



Organization for Security and Co-operation in Europe

Director for Human Resources
Vienna, 20 June 2022

Staff Instruction No. 32

Subject: Prevention of Sexual Exploitation and Abuse

1. Reference

MC.DEC/4/18 Preventing and Combating Violence against Women
PC.DEC/426 Trafficking in Human Beings
PC.DEC/557 OSCE Action Plan to Combat Trafficking in Human Beings
OSCE Staff Regulations and Staff Rules
OSCE Code of Conduct, Appendix 1 to the Staff Regulations and Staff Rules
Staff Instruction No. 11/2004 Preventing the Promotion/Facilitation of Trafficking in Human Beings
Staff Instruction No. 18 Daily Staff
Staff Instruction No. 21 Professional Working Environment
Staff Instruction No. 23 Special Service Agreements
Staff Instruction No. 25 Internship Programme at the OSCE
Staff Instruction No. 34 Whistle-blower Protection and Protection from Retaliation
FAI 6 Procurement and Contracting
FAI 10/Rev.1 Internal Oversight Hotline
FAI 15 Management and Administration of Implementing Partners

2. Purpose

2.1 The purpose of this Staff Instruction is to define the OSCE policy on prevention and response to sexual exploitation and abuse (“SEA”) including measures to be taken by the Organization to prevent SEA and the procedures to be followed should violations of this policy be reported or suspected.

2.2 More specifically, this Staff Instruction:

- (a) defines SEA;
- (b) affirms the OSCE’s zero-tolerance for SEA;
- (c) defines the expected conduct and responsibilities of OSCE officials, non-OSCE staff, and Contractors with regard to prevention of sexual exploitation and abuse (PSEA);
- (d) sets out mechanisms to prevent OSCE officials, non-OSCE staff, and Contractors from engaging in SEA;

- (e) sets out mechanisms for the reporting of suspected SEA by OSCE officials, non-OSCE staff, and Contractors; and
- (f) sets out mechanisms for the OSCE to respond effectively to SEA by OSCE officials, non-OSCE staff, and Contractors.

3 Applicability

3.1 This Staff Instruction applies to all OSCE officials.

3.2 Persons working for the OSCE who are not subject to the OSCE Staff Regulations and Staff Rules (“non-OSCE staff”) shall be made aware of this policy, and their respective contractual arrangements with the OSCE shall ensure that they are bound to abide by it.

3.3 Compliance with the relevant provisions of this Staff Instruction by Contractors shall be ensured through the relevant contractual arrangements between the OSCE and such Contractors as outlined in paragraphs 7.7 - 7.9.

3.4 This Staff Instruction does not apply to conduct of OSCE officials and/or non-OSCE staff that falls under the scope of Staff Instruction No. 21 on OSCE Policy on the Professional Working Environment.

4 Effective Date

4.1 This Staff Instruction shall take effect on 20 June 2022 and cancels and supersedes any prior administrative issuances on SEA issued by OSCE Executive Structures.

4.2 Circulars, guidelines, or standard operating procedures issued on the same subject shall be adjusted in accordance with this Staff Instruction. In case of inconsistency, this Staff Instruction shall prevail.

5 Definitions

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

- (a) **Sexual Exploitation** is any actual or attempted act of taking advantage of a position of vulnerability, power differential, or trust, for sexual purposes, or profiting monetarily, socially, or politically from such an activity.

Acts that constitute sexual exploitation include, but are not limited to, any actual or attempted exchange of money, goods, other commodities and/or services, employment, or any OSCE assistance for any sexual act, or other forms of humiliating, degrading, or exploitative behaviour of a sexual nature. Availing of, or exploitation of, prostitution is a form of sexual exploitation and is prohibited, regardless of the legal status of prostitution under applicable local law.

- (b) **Sexual abuse** is any actual or attempted non-consensual physical contact, or psychological intrusion, of a sexual nature, by force or under coercion, including when a person is incapable of giving consent, such as when they may be incapacitated, including as a result of drug or alcohol consumption. This also includes any sexual activity with persons under the age of 18 regardless of mistaken belief of the age of a

person, unless an individual is legally married to a person under the age of 18 but over the age of majority or consent in their country of citizenship.

- (c) **Complainant** – a person who makes an allegation of SEA against an OSCE official, non-OSCE staff, or Contractor.
- (d) **Victim** – a person who is, or has been, sexually exploited or abused by an OSCE official, non-OSCE staff, or Contractor.
- (e) **Perpetrator** - an OSCE official, non-OSCE staff, or Contractor who is found to have been engaged in SEA.
- (f) **Non-OSCE staff** – persons working for the OSCE who are not subject to the OSCE Staff Regulations and Staff Rules, *i.e.*, consultants (Staff Instruction 23), daily or hourly staff (Staff Instruction 18), interns (Staff Instruction 25), OSCE Office for Democratic Institutions and Human Rights monitors and election observers.
- (g) **Contractor** – an implementing partner, supplier, service provider or any other entity, that implements an OSCE project or programme or undertakes any other work in the name of, under contract with, or for the benefit of the OSCE, including its agents and employees.

6 Principles

6.1 The OSCE has a zero-tolerance approach to any form of SEA.

6.2 SEA by an OSCE official constitutes misconduct warranting disciplinary action under OSCE Staff Regulations and Staff Rules, including dismissal under Staff Rule 9.04.2.

6.3 The OSCE is committed to creating, maintaining, and promoting an environment that prevents, and responds effectively to reported and suspected SEA by OSCE officials, non-OSCE staff, and Contractors.

6.4 The OSCE shall develop strategic partnerships with relevant actors, including other international organizations, in order to increase awareness of the OSCE's efforts to prevent, and to respond to SEA more efficiently.

6.5 The OSCE does not partner with, or use services of, entities that fail to address SEA through appropriate preventive and responsive measures, including investigation and corrective action. Such failures shall constitute grounds for the termination of any contractual arrangement with the OSCE.

6.6 A victim-centred approach guides the OSCE in the prevention and response to SEA whereby the actual or suspected Victim's wishes, needs, rights, dignity, safety and well-being are respected. More specifically, this approach entails the following principles:

- a) do no harm: no action should be taken that could reasonably be expected to worsen the situation of the actual or suspected Victim;
- b) respect: all actions taken should be guided by respect for the choices, needs, wishes, rights and dignity of the actual or suspected Victim;

- c) safety: the safety and security of the actual or suspected Victim should be the priority for all actors involved in addressing SEA;
- d) confidentiality: in handling SEA complaints there must be strict adherence to confidentiality regarding the actual or suspected Victim's identity and other personally identifiable information;
- e) non-discrimination: the OSCE does not discriminate against Complainants or actual or suspected Victims on the basis of gender, race, religion or belief, nationality, ethnic or social origin, age, sexual orientation, marital status, disability or other aspects of personal status; and
- f) child protection: actual or suspected Victims who are under the age of 18 should receive particular attention and their specific needs must be addressed, and the best interests of such persons shall be a primary consideration.

7 Responsibilities

OSCE officials and non-OSCE staff

7.1 All OSCE officials and non-OSCE staff are prohibited from engaging in, or facilitating, SEA at all times, whether on duty or off duty.

7.2 Due to an increased risk of SEA occurring between OSCE officials and persons who benefit from OSCE projects and programmes, OSCE officials are expected to uphold the highest standards of conduct and demonstrate good judgement at all times when interacting with such persons. Even the perception of SEA between the OSCE official and persons who benefit from OSCE projects and programmes can bring discredit to the Organization and undermine the effective implementation of the Organization's projects and programmes.

7.3 All OSCE officials and non-OSCE staff must strive to prevent and respond to SEA within their power and authority.

7.4 OSCE officials and non-OSCE staff have a duty to report in good faith any concerns that they may have regarding the involvement of another OSCE official, non-OSCE staff, or Contractor in SEA. Any person who in good faith makes a report of actual or suspected SEA or who cooperates in a SEA investigation has the right to be protected from retaliation, in line with the Staff Instruction No. 34 on Whistle-blower Protection and Protection from Retaliation.

OSCE Management

7.5 Management shall:

- a) communicate the present Staff Instruction to all OSCE officials and non-OSCE staff, and act as a resource for them when they believe that they have witnessed a violation of this Staff Instruction. They shall encourage supervisees to use reporting mechanisms available by the OSCE, and maintain open dialogue creating an atmosphere in which their staff feel included and free to express concerns and speak out about inappropriate behaviours;

- b) assess risks of SEA occurring and risks that such SEA would pose to their respective Executive Structure as an integral part of strategic risks of that Executive Structure in accordance with the OSCE Guidance on Administrative Risk Management due to the potential impact that even an isolated incident of SEA may have on that Executive Structure and/or the entire Organization, and determine whether additional mitigation measures to those that are contained in the Staff Instruction are required to meet those specific risks;
- c) take reasonable measures to safeguard that OSCE officials and non-OSCE staff under their supervision do not engage in SEA, and give special attention in that regard to their staff who supervise others;
- d) take measures consistent with this Staff Instruction should they witness, or be informed of, any suspected violations of this Staff Instruction;
- e) ensure that instances and/or concerns of SEA are promptly reported to OIO; and
- f) ensure that all discussions, communications and actions are handled with sensitivity and utmost confidentiality, and that the sharing of information regarding complaints be strictly confined to a need to know basis;

Human Resources

7.6 The Department of Human Resources (DHR), and local HR functions in institutions and missions, shall:

- (a) require candidates to attest whether they have had any disciplinary measure imposed on them for SEA or separated while a SEA misconduct investigation was pending;
- (b) ask referees whether a candidate has been subject to any disciplinary measure for misconduct (including for SEA);
- (c) set up a mechanism to screen candidates for OSCE positions for past misconduct (including for SEA);
- (d) ensure that, prior to assuming their duties, all OSCE officials shall sign an acknowledgement that they have read and understood the present Staff Instruction;
- (e) ensure that all fixed-term OSCE officials are required to complete appropriate training on PSEA as early as possible; and
- (f) ensure that PSEA Focal Points are required to complete appropriate training to effectively and efficiently prevent and respond to SEA under this Staff Instruction.

OSCE's responsibilities with respect to non-OSCE staff and Contractors

7.7 The OSCE's standard contractual arrangements, including the General Conditions of Contract (for both Goods and Services) and the standard Implementing Partner Agreement, shall include a clause requiring Contractors to take all appropriate measures to prevent and respond to SEA by its employees or any other persons engaged by the Contractor to perform any services for the OSCE.

7.8 When engaging Contractors for activities that may expose the OSCE to an increased risk of SEA, the Programme Manager and the Chief of Fund Administration should consult the Secretariat's Office of Legal Affairs or the relevant Executive Structure's legal office, if applicable, in the due diligence process and in the design of appropriate contractual terms and conditions.

7.9 If a Contractor fails to take preventive measures against SEA, investigate allegations thereof, or take corrective action when the Contractor has engaged in SEA, the OSCE shall give consideration to terminating a contractual arrangement with the Contractor and/or take other appropriate measures.

7.10 If it is substantiated in line with this Staff Instruction that non-OSCE staff have engaged in SEA, the OSCE shall terminate the contractual arrangement between that non-OSCE staff and the OSCE and may refer the matter to appropriate local authorities.

8 PSEA Focal Points

8.1 The head of each OSCE Executive Structure shall appoint at least two PSEA Focal Points among the fixed-term staff/mission members, preferably with knowledge of the language(s) spoken in the duty station. To the extent practicable, the two PSEA Focal Points shall consist of one female and one male.

8.2 The Secretary General together with the heads of institutions/missions will ensure that PSEA Focal Points have adequate support from their management to devote the necessary time to support Complainants, to attend or deliver trainings on PSEA, and to engage in awareness raising for the community and other PSEA activities. In addition, each Executive Structure should support PSEA Focal Points in providing facilities necessary for fulfilment of their responsibilities (e.g., meeting rooms, computers, intranet space, supplies, printing facilities, etc.).

8.3 PSEA Focal Points shall perform their functions in line with the Guidelines for the role of PSEA Focal Points (Annex 1), which include the following tasks:

- (a) acting as one of the reporting channels for receiving SEA complaints;
- (b) providing guidance on reporting mechanisms contained in this Staff Instruction;
- (c) actively contributing to the Executive Structure's PSEA internal and external awareness campaigns and training;
- (d) identifying and developing strategic partnerships for PSEA in the area where the Executive Structure is located; and
- (e) supporting Executive Structures in identifying appropriate community-based complaint mechanisms.

9 Reporting channels

9.1 Safe and accessible mechanisms and procedures to report SEA are essential to encourage Victims to come forward.

9.2 The OSCE strongly encourages that actual or suspected SEA be brought to the Organization's attention promptly.

9.3 The OSCE makes the following formal reporting channels available to any person who has reasonable suspicion or actual knowledge of the involvement of an OSCE official, non-OSCE staff or Contractor in SEA:

(a) PSEA Focal Point: PSEA Focal Points may receive complaints in person, or via email;

or

(b) Office of Internal Oversight (OIO): Reporting channels contained at www.osce.org/oio/about

9.4 The OSCE shall ensure awareness of these formal reporting channels in line with paragraphs 6.4, 7.5 (a) and 8.3 (c).

9.5 The OSCE has an obligation to address allegations of SEA promptly. This means that consistent with the obligation under paragraph 7.4, if any OSCE official receives a SEA complaint, they shall immediately refer it to one of the reporting channels under paragraph 9.3.

10 Responding to suspected SEA

Principles in processing reports of SEA

10.1 Any person who in good faith makes a report of an actual or suspected incident of SEA or who cooperates in a SEA investigation has the right to be protected from retaliation.

10.2 All complaints shall be made in good faith. Deliberately making a false SEA complaint constitutes misconduct and may lead to disciplinary action against the OSCE official, in accordance with the OSCE Staff Regulations and Staff Rules.

10.3 To facilitate reporting and avoid stigmatization when reporting actual or suspected SEA, a Complainant may request to have their identity anonymized through the use of a pseudonym throughout the reporting and processing of allegations of SEA.

10.4 All personal information related to complaints of SEA shall be kept confidential, marked clearly with "*strictly confidential*", and only shared on a need-to-know basis. When sharing information related to complaints of SEA, consideration shall be given to the best interests of the Complainant and/or actual or suspected Victim, as well as the potential for abuse of and harm to those involved due to any improper disclosure. Physical and digital materials related to complaints of SEA shall be stored securely to prevent improper disclosure. Information and Communication Technology Services support shall be sought when necessary to ensure safe and confidential storage of digital information.

10.5 The identity of the actual or suspected Victim and Complainant¹ shall not be revealed to the suspected Perpetrator unless the safety and security of the Victim and the Complainant can be ensured. To the extent practicable, the informed consent of the actual or suspected Victim

¹ Please note that where the phrase "*Victim and Complainant*" arises throughout the Staff Instruction, in certain circumstances it may refer to the one individual.

for the Organization should be obtained before proceeding with investigating and addressing the alleged SEA in line with this Staff Instruction.

10.6 Cognisant that often it is difficult to find corroborating evidence of SEA, the required standard of proof that shall be applied when making a notification of allegations pursuant to Staff Rule 9.02.1 (a) and taking any subsequent disciplinary action in line with Article IX of the OSCE Staff Regulations and Staff Rules is the preponderance of evidence.

Steps upon receipt of SEA complaint

10.7 Upon receipt through any of the reporting channels indicated in section 9, the complaints of actual or suspected SEA shall be shared with OIO without delay.

Investigation

10.8 Due to the sensitive nature of SEA, OIO shall be the sole office responsible for investigating SEA complaints. However, the Director of OIO, on consideration of the particular factors pertaining to a complaint, may also authorize officials outside of OIO to conduct such investigations. In such cases, OIO shall oversee the effective operation of the investigations.

10.9 OIO shall complete its preliminary assessment within 45 days of receiving a complaint. During its preliminary assessment, OIO shall inform the actual or suspected Victim of the review and will take into account any objections or other concerns raised by the actual or suspected Victim at that stage (e.g. related to privacy or fear of retaliation).

10.10 If, following a preliminary assessment, the Director of OIO determines that there is a *prima facie* case of SEA, the Director of OIO shall open an investigation into the allegations and shall immediately notify in writing the Secretary General and the respective head of institution/mission that the matter is under investigation. OIO shall complete its investigation and submit a strictly confidential investigation report to the Secretary General and to the respective head of institution/mission, within 120 days from receipt of the complaint.

10.11 If, following a preliminary assessment, the Director of OIO determines that there is no *prima facie* case of SEA, the Director of OIO shall inform the Secretary General, the respective head of institution/mission, Complainant and Victim that it has decided not to pursue an investigation.

10.12 Notwithstanding paragraph 10.10, if it becomes apparent prior to the above deadline that there is an unavoidable delay in completing the investigation, the Director of OIO shall promptly notify the Secretary General and the respective head of institution/mission and indicate the reason for such a delay and provide an estimated completion date.

10.13 Without prejudice to paragraph 10.5, in carrying out investigations, OIO shall respect the due process rights of the suspected Perpetrator.

10.14 In the course of the investigation, the Director of OIO in consultation with the Director of DHR, may recommend that the Secretary General, or the respective head of institution/mission take any interim administrative measure within their authority to protect the actual or suspected Victim and/or the integrity of the investigation, including placing the suspected Perpetrator on administrative leave if they are an OSCE official. Decisions regarding administrative leave pending investigation and disciplinary procedure shall be made in accordance with Staff Regulation 9.05.

Decision following receipt of the investigation report

10.15 Where the suspected Perpetrator is an OSCE official, upon consideration of the investigation report, the Secretary General or the respective head of institution/mission, will decide whether or not to issue a notification of allegations in accordance with Staff Rule 9.02.1 (a) and thereafter proceed in line with Staff Regulation 9.03. All such decisions when made by heads of institutions/missions shall be communicated to the Secretary General.

10.16 Where the suspected Perpetrator is non-OSCE staff, upon consideration of the investigation report, the Secretary General or the respective head of institution/mission, will determine the appropriate course of action in line with this Staff Instruction and the relevant contractual arrangement. All such decisions when made by heads of institutions/missions shall be communicated to the Secretary General.

10.17 Where the suspected Perpetrator is a Contractor, upon consideration of the investigation report, the Secretary General or the respective head of institution/mission in consultation with the Secretary General, will determine the appropriate course of action in line with this Staff Instruction and the relevant contractual arrangement.

Separation of Suspected Perpetrator

10.18 If the suspected Perpetrator, who is an OSCE official or non-OSCE staff, separates from the OSCE before the conclusion of the investigation, the investigation shall continue to the extent practicable. The investigation report, if any, shall be placed in the personnel file of the suspected Perpetrator.

10.19 If the suspected Perpetrator, who is an OSCE official or non-OSCE staff, separates from the OSCE before the conclusion of the disciplinary procedure or the relevant course of action chosen pursuant to paragraph 10.16, the Secretary General or respective head of institution/mission shall determine whether or not a disciplinary procedure or the relevant course of action chosen pursuant to paragraph 10.16 will be pursued despite the separation of the suspected Perpetrator.

10.20 If a disciplinary procedure is pursued, the suspected Perpetrator will be afforded the opportunity to continue to participate in the process. If the suspected Perpetrator refuses to participate in the process, a note along with the investigation report shall be placed in the personnel file of the suspected Perpetrator who is an OSCE official, disclosing that they separated while being the subject of allegation(s) of violation(s) of this Staff Instruction.

10.21 The suspected Perpetrator shall be afforded an opportunity to comment on the documents that the Organization intends to place in their personnel file and any such comments shall be added to the personnel file.

10.22 A suspected perpetrator who separates prior to the conclusion of the process set out in this Staff Instruction shall be ineligible for further engagements with the OSCE (appointment, assignment, SSA etc.), until the process is concluded and a decision on the complaint has been taken, in accordance with this Staff Instruction.

11 Appeal

11.1 An appeal may be lodged in accordance with Article X of the OSCE Staff Regulations and Staff Rules by a Perpetrator who is an OSCE official against an interim administrative

measure(s) taken pursuant to paragraph 10.14 and/or a disciplinary measure imposed pursuant to Article IX of the OSCE Staff Regulations and Staff Rules.

11.2 Challenges to decisions or actions taken under paragraphs 10.16 and 10.17 with respect to non-OSCE staff or Contractors shall be governed by the applicable dispute settlement mechanism contained in their contractual arrangement with the OSCE.

12 Referral to Authorities

12.1 If there is sufficient evidence to substantiate that an OSCE official, non-OSCE staff, or Contractor has engaged in SEA, the Secretary General or the respective head of institution/mission in consultation with the Secretary General, may refer such cases to relevant local authorities for investigation and/or prosecution. Decisions on such referrals shall take into account, to the extent possible, the views of the Victim including with respect to whether the matter should be referred to the authorities of the state of which the suspected Perpetrator is a national and/or the authorities of the jurisdiction where SEA occurred.

12.2 To facilitate any relevant investigation and/or prosecution regarding matters covered by paragraph 12.1, the Secretary General may waive, in accordance with Staff Regulation 2.03 (d), the immunity of the suspected Perpetrator who is an OSCE official or non-OSCE staff and may disclose the OSCE records that the authorities of the relevant state might require.

13 Assistance to Victims

13.1 The OSCE shall provide assistance and support to actual and suspected Victims as it deems necessary and appropriate on a case-by-case basis. This may include assistance in obtaining immediately needed services (e.g. medical care, psychological counselling, legal services).

14 Monitoring and reporting

14.1 To monitor the Organization's efforts at preventing SEA, the OSCE shall:

- (a) ensure that all disciplinary and/or administrative measures imposed pursuant to, or as a result of, the present Staff Instruction are promptly recorded in the relevant personnel file pursuant to Staff Instruction No. 6/2003 Rev.1 on Personnel Files; and
- (b) compile yearly statistics of SEA complaints, with due regard for the privacy of those involved.

14.2 The OSCE will report annually to participating States on all SEA Complaints through established reporting mechanisms.

15 Review of the Staff Instruction

15.1 This Staff Instruction will be reviewed at least every 5 years by DHR, in consultation with OIO, and changes will be recommended to the Secretary General, as appropriate.

Annex 1 - Guidelines for the role of PSEA Focal Points

PSEA Focal Points shall have the following competencies and experience:

- (a) proven integrity, objectivity and professional competence;
- (b) demonstrated sensitivity to, and solid understanding of, gender issues and cultural diversity;
- (c) demonstrated ability to maintain confidentiality;
- (d) preferably have knowledge of languages spoken in the duty station;
- (e) demonstrated experience of working directly with local communities, where possible; and
- (f) proven communication and listening skills.

PSEA Focal Points shall identify and disclose to the OSCE Ethics Co-ordinator any actual or potential conflict of interest that they may have or be aware of with regard to any complaint that they receive, and seek guidance as to how such conflict of interest can be addressed in the best interest of the OSCE.

General Tasks

- (a) acting as one of the reporting channels for receiving SEA complaints ;
- (b) providing guidance on reporting mechanisms contained in this Staff Instruction;
- (c) actively contributing to the Executive Structure's PSEA internal and external awareness campaigns and training;
- (d) identifying and developing strategic partnerships for PSEA in the area where the Executive Structure is located; and
- (e) supporting Executive Structures in identifying appropriate community-based complaint mechanisms.

Addressing Complaints

Upon receipt of a complaint, the PSEA Focal Points shall:

- (a) evaluate any need to attend to the safety, security, health, and/or legal needs of the Complainant and Victim²;
- (b) ensure that all materials pertaining to complaints are handled in strict confidence and in line with applicable grievance and complaint handling procedures;

² Please note that the phrase "Victim and Complainant" in certain circumstances may refer to the one individual.

- (c) determine whether the Complainant will provide informed consent to proceed with recording the complaint;
- (d) determine whether the Complainant and Victim will provide informed consent to disclose their identity to the suspected Perpetrator. Explain to the Complainant and Victim that in order for the Organization to respect due process rights of the suspected Perpetrator, such consent may become a requirement for the Organization to proceed with any subsequent investigation;
- (e) record the details of the complaint on the Incident Report/Complaint Form that will be provided by OIO;
- (f) transmit the completed Incident Report/Complaint Form and any other pertinent materials to OIO without delay;
- (g) act, if requested, as liaison between the Complainant or Victim, and those persons conducting any subsequent investigation;
- (h) report in good faith to both the head of the relevant Executive Structure and OIO any concerns they may have as to subsequent acts of possible retaliation, as defined in Staff Instruction No. 34 on Whistle-blower Protection and Protection from Retaliation, on the part of OSCE officials, against an individual who has made a complaint or cooperated in an authorised investigation under the Staff Instruction.

As investigation is the exclusive responsibility of OIO, as detailed in paragraph 10.8 of this Staff Instruction, PSEA Focal Points shall not carry out any form of investigation of complaints.