

**DECISION OF THE PANEL OF ADJUDICATORS OF THE OSCE WITH  
REGARD TO THE EXTERNAL APPEALS BY [REDACTED]**

(Case Nos: OSCE PoA 2/2025 and OSCE PoA 3/2025)

*Proceedings*

*OSCE PoA 2/2025*

1. The Chairperson of the Panel of Adjudicators (PoA) of the Organization for Security and Co-operation in Europe (OSCE) received on 30 January 2025 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 17 January 2025.
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 3 February 2025 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 5 March 2025. The Respondent forwarded a response on 4 March 2025, and the Applicant was advised that [REDACTED] has a right to reply. [REDACTED] reply of 20 March 2025 was transmitted to the Respondent for information.
3. After examining all the documents submitted to it, the Panel noted that the Applicant contests the decision to terminate [REDACTED] assignment due to unsatisfactory performance during [REDACTED] probationary period and requests material and moral damages “to one year of wages”.

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4. In addition to the appeal described above, the Chairperson of the Panel received on 24 March 2025 a letter from the Chairperson of the Permanent Council of the OSCE transmitting a further external appeal by the Applicant which the former had received on 13 March 2025.

5. The Chairperson of the Panel, through the Executive Secretary of the Panel, informed the Respondent and the Applicant on 24 March 2025 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 24 April 2025. The Respondent forwarded a response on 17 April 2025, and the Applicant was advised that ■ has a right to reply. ■ reply of 12 May 2025 was transmitted to the Respondent for information.
6. After examining all the documents submitted to it, the Panel noted that, with this appeal, the Applicant contests the decision of 31 July 2024 not to open an investigation against ■ former supervisor on grounds of harassment. ■ requests that disciplinary measures be taken against the latter.

#### *Deliberations*

7. 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 23 to 25 July 2025 at the Hofburg premises at Vienna to examine the appeals jointly. The Panel was composed of its Chairperson, Mr. Thomas Laker, its Deputy Chairperson, Ms. Jenny Schokkenbroek, and its member, Ms. Catherine Quidenus.

#### *Summary of facts*

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8. The Applicant is a former ■ and began ■ assignment as ■, with a probationary period until ■.
9. On 12 March 2023, the Applicant and ■ supervisor discussed and agreed on ■ individual objectives.

10. On 11 July 2023, a performance discussion between the Applicant and [REDACTED] supervisor was held, summarized in an email of the same day, reading, *inter alia*, “please prioritize contributing to reporting, taking point and speech-writing, activity planning and implementation, and advocacy initiatives... please ensure you discuss ideas with colleagues and the [REDACTED] signs off on documents before they are shared further.”
11. On 1 August 2023, during another performance discussion, the Applicant’s supervisor informed [REDACTED] about the intention to recommend an extension of the probationary period for another three months. The next day, the Applicant wrote an email, appreciating the “honest assessment”, while also emphasizing that [REDACTED] was “still not sure what exactly the expectations are according to which my probation will be judged ... and in order to communicate them clearly and precisely, can we ... put them in a written form?”
12. On 7 August 2023, the Applicant received an answer, listing four different points and six concrete tasks which were considered to be “important and more attention should be put on them”.
13. On 8 August 2023, [REDACTED] informed the administration that the Applicant faced serious medical issues, including potential hospitalization. On 5 September 2023, [REDACTED], confirming the Applicant’s medical issues, recommended to “suspend activities related to [REDACTED] performance improvement process until the end of November”.
14. On 7 September 2023, the Applicant was informed that [REDACTED] probationary period had been extended for three months until 26 November 2023. However, due to [REDACTED] medical condition, this extension was suspended “until such time when it is possible to assess [REDACTED] performance”. In addition, the Applicant was informed that a Performance Improvement Plan (PIP) would be drafted. Further, it was clarified that “an evaluation ‘not successful’ at the end of the PIP is considered unsatisfactory performance and serves as a basis for termination of assignment with [REDACTED]”.
15. On 14 September 2023, the Applicant discussed the contents of the PIP with [REDACTED] supervisors and confirmed by email of 18 September 2023 that [REDACTED] was “glad that we

were able to get all of the subjects out and into the open for discussion so that we can develop a plan and I can clarify and perform the duties which are expected of me.”

16. On 19 September 2023, the Applicant was reminded to complete the review document regarding the initial probationary period. Following the necessary steps, on 10 October 2023, the Applicant submitted [REDACTED] final feedback.
17. Upon resumption of the probationary period, three meetings with the Applicant and [REDACTED] supervisors took place. On 22 February 2024, pursuant to the written PIP appraisal, it was assessed that the Applicant had not reached any of the three agreed objectives according to the plan; the overall assessment was “unsatisfactory performance”.
18. Accordingly, and following consultation with [REDACTED], on 28 February 2024, the Applicant was notified of the decision to terminate [REDACTED] assignment. This is the impugned decision which is dealt with under the present case number.
19. On 28 March 2024, the Applicant submitted a request for internal review.
20. On 25 April 2024, an Internal Review Board (IRB) was established. Following the Applicant’s respective objections in part, one IRB member was replaced.
21. On 26 September 2024, the IRB submitted its report, recommending to uphold the impugned decision. On 26 October 2024, the [REDACTED] accepted this recommendation.
22. On 23 December 2024, the Applicant filed the present application.

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23. On 28 March 2024, the Applicant submitted a complaint, based on Staff Instruction 21/Rev.2 on the Professional Working Environment OSCE (SI 21), alleging harassment on part of [REDACTED] supervisor (alleged offender) as the underlying motive for terminating [REDACTED] assignment.

24. On 31 July 2024, following receipt of the alleged offender's comments, the Applicant was informed that, in the [REDACTED] view, [REDACTED] complaint fell outside the scope of SI 21, since they were based on work-related disagreements and challenges and as such fell under SI 15. This is the impugned decision to be dealt with under the above case number.

25. On 27 August 2024, the Applicant submitted a request for internal review.

26. On 15 September 2024, an IRB was established which, after the replacement of one of its members, submitted its report on 18 November 2024, recommending that the impugned decision be upheld.

27. On 18 December 2024, [REDACTED] confirmed the said recommendation and rejected the Applicant's request.

28. On 11 February 2025, the Applicant filed the present request for external review.

#### *Contentions of the parties*

29. The Applicant's major arguments are:

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- Performance management procedures were violated;
- [REDACTED] supervisors acted constantly in bad faith, providing conflicting information regarding expectations and creating unclear criteria with impossible objectives;
- The IRB process was flawed, and [REDACTED] failed to scrutinize the IRB's findings.

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- Following the decision to terminate the Applicant, the bias and malfeasance ■ was subject to, and the humiliation ■ experienced as a result, ■ was harassed within the meaning of the OSCE's internal law.

30. The Respondent's major arguments are:

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- The applicable performance management rules were applied;
- There is no evidence that the Applicant's supervisors acted in bad faith;
- The IRB followed the applicable rules.

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- The impugned decision was taken in accordance with SI 21;
- The PoA is not entitled to order disciplinary measures.

*Considerations*

*Joinder of cases*

31. At the outset, the Panel takes note that the Applicant's requests are closely related as they both deal with the end of ■ assignment, contesting the termination as such and alleging harassment. Therefore, the Panel finds it appropriate to take a joint decision.

32. Further, the Panel notes that paragraph 11 of SI 21 allows for a procedural combination of appeals against administrative decisions on the one hand, and of complaints about violations of the professional working environment on the other hand, when, *inter alia*, a staff member has been notified of an administrative decision that he/she alleges derives from harassment or retaliation. The Panel takes note that such approach was intended in the present case, however, the Applicant, by email of 5 April 2024, insisted on a “separate investigation”. Therefore, the Panel will address both issues separately.

*The harassment claim (PoA 3/2025)*

33. It is recalled that, pursuant to paragraph 3.3 of SI 21, the “mere expression of disagreement, ...criticism or similar action regarding work performance ... within a supervisory relationship, where communicated appropriately, shall not normally be considered a violation of this Staff Instruction” and shall be dealt with under SI 15.

34. In the present case, the Panel finds that the Applicant’s performance appraisals, including the PIP, as well as the resulting termination of [REDACTED] assignment, clearly fall under the category of such “criticism or similar action” regarding the Applicant’s work performance. Also, there are no indications that these performance related measures were communicated inappropriately nor that exceptional circumstances ask for a different legal assessment.

35. It follows from the above that the Applicant’s complaint about harassment fall outside the scope of SI 21, as correctly determined by [REDACTED] in the impugned decision, in accordance with paragraph 9.14 (d) of SI 21. However, the Applicant’s respective concerns will not remain unconsidered. Rather, they will be addressed by the Panel in the context of the termination decision.

36. Having said this, and as a mere matter of clarification, it is reiterated that the Panel has no competence to initiate disciplinary proceedings, let alone to order disciplinary measures.

*The termination decision (PoA 2/2025)*

*Legal background*

37. The Panel recalls that the contested decision concerns the termination of the Applicant's assignment at the end of ■ probationary period. Pursuant to the established jurisprudence of the Panel, probation has as its purpose the determination whether the recruited staff member satisfies the conditions required for confirmation, including not only technical skills but also personal attributes. For the employee, probation is important to figure out whether the new position satisfies his or her own needs as well. If expectations are not met, the cancellation of contractual relations is in the interest of both parties (see decisions of 5 December 2023, OSCE PoA 1/2023, para. 37; and of 27 May 2025, OSCE PoA 1/2025, para. 31).
38. It is established within international civil service law that, in general, appointment decisions are within the discretionary power of the organization. This principle applies *a fortiori* with respect to confirmation at the end of a probationary period.
39. These circumstances are reflected in the OSCE's internal law insofar as the respective Staff Instruction on "Performance Management in the OSCE" (No. 15/2004 Rev.2 – SI 15) contains a specific set of rules on probation under its paragraph 10 which, therefore, are to be considered as *lex specialis* with respect to the other parts of SI 15.
40. As mentioned above, confirmation or termination are discretionary decisions to be taken by the employing organization at the end of the probationary period. While discretion is not unfettered, pursuant to established principles of international civil service law, judicial review of respective decisions is limited to whether the decision was in line with the organization's relevant rules, was based on an error of fact or law, including an overlook of essential facts, or a clearly mistaken conclusion was drawn from the facts. Also, it is not for a judicial body to replace an organization's assessment by its own views.



41. Pursuant to paragraph 10.4 of SI 15, if the performance is evaluated as “needs improvement” after a probationary period, the probationary period may either be extended, or the assignment may be terminated. In the present case, it was decided to extend the probationary period.

*The probationary period and its extension*

42. The Panel takes note of the Applicant’s complaints about “the glaring flaws, corrupt spirit, bad faith and procedural violations of the entire process from beginning to end”, alleging “the corrupt and toxic management style at the heart of [REDACTED] Appeal”.
43. Firstly, the Panel does not find any relevant procedural violations.
44. Regarding the process of evaluating the Applicant’s performance during [REDACTED] initial probationary period, it follows from the record that all necessary steps were taken, starting with the timely establishment of objectives on 12 March 2023. The Applicant’s concern that [REDACTED] was not made aware of the meaning and/or importance of the meetings held on 11 July and 1 August 2023 is contradicted by messages sent to [REDACTED] on 9 July 2023 and on 11 July 2023 which explicitly refer to a “performance discussion” and [REDACTED] “probationary period”.
45. Further, given the specific circumstances of the case, the Applicant was made aware of the extension of the probationary period within an acceptable timeframe. Pursuant to paragraph 10.7 of SI 15, this decision must normally be communicated to the concerned staff/mission member “in writing no later than one week prior to the expiry of the probationary period”. It is undisputed that such intention was communicated orally well within this deadline, i.e. on 1 August 2023. In [REDACTED] email of 2 August 2023, the Applicant [REDACTED] asks “why the probation period extension is needed”. The intention to extend the probationary period was explained in writing by email of 7 August 2023.
46. Given the information of 8 August 2023 regarding the Applicant’s serious medical issues, it was appropriate to suspend the proceedings until further clarification. Once the administration received further medical information on 5 September 2023, the

decision to extend the probationary period was notified in writing to the Applicant in due course, i.e. on 7 September 2023.

47. Finally, the PIP process was initiated and conducted in line with the respective provisions of SI 15. The Applicant's respective objections relate to the appraisal of [REDACTED] performance and will be addressed below.

*The Applicant's performance assessment*

48. The Panel is aware of the Applicant's impression that [REDACTED] efforts to fulfil [REDACTED] professional obligations were undermined by [REDACTED] supervisors, and that [REDACTED] did not receive sufficient support from them.
49. However, as the Panel has already held, pursuant to established jurisprudence of international administrative tribunals, performance standards generally fall within the prerogative of the administration unless the standards are manifestly unfair or irrational. It is not the role of judicial/external review to (re)consider the assessment made by the competent supervisors, nor to substitute it for its own decision. Rather, the role of such review is limited to determining whether the proper procedures have been applied (see decision of 5 December 2023, PoA 1/2023, para. 39, referring to jurisprudence of the United Nations Appeals Tribunal).
50. In this respect, the Panel notes that the performance appraisals, both at the end of the regular probation period as well as at the end of the PIP, describe extensively and in detail the Applicant's shortcomings in the view of [REDACTED] supervisors. Even the Applicant, in [REDACTED] 'Final Feedback to Probationary Period End Review', in [REDACTED] own words "agree[s] with much of the criticism in this review", although, on the other hand, in the same comment [REDACTED] writes that "90% of the comments and criticism in this review are completely arbitrary and intended only to justify the decision to extend [REDACTED] probation". The file does not support any such allegations. As explained above, the Panel has no mandate to enter into a substantial discussion on the Applicant's performance.

*The harassment claim*

51. Pursuant to the Applicant, [REDACTED] “case is based on the humiliation [REDACTED] encountered as a result of the prejudiced management process and malfeasance of [REDACTED] supervisors”.
52. Pursuant to paragraph 6.6 of SI 21, while considering the perspective of a complainant is an essential part of the assessment, such assessment is not purely subjective. Rather, a “reasonable test [is applied], and whether behaviour constitutes a violation ... shall be based on an assessment of the facts and circumstances in which they occur ...”
53. Considering the facts and circumstances of this case, the Panel is aware of the negative impact the experience with [REDACTED] assignment might have had on the Applicant. However, the record does not show sufficient evidence for the serious allegations of biased, unfair and corrupt behaviour on [REDACTED] supervisors’ side. The Applicant’s assessment of this behaviour is not supported by any clear facts or witness statements. Thus, the Panel finds them to be unsubstantiated.
54. Pursuant to paragraph 10.4 (i) of SI 15, the assignment shall be terminated, if the staff member’s performance has not improved by the end of the extended probationary period. It follows from the above that the impugned decision was legal.
55. Finally, the [REDACTED] decision to reject the Applicant’s request for internal review fulfilled the requirements of Article VIII, paragraph 2 of the Internal Appeals Procedure (Appendix 12 to the SRSR). Obviously, it takes into account the recommendations made by the IRB. Also, the decision is sufficiently substantiated and provides the reasons on which it is based.

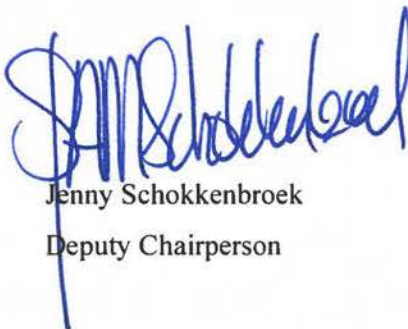
*Conclusion*

The requests are rejected in their entirety.

Done in Vienna on 25 July 2025



Thomas Laker  
Chairperson



Jenny Schokkenbroek  
Deputy Chairperson



Catherine Quidenus  
Member