

## Uniform Principles and Guidelines for Investigations

2nd Edition<sup>1</sup>

### PREAMBLE

International Organizations and multilateral institutions ("Organizations") have engaged in reform efforts designed to promote accountability and transparency in their internal affairs and in dealing with parties external to the Organization. As a result of these efforts, Organizations have established internal offices with responsibility for the conduct of investigations. Towards that end, the participating Investigative Offices recognized the value of harmonizing their practices and, in April 2003, endorsed a set of guidelines—Uniform Guidelines for Investigations endorsed by the 4th Conference of International Investigators. In recognition of the necessity of continuing to improve investigative practices, the participating Investigative Offices have reviewed the original Uniform Guidelines for Investigations and produced these revised Principles and Guidelines for Investigations.

These Principles and Guidelines are intended to be used as guidance in the conduct of investigations subject to the regulations, rules, policies and the privileges and immunities applicable in each Organization.

They do not and are not intended to bind the Organizations or confer, impose or imply any duties, obligations or rights actionable in a court of law or in administrative proceedings on the Organizations. Nothing in the Principles and Guidelines should be interpreted as affecting the rights and obligations of each Organization per its rules, policies and procedures, nor the privileges and immunities afforded to each Organization by international treaty, customary international law and the laws of the respective member state.

For the purpose of this document, use of the term "Organization" includes reference to all institutions participating in the Conference. The investigative units of each Organization are hereinafter referred to as the "Investigative Office."

In particular, the Conference recognizes that the exchange of information among Organizations is intended to promote enhanced cooperation in addressing integrity issues in their activities. The Conference also notes that it is critical to ensure that the confidentiality of information be maintained so that, among other things, whistleblowers and others remain confident in their ability to communicate with Organizations.

The Conference also acknowledges the need for Investigative Offices to periodically undergo an external quality assessment in order to ascertain their conformity with the Organization's legal framework and generally accepted investigation standards and to promote continuous enhancement of the investigation function.

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<sup>1</sup> Endorsed by the 10th Conference of International Investigators held on 10-12 June 2009 at the Dead Sea in Jordan. The first edition was endorsed at the 4th CII in 2003.

## GENERAL PRINCIPLES

1. Each Organization shall have an Investigative Office responsible for conducting investigations.
2. The purpose of an investigation by the Investigative Office is to examine and determine the veracity of allegations<sup>2</sup> of corrupt or fraudulent practices as defined by each institution including with respect to, but not limited to, projects financed<sup>3</sup> by the Organization, and allegations of Misconduct on the part of the Organization's staff members.<sup>4</sup>
3. The Investigative Office shall maintain objectivity, impartiality, and fairness throughout the investigative process and conduct its activities competently and with the highest levels of integrity. In particular, the Investigative Office shall perform its duties independently from those responsible for or involved in operational activities and from staff members liable to be Subject of investigations and shall also be free from improper influence and fear of retaliation.
4. The staff of the Investigative Office shall disclose to a supervisor in a timely fashion any actual or potential conflicts of interest he or she may have in an investigation in which he or she is participating, and the supervisor shall take appropriate action to remedy the conflict.
5. Appropriate procedures shall be put in place to investigate allegations of Misconduct on the part of any staff member of an Investigative Office.
6. Each Organization shall publish the mandate and/or terms of reference of its Investigative Office as well as an annual report highlighting the integrity and anti-fraud and corruption activities of its Investigative Office in accordance with its policies on the disclosure of information.
7. The Investigative Office shall take reasonable measures to protect as confidential any non-public information associated with an investigation, including the identity of parties that are the Subject of the investigation and of parties providing testimony or evidence. The manner in which all information is held and made available to parties within each Organization or parties outside of the Organization, including national authorities, is subject to the Organization's rules, policies and procedures.
8. Investigative findings shall be based on facts and related analysis, which may include reasonable inferences.
9. The Investigative Office shall make recommendations, as appropriate, to the Organization's management that are derived from its investigative findings.
10. All investigations conducted by the Investigative Office are administrative in nature.<sup>5</sup>

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<sup>2</sup> This may include indicators of fraud or corruption.

<sup>3</sup> This may be applicable to projects executed or implemented by the Organization.

<sup>4</sup> Organizations may also include allegations of misconduct by vendors providing goods and services to their Organization as part of their investigatory purpose.

<sup>5</sup> Where fraud is involved, the Investigative Office may assist the responsible national authorities by providing expert advice, support and resources during the course of criminal investigations where appropriate and where mutually agreed.

## **DEFINITIONS**

11. Misconduct is a failure by a staff member to observe the rules of conduct or the standards of behavior prescribed by the Organization.<sup>6</sup>
12. The Standard of Proof that shall be used to determine whether a complaint is substantiated is defined for the purposes of an investigation as information that, as a whole, shows that something is more probable than not.<sup>7</sup>

## **RIGHTS AND OBLIGATIONS**

### **Witnesses and Subjects**

13. A staff member who qualifies as a "whistleblower" under the rules, policies and procedures of the Organization shall not be subjected to retaliation by the Organization.<sup>8</sup> The Organization will treat retaliation as a separate act of Misconduct.
14. The Organization may require staff to report suspected acts of fraud, corruption, and other forms of Misconduct.
15. The Organization shall require staff to cooperate with an investigation and to answer questions and comply with requests for information.
16. Each Organization should adopt rules, policies and procedures and, to the extent that it is legally and commercially possible, include in its contracts with third parties, provisions that parties involved in the investigative process shall cooperate with an investigation.
17. As part of the investigative process, the Subject of an investigation shall be given an opportunity to explain his or her conduct and present information on his or her behalf. The determination of when such opportunity is provided to the Subject is regulated by the rules, policies and procedures of the Organization.

### **Investigative Office**

18. The Investigative Office should conduct the investigation expeditiously within the constraints of available resources.
19. The Investigative Office should examine both inculpatory and exculpatory information.
20. The Investigative Office shall maintain and keep secure an adequate record of the investigation and the information collected.
21. The staff of the Investigative Office shall take appropriate measures to prevent unauthorized disclosure of investigative information.
22. The Investigative Office shall document its investigative findings and conclusions.
23. For purposes of conducting an investigation, the Investigative Office shall have full and complete access to all relevant information, records, personnel, and property of the Organization, in accordance with the rules, policies and procedures of the Organization.

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<sup>6</sup> The Organizations of the United Nations system have defined misconduct as "failure by a staff member to comply with his or her obligations under the Charter of the United Nations, the Staff Regulations and Staff Rules or other relevant administrative issuances or to observe the standards of conduct expected of an international civil servant." (Staff Rule 110.1)

<sup>7</sup> Based on the jurisprudence of the United Nations Administrative Tribunal (UNAT) the standard should be reasonable conclusions supported by adequate evidence.

<sup>8</sup> Or by any staff member of the Organization.

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24. To the extent provided by the Organization's rules, policies and procedures and relevant contracts, the Investigative Office shall have the authority to examine and copy the relevant books and records of projects, executing agencies, individuals, or firms participating or seeking to participate in Organization -financed activities or any other entities participating in the disbursement of Organization funds.
25. The Investigative Office may consult and collaborate with other Organizations, international institutions, and other relevant parties to exchange ideas, practical experience, and insight on how best to address issues of mutual concern.
26. The Investigative Office may provide assistance to and share information with other Investigative Offices.

## **PROCEDURAL GUIDELINES**

### **Sources of Complaints**

27. The Investigative Office shall accept all complaints irrespective of their source, including complaints from anonymous or confidential sources.
28. Where practicable, the Investigative Office will acknowledge receipt of all complaints.

### **Receipt of Complaint**

29. All complaints shall be registered and reviewed to determine whether they fall within the jurisdiction or authority of the Investigative Office.

### **Preliminary Evaluation**

30. Once a complaint has been registered, it will be evaluated by the Investigative Office to determine its credibility, materiality, and verifiability. To this end, the complaint will be examined to determine whether there is a legitimate basis to warrant an investigation.

### **Case Prioritization**

31. Decisions on which investigations should be pursued are made in accordance with the rules, policies and procedures of the Organization; decisions on which Investigative Activities are to be utilized in a particular case rest with the Investigative Office.
32. The planning and conduct of an investigation and the resources allocated to it should take into account the gravity of the allegation and the possible outcome(s).

### **Investigative Activity**

33. The Investigative Office shall, wherever possible, seek corroboration of the information in its possession.
34. For purposes of these guidelines, investigative Activity includes the collection and analysis of documentary, video, audio, photographic, and electronic information or other material, interviews of witnesses, observations of investigators, and such other investigative techniques as are required to conduct the investigation.
35. Investigative Activity and critical decisions should be documented in writing and reviewed with managers of the Investigative Office.
36. Subject to the Organization's rules, policies and procedures, if, at any time during the Investigation, the Investigative Office considers that it would be prudent, as a precautionary measure or to safeguard information, to temporarily exclude a staff member that is the Subject of an investigation from access to his or her files or office or to recommend that he or she be suspended from duty, with or without pay and benefits,

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or to recommend placement of such other limits on his or her official activities, the Investigative Office shall refer the matter to the relevant authorities within the Organization for appropriate action.

37. To the extent possible, interviews conducted by the Investigative Office should be conducted by two persons.<sup>9</sup>
38. Subject to the discretion of the Investigative Office, interviews may be conducted in the language of the person being interviewed, where appropriate using interpreters.
39. The Investigative Office will not pay a witness or a Subject for information. Subject to the Organization's rules, policies and procedures, the Investigative Office may assume responsibility for reasonable expenses incurred by witnesses or other sources of information to meet with the Investigative Office.
40. The Investigative Office may engage external parties to assist in its investigations.

### **INVESTIGATIVE FINDINGS**

41. If the Investigative Office does not find sufficient information during the investigation to substantiate the complaint, it will document such findings, close the investigation, and notify the relevant parties, as appropriate.
42. If the Investigative Office finds sufficient information to substantiate the complaint, it will document its investigative findings and refer the findings to the relevant authorities within the Organization, consistent with the Organization's rules, policies and procedures.
43. Where the Investigative Office's investigative findings indicate that a complaint was knowingly false, the Investigative Office shall, where appropriate, refer the matter to the relevant authorities in the Organization for further action consistent with the Organization's rules, policies and procedures.
44. Where the Investigative Office's investigative findings indicate that there was a failure to comply with an obligation existing under the investigative process by a witness or Subject, the Investigative Office may refer the matter to the relevant authorities in the Organization.

### **REFERRALS TO NATIONAL AUTHORITIES**

45. The Investigative Office may consider whether it is appropriate to refer information relating to the complaint to the appropriate national authorities, and the Investigative Office will seek the necessary internal authorization to do so in cases where it finds a referral is warranted.<sup>10</sup>

### **REVIEW AND AMENDMENT**

46. Any amendments to the Guidelines will be adopted by the Organizations by consensus.

### **PUBLICATION**

47. Any Organization may publish these Principles and Guidelines in accordance with its policies on the disclosure of information.

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<sup>9</sup> Interviews of Subjects should be conducted by two investigators. For interviews of complainants, witnesses and other persons, the number of interviewers depends on the nature and the circumstances of the case.

<sup>10</sup> In some Organizations the decision and the referral of a matter to national authorities may be taken by another internal office.