

**2015 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 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 personnel<sup>1</sup> 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 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 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.

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<sup>1</sup> Personnel include UN Volunteers and contractors such as Service Contract holders and Individual Contractors.

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 2015.

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

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

7. This section contains a summary of cases considered by the Legal Office, Bureau for Management Services (LO/BMS)<sup>2</sup> 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” (the “Legal Framework”).<sup>3</sup>
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.

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<sup>2</sup> Formerly known as the Legal Support Office, Bureau of Management (LSO/BOM).

<sup>3</sup> The Legal Framework may be found on the UNDP internet website.

11. 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, OAI completed and submitted 13 investigation reports concerning staff members or former staff members.
12. During the period covered by this report, LO/BMS considered a total of 44 cases concerning allegations of misconduct against staff members, including 31 cases issued in previous years which continued to be dealt with during the period under review.
13. Of these 44 cases, 20 were concluded, of which:
  - a. 8 were concluded as a result of the imposition of a disciplinary sanction:
    - i. 5 cases led to the staff member's dismissal or separation from service;
    - ii. 3 cases led to the demotion of the staff member with deferment for eligibility for promotion;
  - b. 11 were concluded through other administrative action, whether through exoneration from allegations of misconduct, or because the staff member separated:
    - 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. 4 cases were concluded as a result of exoneration of the staff member from allegations of misconduct. 2 of these 4 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.

- c. 1 case was concluded as a result of the transfer of the case to another UN agency that the staff member had joined.
14. At the end of 2015, 24 cases were still under review.
15. As of 31 December 2015, no cases that had given rise to a disciplinary measure in 2015 had been appealed by the staff member concerned to the UN Dispute Tribunal.

(2) Description of the 8 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.

**Assault**

17. A staff member slapped a colleague across the face in the office in front of other colleagues during work hours while discussing a work document. The staff member was found to have physically assaulted the other staff member.

*Sanction: Separation from service with one month compensation in lieu of notice and one month termination indemnity.*

**Gross Negligence - Procurement**

18. A staff member in the position of Assistant Resident Representative instructed another staff member to request quotations from vendors, which were not rostered, and instructed that purchase orders awarded to a vendor be split, thereby avoiding the review of the Contracts, Assets and Procurement Committee or the Resident Representative. The staff member was found to be grossly negligent in supervising procurement processes in accordance with UNDP procurement guidelines. There was no finding of direct financial loss to UNDP in this case.

*Sanction: Demotion by one grade, with deferment for two years of eligibility for consideration for promotion. This measure was the result of an agreed sanction.*

19. A staff member acting as buyer raised nine purchase orders for procurement processes that the staff member knew or should have known were irregular, and split the purchase orders, thereby avoiding the review of the Contracts, Assets and Procurement Committee or the Resident Representative. The staff member was directly made aware of issues in some of these procurements processes through questions raised to the staff member by other individuals. The staff member was found to be grossly negligent with respect to adhering to UNDP procurement guidelines. There was no finding of direct financial loss to UNDP in this case.

*Sanction: Demotion by one grade, with deferment for two years of eligibility for consideration for promotion. This measure was the result of an agreed sanction.*

**Fraud - Procurement**

20. A staff member with finance functions intentionally altered five payment vouchers in favour of a UNDP vendor with no legitimate purpose, resulting in a loss to the organization. The staff member was found to have engaged in fraud and misuse of authority. There was a finding of direct financial loss to UNDP and UNDP has initiated recovery from the staff

member's final separation entitlements. This matter was under consideration by the national authorities.

Sanction: *Dismissal*

### **Fraud – Forgery/Theft/Misappropriation**

21. A staff member submitted false requests for payments from government agencies to vendors and created false payment vouchers in order to steal UNDP funds. The staff member also stole and destroyed documents in order to cover up the misconduct. The staff member was found to have engaged in misrepresentation, misappropriation and fraud and to have committed unlawful acts. There was a finding of direct financial loss to UNDP. The staff member was also convicted of forgery, use of forged documents and theft without violence in a national court and was ordered to pay restitution to UNDP. In addition to seeking recovery from the staff member's final entitlements, UNDP is liaising with the Government to seek execution of the order of restitution to UNDP.

Sanction: *Dismissal*

### **Forgery/Misrepresentation/False Certification**

22. After being informed by management that UNDP could not certify the information required in a bank loan document, a staff member submitted the loan documents on UNDP letterhead with UNDP stamps, thereby misrepresenting that UNDP had provided such certification. The submitted loan document also misrepresented the type of appointment that the staff member held. The staff member also misrepresented the reason for the requested loan to UNDP management. The staff member was found to have engaged in forgery, misrepresentation and false certification. There was no finding of direct financial loss to UNDP in this case.

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

**Use and Provision of an Illegal Substance in the Workplace**

23. A staff member with security functions brought into the office and consumed an illegal and intoxicating substance in the workplace. The staff member also induced a colleague to consume the substance by providing it in a food item without advising that colleague that the substance was present in the food. The staff member was therefore found to have acted in breach of the standards of conduct expected of an international civil servant and acting in violation of local laws. This matter is under consideration for referral to the national authorities.

Sanction: *Dismissal*

**Failure to Adhere to the Standards of Conduct**

24. A staff member whose functions included inspecting UN air-conditioning systems walked around unclothed on UN premises. The staff member's actions were found to fall below the standards of conduct expected of an international civil servant.

Sanction: *Demotion by one grade, with deferment for three years of eligibility for consideration for promotion.*

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

25. A staff member sent inappropriate emails of a personal nature to a colleague that the staff member was supervising on two separate occasions, including one sent only a few days after the colleague had joined the office. The staff member has appealed this decision to the UN Dispute Tribunal.

Measure: *Written reprimand*

26. A staff member issued a positive performance assessment of a supervisee that did not reflect the staff member's actual assessment of the candidate, leading to confusion when the staff member subsequently provided a negative job reference for that individual.

Measure: *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:

27. 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.

28. 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 him or her with the opportunity to submit 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 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, 7 such cases were closed under paragraph 72(a).



29. Following is a list of the 7 cases disposed of pursuant to paragraph 72(a) of the Legal Framework.

#### **Extortion/Misuse of Office**

30. A former staff member employed as a Programme Associate was informed that a recommendation would have been made to charge the former staff member with extorting kickbacks and misuse of office in relation to the demand and acceptance of illicit payments from vendors as a condition to processing contracts or payments for those vendors. There was no finding of direct financial loss to UNDP in this case. This matter was referred to the national authorities in 2015.

#### **Forgery/Fraud**

31. A former staff member was informed that a recommendation would have been made to charge the former staff member for forgery and failure to comply with the standards of conduct expected from international civil servants for submitting fraudulent claims for medical benefits by forging bills for medical procedures the staff member had undergone during a break-in-service. There was a finding of direct financial loss to UNDP, which was fully recovered by UNDP. The matter was referred to the national authorities in 2016.

#### **Fraud - Procurement**

32. A former staff member with procurement functions was informed that a recommendation would have been made to charge the former staff member for procurement fraud for fabricating and modifying quotations from suppliers in order to direct business in favour of a particular vendor and the acceptance of bribes from that vendor. There was no finding of direct financial loss to UNDP in this case.

#### **Illegal Transportation of Contraband/Misuse of Privileges**

33. A former staff member with driving functions was informed that a recommendation would have been made to charge the former staff member for illegal transportation of cigarettes

across international borders, misuse of UN position and laissez-passer, and unauthorized use of UNDP vehicles. This matter was under consideration by the national authorities.

### **Improper Interference with a Decision of the Secretary-General**

34. A former staff member was informed that a recommendation would have been made to charge the former staff member 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 objecting to the Secretary-General's nominated candidate for Resident Coordinator.
35. In a related case, another former staff member was informed that a recommendation would have been made to charge the former staff member for soliciting the support and influence of the government of a Member State regarding a decision of the Secretary-General and misrepresenting the purpose of, and securing signatures for, a petition under false pretenses in relation to a petition sent to the government objecting to the Secretary-General's nominated candidate for Resident Coordinator.

### **Misrepresentation/Failure to Disclose Information**

36. A former staff member who had accepted a consultancy position with UNDP while simultaneously holding a UNDP fixed-term staff appointment was informed that a recommendation would have been made to charge the former staff member for failure to disclose relevant information, misrepresentation relating to travel entitlements, and failure to put the whole of the staff member's time at the disposal of UNDP. There was no finding of direct financial loss to UNDP in this case.

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

37. 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, no cases were closed under paragraph 72(b).

c) Transfer of cases to other UN Entities

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

**B. Cases involving United Nations Volunteers**

39. UN Volunteers are not staff members and are not subject to the disciplinary process provided in the UN 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.

40. During the period under review, 45 disciplinary cases were concluded involving UN Volunteers. Of these 45 disciplinary cases involving UN Volunteers, 32 resulted in summary dismissal, 4 resulted in early separation, 2 resulted in five-years exclusion from the UNV roster after the end of the current contract, 3 resulted in a letter of censure, 1 resulted in exoneration and 3 were closed due to the absence of evidence and incomplete investigation report.

**C. Cases involving other personnel**

(1) Overview

41. 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.

42. During the period covered by this report, OAI sent investigation reports involving 16 Service Contract (SC) holders directly to 14 COs, including one report involving a SC holder on a UNDP contract issued for services for another UN agency.<sup>4</sup> Of these 16 cases, only 5 COs contacted LO/BMS regarding 7 cases for advice on implementation of the OAI investigation report findings. In addition to the 16 cases sent by OAI, LO/BMS was contacted directly by a CO regarding a SC holder on a UNDP contract issued for services for another UN agency which conducted the investigation. In preparing for this report, LO/BMS followed up on the outcome of all 17 cases and was advised by the COs that 5 cases resulted in termination, 4 cases resulted in non-renewal, 5 cases resulted in resignation, 1 case resulted in a low performance rating and 2 SC holders had already ended their contracts with UNDP before an investigation commenced. The results are as described below.

(2) Description of cases

**Fraud**

43. 10 SC holders were found to have engaged in medical insurance fraud:

- a. The contracts of 4 SC holders were terminated. 2 of these cases did not result in a financial loss as the claims were not paid by the insurance company. The funds related to the other 2 claims have not been recovered.
- b. 3 cases resulted in the non-renewal of contracts. Funds were recovered in 2 of the cases.

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<sup>4</sup> This case was not investigated by OAI.

- c. 1 SC holder resigned before expiration of the contract and the funds were fully recovered.
  - d. 1 SC holder's contract had already expired before an investigation commenced. The SC holder refunded the amount due to the insurance company and a note was added to that SC holder's personnel file.
  - e. 1 SC holder's contract was terminated before the investigation commenced due to funding issues in the project. There was no financial loss as the claim was not paid by the insurance company.
44. A SC holder was found to have engaged in procurement fraud and receiving a kickback. The SC holder's contract was not renewed. There was no finding of direct financial loss to UNDP in this case. This matter was referred to the national authorities in 2016.
45. A SC holder was found to have engaged in procurement fraud. The SC holder resigned before the investigation was completed. A copy of the investigation report was included in the SC holder's personnel file. This matter is under consideration for referral to national authorities. No financial recovery has occurred yet.
46. A SC holder on a UNDP contract issued for services for another UN agency was found to have engaged in fraud and embezzlement as a result of that agency's investigation. The SC holder's contract was terminated based on the findings of the agency's investigation. That agency made a partial recovery.

### **Assault and Threat**

47. A SC holder was found to have engaged in a physical altercation with another individual on UNDP premises. The SC holder resigned.

### **Gross Negligence**

48. A SC holder on a UNDP contract issued for services for another UN agency was found to have been grossly negligent as a result of that agency's investigation. The SC holder received a partially satisfactory rating on the performance assessment based on the findings of the agency's investigation report.

### **Other Failure to Comply with Obligations**

49. A SC holder was found to have engaged in unauthorized outside employment and conflict of interest during a procurement process. The SC holder resigned before the investigation was completed. A note was added to the SC holder's personnel file. There was no finding of direct financial loss to UNDP in this case.

### **Sexual Exploitation and Abuse**

50. A SC holder was found to have sexually harassed, abused and assaulted a colleague of the opposite sex. The SC holder resigned.

### **D. Possible criminal behavior**

51. 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”.

52. As such, when an OAI investigation involves a serious matter, and that investigation reveals sufficient evidence to warrant referral to the law enforcement authorities of a Member State, UNDP transmits such matters to the UN Office of Legal Affairs (OLA) for its review and determination as necessary.

53. During the reporting period covered by this report, UNDP referred 4 cases to OLA. 2 cases related to staff members, 1 related to a UN Volunteer and 1 related to a non-staff member.<sup>5</sup> At the conclusion of the reporting period, OLA had referred 2 of these 4 cases to the competent national authorities.<sup>6</sup>

#### **E. Vendor sanctions**

54. In 2015, 12 cases were referred to the Vendor Review Committee (VRC).<sup>7</sup> All 2015 VRC cases are currently under review. To date, 2 cases have ongoing settlement discussions; no interim suspensions were requested in 2015. The VRC was re-staffed and re-launched in 2015, following a period of internal UNDP restructuring. The Director of the Office of Operations, Legal and Technology Services (OOLTS) was recently appointed VRC chair.

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<sup>5</sup> This figure does not include requests for referrals made to OLA in previous years that continued to be considered by OLA in 2015.

<sup>6</sup> This figure does not include referrals made by OLA in prior years. At the date of this report, the other remaining two cases had also been referred to the national authorities in 2016.

<sup>7</sup> OAI submitted 12 investigation reports corresponding to 15 cases. The VRC processed these investigation reports as 12 discrete cases, and numbered them accordingly.