DECISION OF THE PANEL OF ADJUDICATORS OF THE OSCE WITH REGARD TO THE EXTERNAL APPEAL BY [redacted]

(Case No: OSCE PoA 1/2026)

Proceedings

1. On 9 January 2026, following the commencement of the mandate of the new Chairperson-in-Office of the OSCE (CiO), the Chairperson of the Panel of Adjudicators (PoA) of the Organization for Security and Co-operation in Europe (OSCE) received a letter from the CiO transmitting an external appeal by [redacted] (Applicant) submitted on 17 November 2025.

2. The Chairperson of the PoA, through the Executive Secretary of the PoA, informed the Secretary General of the OSCE (Respondent) and the Applicant on 13 January 2026 of the constitution of the Panel and asked the Respondent to forward a response to the Panel as per Article 5 of the Rules of Procedure of the Panel to reach the Panel no later than 12 February 2026. The Respondent filed a response on 9 February 2026, and the Applicant exercised [redacted] right to reply on 6 March 2026.

3. The Applicant is challenging an Inter-Office Memorandum (IOM) initially issued by [redacted] on 23 December 2024 (the Impugned Decision) and later upheld by [redacted] on 16 September 2025.

Deliberations

4. In accordance with Article VI of the Terms of Reference of the Panel (ToR), Appendix 2 to the Staff Regulations and Staff Rules (SRSR), the Chairperson of the Panel convened the Panel from 8-9 June 2026 at the Hofburg premises at Vienna to examine the appeal. The Panel was composed of its Chairperson, Mr. Thomas Laker, its Deputy Chairperson, Ms. Jenny Schokkenbroek, and its member, Ms. Joan Powers. The deliberations were held in part by videoconference, as one member was unable to travel.

Summary of facts

5. The Applicant was hired by [redacted] in [redacted], as [redacted]. On 25 November 2024, the Applicant was offered, and accepted, a one-year fixed-term appointment as [redacted]. [redacted] assumed the post on 1 January 2025.

6. On 23 December 2024, [redacted] issued the IOM, creating a new [redacted] comprising four posts, including the Applicant's, and placed [redacted] under the administrative supervision of [redacted], effective 3 January 2025. The IOM (para. 5) confirmed that individual job descriptions for [redacted] would remain valid.

7. On 3 January 2025, the Applicant lodged a Request for Internal Review, challenging the validity of the IOM.

8. On 14 January 2025, [redacted] constituted an Internal Review Board (IRB) to examine the Applicant's Request for Internal Review. The Applicant was notified on the same date of the composition of the IRB, to which [redacted] expressed no objections.

9. On 23 July 2025, the Applicant was informed that [redacted] employment was being terminated.

10. The IRB issued its report on 20 August 2025, finding that the creation of [redacted] required Permanent Council approval under the OSCE's post table governance framework and that certain procedural requirements for the issuance of the IOM had not been met.

11. On 16 September 2025, [redacted] rejected the IRB recommendations and decided to uphold the IOM.

12. On 17 November 2025, the Applicant submitted an external appeal to the Panel of Adjudicators pursuant to Staff Rule 10.02.2(a)(ii).

Applicable law

13. Staff Regulation 2.01(b): "In the performance of their duties, staff/mission members shall be subject to the authority of and be responsible to the Secretary General and their respective head of institution or head of mission".

14. Staff Regulation 3.12(a): "Staff/mission members shall accept the duties assigned to them by the [...] respective head of institution/mission, as well as their deployment within the [...] mission".

15. Paragraph 8.1.3 of Staff Instruction No. 24/Rev. 1: "When the content of an existing classified job description warrants minor changes, the manager shall discuss the changes with the incumbent and forward the updated job description to the incumbent and subsequently to the relevant HR Office for verification of compliance with this Staff Instruction and for inclusion in the incumbent's personnel file. Minor changes shall normally relate to adjustments in terminology and acronyms, which should always be kept current, as well as to adjustments in work processes and/or processes concerning work relationships".

16. Letters of Appointment/Terms of Assignment – Staff Regulation 3.07 and Staff Rule 3.07.1

    - Staff Regulation 3.07: "Letters of appointment for contracted OSCE officials [...] shall set out, expressly or by reference, all terms and conditions of employment with the OSCE. They shall be signed by the appointing authority in accordance with Regulations 3.03, 3.04 and 3.05, and countersigned by the OSCE officials concerned, at the time of their appointment or assignment."
    - Staff Rule 3.07.1: "The entitlements of OSCE officials shall be strictly limited to those contained expressly or by reference in their letters of appointment or terms of assignment. The letter of appointment or terms of assignment shall state:

- That the appointment or assignment is subject to the provisions of the Staff Regulations and Staff Rules, and to amendments thereto which may be adopted;
- That the OSCE official is subject to the OSCE Code of Conduct attached to the letter or the terms, and is required to sign the declaration of loyalty;
- That the appointment or assignment is for a definite period which shall expire on the date specified herein;
- The date on which the OSCE official is required to enter upon his/her duties;
- For contracted OSCE officials, the category, the grade and step of the commencing salary;
- For seconded OSCE officials, their entitlements to Board and Lodging Allowance and reimbursement of travel costs upon assignment and separation;
- Social security arrangements; and
- Any special conditions which may be applicable."

17. Permanent Council Competence - PC.DEC/1413
    - PC.DEC/1413 (Approval of the 2021 Unified Budget) provides, *inter alia*, that the PC "[...] [a]pproves the 2021 Unified Budget contained in Annex I; [and] [a]pproves the 2021 Unified Post Table contained in Annex II".
18. Financial Regulation 3.02 – Transfers
    - Financial Regulation 3.02 (a): "The authorization of the Permanent Council shall be required for the following transfers:
        - Transfers between Main Programmes;
        - Transfers between Funds;
        - Transfers to or from specific subprogrammes as decided by the Permanent Council, normally in conjunction with the approval of the Budget; and
        - All transfers exceeding a cumulative total of 10 per cent of the subprogramme to which or from which the transfers are to be made".

Summary of the parties' principal contentions

Receivability

19. The Respondent submits that the PoA's scope of review is limited to determining whether the Impugned Decision, i.e., the initial administrative decision adopted on 23 December 2024, was taken by the competent authority under the applicable regulatory framework, and whether it was tainted by a manifest error of law or fact, an abuse of discretion, or a violation of applicable general principles of international law that caused individual injury to the Applicant. Other issues raised in the Application fall outside the PoA's scope of review.
20. The Respondent further argues that the Impugned Decision is not an appealable administrative decision because it was an operational decision of general applicability that

did not directly affect the Applicant or result in any adverse consequences for [redacted]. On that basis, the Respondent submits that the Application is not receivable *ratione materiae*.

21. The Applicant objects to the fact that the Respondent is raising the issue of receivability for the first time in these proceedings before the PoA. In [redacted] view, the appeal is receivable in that the Impugned Decision directly affected [redacted] legal situation by placing [redacted] under the authority of those who lacked competence to evaluate [redacted] work. According to [redacted], this led to severe consequences that ultimately led to the unlawful termination of [redacted] appointment.

<u>Alleged inconsistency with OSCE's higher legal norms</u>

22. The Applicant claims that [redacted] issuance of the IOM was *ultra vires*, in that it transgressed the authority of superior normative documents, namely PC.DEC/1413 and [redacted] 2025 Letter of Appointment, both of which place [redacted] post in the Office of [redacted]. He contends that only the OSCE Permanent Council has the authority to alter that arrangement, and that the creation of [redacted] effectively usurped a decision-making power reserved to the Permanent Council.

23. The Respondent disputes this interpretation, maintaining that although the Unified Budget sets out broad budgetary and financial parameters, [redacted] may exercise their managerial authority under the SRSR in line with those parameters, including the right to assign duties to staff and determine their deployment within [redacted].

<u>Alleged breach of contractual terms</u>

24. Based on the fact that [redacted] letter of appointment explicitly stated the organizational unit ([redacted]) in which [redacted] would serve, the Applicant contends that the IOM's change of administrative supervision modified [redacted] contractual terms unilaterally and without [redacted] consent.

25. The Respondent maintains that the IOM did not infringe any contractual terms or alter the working conditions of the Applicant. The rearrangement was a minor administrative adjustment as permitted under Staff Instruction No. 24/Rev. 1. It merely adjusted the reporting structure, as to which staff have no contractual entitlement.

<u>Alleged conflict of interest in the issuance of the IOM by [redacted]</u>

26. Given that the IOM was confirmed 25 days after the Applicant had submitted two formal reports alleging institutional harassment, abuse of authority, and retaliation—including against [redacted] and [redacted]—the Applicant claims that issuance the IOM presented a flagrant conflict of interest.

27. The Respondent maintains that, as a matter of chronology and legal characterization, the IOM issued on 23 December 2024 pre-dated the Applicant's reports. The decision of 16 September 2025 did not constitute a new impugned decision; rather, it addressed the Applicant's Request for Review and examined whether there were grounds to overturn or modify the earlier administrative decision. The Applicant's reliance on the timing of that review decision does not establish a conflict of interest in relation to the original administrative decision under challenge.

Findings and Conclusions of the Panel

Receivability

28. In addressing the threshold issue of receivability, the Panel notes the principle recognized by administrative tribunals, including the United Nations Appeals Tribunal (UNAT), that staff may only challenge a decision of general applicability in the context of its implementation in their individual case. This issue was considered in *Imran Ahmad Shah*, Judgment No. 2023-UNAT-1351, paragraphs 39-41, involving a challenge to an Inter-Office Memorandum that had brought about changes in the appellant's reporting lines.[1]

29. The UNAT's analysis of receivability is particularly relevant in the present case. The Tribunal found that the Inter-Office Memorandum was not an appealable administrative decision because it had no direct impact on staff members and caused no adverse consequences. The Tribunal emphasized that staff members have no entitlement to a particular supervisor or reporting structure and reaffirmed its consistent position that the administration has broad discretion to reorganize its operations and departments to respond to changing needs and circumstances.

30. The Panel also notes that the distinction drawn by the UNAT between challenging a rule of general application and challenging an individual decision implementing that rule has been adopted by other administrative tribunals, including the International Labour Organization Administrative Tribunal (ILOAT), the World Bank Administrative Tribunal (WBAT), and the Asian Development Bank Administrative Tribunal (ADBAT). These tribunals have consistently held that a staff member may not challenge a general rule unless it has been applied to them directly and has affected them adversely.[2]

31. The Panel further notes the established jurisprudence that a valid cause of action is a necessary prerequisite for the receivability of an appeal.[3] Accordingly, in order to decide whether the appeal is receivable, the Panel has considered whether the IOM had a direct and adverse effect on the Applicant's rights. In this regard, it has examined [redacted] contentions that the IOM:

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[1] *See also Abu Ayyash*, Judgment No. 2015-UNAT-543, paragraphs 15-17; and *Lee*, 2014-UNAT-481, paragraphs 48-52, where the UNAT noted that it had "consistently held that the key characteristic of an administrative decision subject to judicial review is that the decision must 'produce[] direct legal consequences' affecting a staff member's terms and conditions of appointment; the administrative decision must 'have a direct impact on the terms of appointment or contract of employment of the individual staff member'. [citations omitted]

[2] *See, e.g.*, ILOAT Judgment 4898 (2024), consideration 2; *Briscoe*, WBAT Decision No. 118 (1992), paragraphs 30-31 (dismissal for lack of jurisdiction insofar as the application was in effect directed against a general rule regarding employment benefits, rather than an individualized application of that rule that directly affected the employment rights of a staff member in an adverse manner); *Perrin*, ADBAT Judgment No. 109 (2017), paragraphs 50, 55-56 (dismissing as irreceivable a challenge to changes in the education assistance policy, in the absence of evidence as to how the new rule had adversely affected each applicant).

[3] As the ILOAT has stated, "if a complainant does not allege a violation of rights which the Tribunal is called upon to protect under the terms of its statute, the Tribunal cannot adjudicate on the complaint. The Tribunal's case law connects this issue to the issue of receivability." ILOAT Judgment 4322 (2020), consideration 8 [citations omitted], *cited with approval* in ILOAT Judgment 5139 (2026), considerations 3-4.

- contravened higher legal norms;
- breached the Applicant's contractual rights; and
- reflected a conflict of interest.

Alleged inconsistency with higher legal norms

32. The Panel observes that the issuance of the IOM was not inconsistent with the broad financial and numerical parameters set in the 2021 Unified Budget, as it had no budgetary consequences and did not alter the number, title or grade of posts in [redacted]. Accordingly, the Panel does not consider that the IOM was *ultra vires*, as the internal adjustments it introduced in the organization of [redacted] within [redacted] did not overstep the authority of superior normative documents.

Alleged breach of contractual terms

33. In the Panel's view, the changes introduced by the IOM did not breach the Applicant's contractual terms of employment. The mention in the Applicant's letter of appointment of the organizational unit in which [redacted] post would be located did not create an enforceable contractual right to an unchanged reporting hierarchy. As reflected in international administrative jurisprudence, staff members do not have a right either to retain or change a particular reporting line (or supervisor); this remains a matter of managerial discretion.[4] Accordingly, the consolidation of administrative supervision of [redacted] in [redacted] and their revised reporting line within [redacted] did not violate the Applicant's contractual rights.

Alleged conflict of interest

34. The Panel notes that the IOM was initially issued on 23 December 2024, thus pre-dating the Applicant's submissions requesting internal review of the decision to terminate [redacted] and claiming harassment and abuse of authority against [redacted] by five OSCE officials, including [redacted] and [redacted]. Given these circumstances, the initial issuance of the IOM could not have been a response to, or influenced by, the Applicant's submissions in August 2025 as to give rise to an actual or apparent conflict of interest.

Conclusion

35. In sum, the Applicant has not demonstrated that the issuance of the IOM directly affected [redacted] in an adverse or prejudicial manner. In light of the well-established principle that a cause of action exists only if the challenged decision violates a right that the PoA is called upon to protect under its statutory mandate, the Panel concludes that the appeal is irreceivable.

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[4] E.g., *Rees v. Secretary-General of the United Nations*, Judgment No. 2012-UNAT-266, paragraph 76, *cited with approval* in *Imran Ahmad Shah*, Judgment No. 2023-UNAT-1351, paragraph 40.

Decision

36. The Application is dismissed, and the requested relief is denied.

Done in Vienna on 9 June 2026.

Thomas Laker Chairperson	Jenny Schokkenbroek Deputy Chairperson	on behalf of Joan Powers Member