



Organization for Security and Co-operation in Europe

**Secretary General
Vienna, 3 October 2023**

Staff Instruction No. 33

Subject: Whistleblowing and Protection against Retaliation

1. Reference

OSCE Staff Regulations and Staff Rules
OSCE Code of Conduct, Appendix 1 to the Staff Regulations and Staff Rules
Annex 6 to PC.DEC/399 – Internal Oversight Mandate
Financial Administrative Instruction 10 – Internal Oversight Hotline
Financial Administrative Instruction 14 – OSCE Fraud Prevention and Detection Policy
Staff Instruction No. 21 – Professional Working Environment
Staff Instruction No. 32 – Prevention of Sexual Exploitation and Abuse

2. Purpose

2.1 The OSCE is committed to fostering a speak-up culture grounded in integrity, transparency and accountability, where OSCE officials and non-OSCE staff can report, in good faith, suspected misconduct or wrongdoing without fear of reprisal.

2.2 In line with this commitment, the OSCE has established dedicated reporting channels and procedures for reporting suspected misconduct or wrongdoing (“whistleblowing”). This Staff Instruction provides an overview of those reporting channels.

2.3 This Staff Instruction also elaborates on the procedures for protecting, against retaliation, OSCE officials and non-OSCE staff, who speak up and report suspected misconduct or wrongdoing, participate in duly authorized oversight or disciplinary activities, or otherwise engage in a “protected activity”. Retaliation, as defined under this Staff Instruction, is itself misconduct and any OSCE official or non-OSCE staff who engages in retaliation may be subject to disciplinary action in accordance with Article IX of Staff Regulations and Staff Rules.

3. Applicability

This Staff Instruction applies to all OSCE officials and to non-OSCE staff through their respective contractual arrangements. All such individuals can avail themselves of the procedures and protections described herein. External individuals may also avail of the reporting mechanisms contained in Section 6 of this Staff Instruction, as applicable.

4. Effective Date

This Staff Instruction shall take effect on 16 October 2023.

5. Definitions

5.1 For the purpose of this Staff Instruction, the following definitions shall apply:

- (a) **External individuals** means persons, other than OSCE officials or non-OSCE Staff, who wish to report suspected misconduct or wrongdoing concerning OSCE activities or operations.
- (b) **Good faith** means that a report of suspected misconduct or wrongdoing or request for protection against retaliation is not knowingly false or misleading. The submission of a report of suspected misconduct or wrongdoing or request for protection against retaliation which is found to have been made in bad faith may constitute misconduct warranting disciplinary action, including an investigation by OIO.
- (c) **Misconduct** means, pursuant to Staff Regulation 9.01, failure to comply with an obligation stipulated in the OSCE Staff Regulations and Staff Rules, the OSCE Code of Conduct or any other administrative issuance.
- (d) **Non-OSCE staff** means persons working for the OSCE who are not subject to the OSCE Staff Regulations and Staff Rules, e.g. daily or hourly staff (Staff Instruction No. 18), consultants (Staff Instruction No. 23), interns (Staff Instruction No. 25), Junior Professional Officers, as well as other individuals undertaking activities on behalf of, or as part of, the OSCE.
- (e) **Protected activity** means any of the following activities for which protection against retaliation is afforded in line with Staff Regulation 9.02 (b) and this Staff Instruction:
 - (i) Making a good faith report of suspected misconduct or wrongdoing;
 - (ii) Co-operating with duly authorized audits, investigations or other oversight activities;
 - (iii) Conducting or overseeing duly authorized audits, investigations and other oversight activities;
 - (iv) Co-operating with a disciplinary procedure;
 - (v) Participating in a workplace mediation process; or
 - (vi) Participating in an Internal Review Board or Disciplinary Committee.
- (f) **Retaliation** is a form of misconduct which means any action, inaction, or threat thereof, that directly or indirectly, adversely affects the working conditions of an individual within the OSCE, which was intended for the purpose of punishing, intimidating or injuring an individual because they engaged in a protected activity.
- (g) **Wrongdoing** means a failure by a vendor, implementing partner or non-OSCE staff to comply with their obligations to the OSCE.

5.2 For purposes of this Staff Instruction, the legitimate application of regulations, rules or other administrative issuances, or the mere expression of disagreement, admonishment, criticism or a similar action regarding work performance, conduct or any such related issues

within a supervisory or similar relationship, where handled appropriately, does not constitute retaliation.

5.3 If an individual did not engage in a protected activity, any detrimental action recommended, threatened or taken against him/her will not be considered retaliation under this Staff Instruction. Claims concerning conduct not covered under this Staff Instruction should be addressed to the relevant Head of Executive Structure as a potential management issue or alleged misconduct, including violation of Staff Instruction 21, or, if appropriate, reported directly to OIO.

5.4 The transmission or dissemination of unsubstantiated rumours or allegations of misconduct that the disclosing individual might be reasonably expected to know to be false or intentionally misleading is not a protected activity. Staff/mission members and non-OSCE staff are reminded that making a report or providing information that is known to be false or intentionally misleading may constitute misconduct warranting disciplinary action. Specifically, where the Secretary General or the respective head of institution/mission believes that a submission might have been made in bad faith, he or she shall consult the OSCE Ethics/Mediation Co-ordinator, who may refer the matter to OIO for investigation. Upon completion of the investigation and depending on its findings, disciplinary proceedings may be initiated in accordance with Staff Rule 9.02.1.

6. Channels for reporting suspected misconduct or wrongdoing

Reporting to the Office of Internal Oversight (OIO)

6.1 Individuals may report suspected misconduct or wrongdoing directly to OIO using one of the established reporting channels that can be found in the following link: <https://www.osce.org/contacts/report-wrongdoing>. This includes the OIO hotline: oversight-hotline@osce.org and the relevant telephone numbers.

Reporting to the Head of an Executive Structure

6.2 Individuals may report suspected misconduct or wrongdoing to the respective Head of their Executive Structure. In such situations, and depending on the gravity of suspected misconduct or wrongdoing, the Head may consult with the Director of OIO, the Director of the Department of Human Resources (DHR) or the relevant Chief of Fund Administration without delay on appropriate next steps.

Specific reporting mechanisms and related procedures

6.3 The OSCE has put in place the following specific procedures for reporting and addressing certain forms of suspected misconduct or wrongdoing:

- (a) Violations of the OSCE's professional working environment ([Staff Instruction No. 21](#));
- (b) Sexual Exploitation and Abuse ([Staff Instruction No. 32](#));
- (c) Fraud ([Financial Administrative Instruction No. 14](#)); and
- (d) Inappropriate use of OSCE resources ([Financial Administrative Instruction No. 10](#)).

Where suspected misconduct or wrongdoing falls under one of the above-mentioned specific procedures and is reported, it is to be processed in accordance with that procedure.

Reports by external individuals

6.4 External individuals may submit reports of suspected misconduct or wrongdoing to OIO directly using the reporting channels provided under paragraph 6.1 above, included on the OSCE website.

7. Protection against retaliation

Submission of a request for protection against retaliation

7.1 OSCE officials and non-OSCE staff wishing to request protection against retaliation for having engaged in a protected activity within the meaning of this Staff Instruction can submit the request in writing to the OSCE Ethics/Mediation Co-ordinator (ethics@osce.org).

7.2 There is no set format for submitting a request for protection against retaliation, however, such requests should include the following information:

- (a) the name of the alleged retaliator(s);
- (b) the name of the person requesting protection against retaliation;
- (c) the date(s), location(s) and description of the alleged incident(s) of retaliation;
- (d) the name(s) of witness(es), if any; and
- (e) any other relevant information.

7.3 The request for protection against retaliation may be prepared and/or submitted by another OSCE official or non-OSCE staff on behalf of the person allegedly being retaliated against, with the consent of that individual.

7.4 The OSCE shall take all reasonable steps to protect the confidentiality and safety of the individual who has requested protection against retaliation throughout the process. In particular, the identity of an individual who has requested protection against retaliation under this Staff Instruction shall not be disclosed to anyone beyond the OSCE officials who have a legitimate need to know, without the explicit consent of the individual concerned.

7.5 Cognizant of the Organization's need to address alleged violations in a timely manner, in order to be considered, requests for protection against retaliation shall be filed within 90 days of the last incident of alleged retaliation.

Interim measures

7.6 At any point of time following the receipt of a request for protection against retaliation, and having due consideration for the allegations, the facts which may be established, and the interests and due process rights of both parties, interim measures may be implemented without delay by the responsible official(s) upon recommendation from the OSCE Ethics/Mediation Co-ordinator. Where no request for protection against retaliation has been submitted, but the OSCE Ethics/Mediation Co-ordinator has identified a risk of retaliation, he/she may recommend that interim measures be implemented by the responsible official(s).

7.7 Interim measures may be implemented in order to protect the integrity of the preliminary assessment and/or the investigation, including any evidence, to help prevent the occurrence/repetition of the suspected misconduct or wrongdoing, and/or to cater for the security, safety or wellbeing of the parties involved as well as other affected individuals. The types of interim measures which the OSCE Ethics/Mediation Co-ordinator can recommend with respect to OSCE officials and non-OSCE staff, if feasible, include, but are not limited to:

- (a) Temporary suspension of implementation of the action viewed as retaliatory;
- (b) Physical separation of the parties involved;
- (c) Temporary assignment of one or more of the parties involved or alternate working arrangements;
- (d) Placement of the subject of the investigation on administrative leave, pursuant to Staff Regulation 9.05;
- (e) Placement of one or more of the parties involved on special leave under Staff Regulation 7.04 (c); and/or
- (f) Changes in reporting lines.

Intake and logging

7.8 Any request for protection against retaliation submitted under this Staff Instruction should be initially routed to the OSCE Ethics/Mediation Co-ordinator. Should the OSCE Ethics/Mediation Co-ordinator have a conflict of interest in processing the request for protection against retaliation, the request shall be transferred to OIO, who will consult the Secretary General on how the case should be processed.

Preliminary assessment

7.9 The OSCE Ethics/Mediation Co-ordinator will conduct a preliminary assessment of a protection against retaliation request to ascertain if:

- (a) the individual engaged in a protected activity;
- (b) the individual experienced, or was threatened with, one or more detrimental actions; and
- (c) there is a prima facie case that the protected activity was a contributing factor in causing the detrimental action or threat of such action.

7.10 If it appears that the request may be better resolved informally, the OSCE Ethics/Mediation Co-ordinator may, with the consent of the individual, refer the matter for informal resolution.

7.11 The preliminary assessment will normally be completed within 20 working days of the OSCE Ethics/Mediation Co-ordinator receiving all the information necessary to complete the assessment.

7.12 If, following the preliminary assessment, the OSCE Ethics/Mediation Co-ordinator determines that there is no prima facie case of retaliation, the individual concerned shall be informed that there was no prima facie case of retaliation and thus an investigation will not be pursued.

7.13 A determination by the OSCE Ethics/Mediation Co-ordinator that the elements set out in paragraph 7.9 are not present does not imply the absence of misconduct or wrongdoing. The

OSCE Ethics/Mediation Co-ordinator may determine that allegations which do not constitute retaliation do, however, support a finding that another type of misconduct or wrongdoing occurred. Accordingly, the determination by the OSCE Ethics/Mediation Co-ordinator is without prejudice to an individual's right to submit a complaint under Staff Instruction No. 21 regarding alleged violation of professional working environment or other alleged misconduct under Article IX of Staff Regulations and Staff Rules within 30 days from the date of notification of the determination by the OSCE Ethics/Mediation Co-ordinator.

7.14 For the avoidance of doubt, the determination by the OSCE Ethics/Mediation Co-ordinator following the preliminary assessment is not an administrative decision that can be appealed. However, such a determination by the OSCE Ethics/Mediation Co-ordinator does not preclude the individual from, as a separate matter, requesting review of any underlying adverse administrative decision which the individual may have raised in the context of his/her retaliation complaint, and which the individual alleges does not observe the terms of his/her appointment/assignment, pursuant to Staff Regulation 10.1.

Investigation

7.15 If, following the preliminary assessment, the OSCE Ethics/Mediation Co-ordinator determines that the elements in paragraph 7.9 are present, he/she will:

- (a) refer the matter to OIO for investigation and immediately notify the individual in writing that the matter has been referred for investigation. Should OIO have a conflict of interest, the OSCE Ethics/Mediation Co-ordinator will consult the Secretary General on how the matter is to be processed; and/or
- (b) recommend to the Secretary General or the respective head of institution/mission to consult the Secretariat's Office of Legal Affairs on whether the request for protection against retaliation should be referred to the relevant national authorities, and/or should be referred to another international organization, if the subject of the request for protection against retaliation relates to another international organization.

7.16 OIO will conduct the investigation in accordance with its investigation procedures, taking into account the provisions of paragraph 7.18 requiring sharing a report with OSCE Ethics/Mediation Co-ordinator to allow for an independent review of the findings.

7.17 The purpose of the investigation is to discover, collect, record and analyze relevant evidence, both inculpatory and exculpatory. The investigation will gather facts relevant to establishing if there is evidence that the administration would have undertaken the same challenged action if no previous protected activity had taken place. The administration shall have the burden to prove, by clear and convincing evidence, that it would have taken the same challenged action if no previous protected activity had taken place. A finding of retaliation will follow if the Organization is unable to discharge this burden of proof. OIO will seek to normally complete the investigation and submit a report through the OSCE Ethics/Mediation Co-ordinator within 90 calendar days upon referral.

Review of the investigation report

7.18 Upon receipt of the investigation report, the OSCE Ethics/Mediation Co-ordinator will conduct an independent review of the findings of the report and supporting documents to

determine whether the report and the supporting documents show, by clear and convincing evidence, that the administration would have taken the alleged retaliatory action absent the complainant's protected activity or that the alleged retaliatory action was not made for the purpose of punishing, intimidating or injuring the complainant. If, in the view of the OSCE Ethics/Mediation Co-ordinator, this standard of proof is not met, the OSCE Ethics/Mediation Co-ordinator will consider that retaliation has occurred. If the standard of proof is met, the OSCE Ethics/Mediation Co-ordinator will consider that retaliation has not occurred. In all cases, the OSCE Ethics/Mediation Co-ordinator will inform the complainant in writing of the determination and make his/her recommendations to the Secretary General or the respective head of institution/mission.

7.19 The OSCE Ethics/Mediation Co-ordination may also recommend to the Secretary General or the respective head of institution/mission that appropriate measures aimed at correcting negative consequences resulting from the retaliatory action and protecting the individual from further retaliation.

7.20 Where allegations of retaliation are made against the head of institution/mission, or where there is clear grounds for a conflict of interest on the part of the head of institution/mission, the recommendation following the investigation report should be sent to the Secretary General. Where allegations of retaliation are made against the Secretary General, or there is clear grounds for a conflict of interest on the part of the Secretary General, the recommendation following the investigation report should be sent to the Chairpersonship.

Decision

7.21 Upon review of the investigation report and the accompanying recommendation(s) by the OSCE Ethics/Mediation Co-ordinator pursuant to paragraph 7.18, the Secretary General or the respective head of institution/mission shall provide a written decision to the complainant and any subject of the complaint within 30 calendar days of receipt of the recommendation(s) of the OSCE Ethics/Mediation Co-ordinator. The decision shall also be communicated to the OSCE Ethics/Mediation Co-ordinator. The decision taken under this paragraph by the Secretary General or the respective head of institution/mission will constitute an administrative decision that may be appealed in accordance with Article X of Staff Regulations and Staff Rules.

Additional action and corrective measures

7.22 The Secretary General, or the respective head of institution/mission, may subsequently determine as to whether or not to initiate further disciplinary procedures pursuant to Article IX of the OSCE Staff Regulations and Staff Rules and/or take appropriate corrective measures, taking into consideration recommendations made by the OSCE Ethics/Mediation Co-ordinator pursuant to paragraph 7.19 of this Staff Instruction, to amend the negative consequences suffered as a result of the retaliatory action. Such measures may include, but are not limited to, the rescission of the retaliatory decision, including reinstatement, and, if requested by the person who had requested protection against retaliation, transfer to another office or function for which the individual is qualified.