

**DECISION OF THE PANEL OF ADJUDICATORS OF THE OSCE WITH
REGARD TO THE EXTERNAL APPEAL BY [REDACTED]
(Case No. OSCE PoA 3/2026)**

Proceedings

1. The Chairperson of the Panel of Adjudicators (PoA) of the Organization for Security and Co-operation in Europe (OSCE) received on 13 April 2026 a letter from the Chairperson of the Permanent Council of the OSCE transmitting an external appeal by [REDACTED] (Applicant) which the former had received on 1 April 2026.
2. The Chairperson of the Panel, through the Executive Secretary of the Panel, informed the Secretary General of the OSCE (Respondent) and the Applicant on 15 April 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 15 May 2026. The Respondent forwarded a response on 15 May 2026, and the Applicant was advised that [REDACTED] has a right to reply. [REDACTED] reply of 10 June 2026 was transmitted to the Respondent for information.
3. 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 on 5 and 6 August 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. Anna Csorba.

4. After examining all the documents submitted to it, the Panel noted that the Applicant appeals the decision dated 9 June 2025 by which [REDACTED] was informed by [REDACTED] that [REDACTED] formal complaint falls outside the scope of application of Staff Instruction 21/Rev.2 on Professional Working Environment (SI 21). This is the contested decision. The Applicant's appeal includes the following claims:

- a) The rescission of the contested decision;
- b) The remedy of all legal and factual consequences arising from the contested decision;
- c) To declare the 2nd Performance Review Document (PRD) invalid, direct the [REDACTED] to annul it without delay, and replace it with an objective assessment accurately reflecting [REDACTED] performance;
- d) To direct the [REDACTED] to cease and prevent any further reputational damage, including undue reference to the 2nd PRD;
- e) An apology for the personal and professional harm;
- f) Compensation for financial, moral and reputational damage in an amount no less than the equivalent of 12 month' Board and Lodging Allowance in [REDACTED].

Summary of facts

5. The Applicant held several positions within the OSCE since [REDACTED] ([REDACTED]). As of [REDACTED], [REDACTED] was employed as [REDACTED]. The Applicant separated from service on [REDACTED] due to the expiration of [REDACTED] contract upon reaching the maximum period of service of seven years in the same mission (cf. SRSR paragraph 3.08 (f)).
6. On 21 January 2025, the Applicant met with [REDACTED] first level supervisor, the alleged offender, to discuss [REDACTED] performance as part of the end of year review for 2024.

7. On 2 February 2025, the Applicant received an automatic conformation from the OSCE talent management system (TMS) that [REDACTED] performance document 2024 End of Year Review, was ready for review.
8. On 24 February 2025, Applicant's first level supervisor invited [REDACTED] for a second performance discussion with respect to [REDACTED] performance in 2024.
9. On 26 February 2025, the Applicant refused to participate in a second discussion. [REDACTED] took the position that the meeting on 21 January 2025 was "conclusive and nothing was left pending", and that "[a]ny unilateral change to what we had already agreed is unwelcome and -eventually- would constitute abuse of authority". The invitation for a second discussion was repeated several times. These invitations were declined by the Applicant.
10. On 14 March 2025, the first level supervisor informed the Applicant about the intended content of the meeting (discussion of [REDACTED] performance shortcomings). [REDACTED] also informed [REDACTED] of [REDACTED] intention to submit [REDACTED] input into the TMS and offered the Applicant another opportunity for discussion. The Applicant did not accept this invitation. The first level supervisor finalized [REDACTED] input in the TMS without a second discussion with the Applicant. [REDACTED] input in the TMS reflects that, in [REDACTED] view, development efforts are needed in the Applicant's performance related to communication, collaboration and accountability. [REDACTED] rated the Applicant's overall performance as successful.
11. The Applicant did not use the opportunity to submit [REDACTED] disagreement, including justification, with the performance review as provided for in Staff Instruction for Performance Management in the OSCE Staff Instruction No. 15/2004 Rev.2 (SI 15), paragraph 16.1.
12. On 21 March 2025, the PRD, including the lines related to the suggested development areas, was approved in the TMS by the Applicant's second level supervisor.
13. On 18 April 2025, the Applicant submitted a formal complaint under SI 21, alleging harassment and abuse of authority, against [REDACTED] first level supervisor. [REDACTED] submitted a

similar complaint against [REDACTED] second level supervisor. The latter complaint is dealt with in Case No. OSCE PoA 4/2026.

14. On 30 April 2025, the Applicant's first level supervisor submitted [REDACTED] response to the complaint.
15. On 9 June 2025, the [REDACTED] informed the Applicant about [REDACTED] decision, taken in consultation with the Secretary General, that the Applicant's complaint falls outside the scope of application of SI 21, referring to SI 21 paragraph 9.14 (d).
16. On 24 June 2025, the Applicant expressed [REDACTED] intention to appeal the contested decision and requested for a waiver of the "jurisdiction" of the Internal Review Board (IRB).
17. On 10 July 2025, the Applicant submitted a request for internal review of the contested decision.
18. On 22 July 2025, the [REDACTED] informed the Applicant that [REDACTED] request for a waiver was rejected.
19. On 22 July 2026, the [REDACTED] informed the Applicant of the composition of the IRB.
20. On 24 July 2025, the Applicant confirmed to have no objections to the composition of the IRB.
21. On 9 October 2025, the [REDACTED] submitted [REDACTED] reply to the IRB.
22. On 5 December 2025, the IRB issued its report and recommended the contested decision to be upheld.
23. On 30 December 2025, the [REDACTED] informed the Applicant about [REDACTED] decision, taken in consultation with the Secretary General, to uphold the contested decision.
24. On 2 March 2026, the Applicant submitted the current application challenging the contested decision.

Contentions of the parties

25. The Applicant's main arguments are:

- Performance management procedural rules were violated by 1) reopening an already finalized PRD procedure and 2) including hearsay information as well as unsubstantiated allegations in the PRD;
- These violations of the procedural rules constitute harassment and abuse of authority as defined in SI 21;
- The administration failed to apply the reasonableness test;
- Due process rights were not respected.

26. The Respondents main arguments are:

- The applicable performance management procedures were followed with respect to the Applicant's end of year review;
- The determination on the allegations of harassment and abuse of authority were properly made;
- The contested decision was made in accordance with SI 21 and constitute a proper exercise of discretionary authority;
- The Applicant's remaining claims are unfounded and/or irrelevant to the scope of the present review.

Considerations

Applicability of SI 21

27. It is recalled that, pursuant to paragraph 3.3 of SI 21 "the mere expression of disagreement, admonishment, criticism or similar action regarding work performance, conduct, or any such related issues, within a supervisory relationship, where communicated appropriately, shall not normally be considered a violation of this Staff Instruction".

28. It follows that, as a preliminary question, the applicability of SI 21 needs to be confirmed. Where, based on paragraph 3.3, the applicability of SI 21 is excluded, there is no room for further inquiry of other elements like “harassment” or “abuse of authority”.
29. In the present case, the subject of the Applicant’s allegations of harassment and abuse of authority clearly and undisputedly, concerns the appreciation of the Applicant’s work performance. The Applicant does not argue that ■ first level supervisor communicated inappropriately. Also, the Panel does not find any indication of improper communication by ■ first level manager during the process of the performance review. Therefore, as prescribed by paragraph 3.3, the PRD as a tool of assessment of a staff member’s work performance, shall not “normally” be considered a violation of SI 21.
30. In the Panel’s view, the question whether performance related criticism is “normal”, or whether exceptional circumstances require the applicability of SI 21, must be decided on a case-by-case basis. Indeed, serious breaches of the PRD procedure, as included in SI 15, might be considered as such circumstances, thus requiring the application of SI 21.
31. The Applicant argues that the initiation by ■ first level manager of a second meeting to discuss ■ performance shortcomings, constitutes a violation of the applicable procedural rules for the performance review.
32. The Panel notes that a performance review is considered complete, for the purposes of SI 15, only on the date on which it is approved by the second level supervisor. (cf. SI 15 paragraph 5 under “Completion of the performance review”). Furthermore, in paragraph 11.3.11 it is explicitly referred to “Once the discussions have been concluded and the performance review is completed...” (emphasis added). Therefore, the Panel concludes that multiple performance discussions can be conducted as part of the performance evaluation, and, consequently, the initiation of a second meeting to discuss the Applicant’s performance, was not a violation of the applicable procedural rules for the performance review.

33. The Panel concludes that in the case at hand the procedure was in compliance with the applicable rules. Therefore, in the absence of any exceptional circumstances, the Panel finds that the conclusion within the contested decision, that the complaint falls outside the scope of SI 21, is without error.

Conclusion

The Appeal is rejected in its entirety.

Done in Vienna on 6 August 2026


Thomas Laker
Chairperson


Jenny Schokkenbroek
Deputy-Chairperson


Anna Csorba
Member