1 case involving 1 vendor and 2 of the vendor's staff members was settled, and in another case, interim suspensions were issued against 8 vendors.