



Geneva, 22 February 2011

SERVICE ORDER NO. 11/04

ITU POLICY FOR THE PROTECTION OF STAFF AGAINST RETALIATION FOR REPORTING MISCONDUCT

This Service Order promulgates ITU policy and procedures for protecting staff against retaliation for reporting misconduct (whistle-blowing).

ITU Council (2009)¹ adopted the Basic Elements for an ITU policy on the protection of staff against retaliation for reporting misconduct. It will ensure that ITU functions in an open, transparent and fair manner.

The Ethics Officer has been instructed to provide confidential guidance and advice to ITU personnel and to conduct confidential reviews of claims of retaliation for reporting misconduct. These activities will be strengthened by an outreach and training programme in cooperation with the Human Resources Management Department. However, when performing his/her duties, the Ethics Officer will be independent of any official, Bureau, department or other organizational entity of ITU and will report directly to the Secretary-General.

Dr. Hamadoun I. Touré
Secretary-General

General distribution

¹ Recommendation in § 16.5 of the Report by the Chairman of the Standing Committee on Administration and Management (Document C09/104), as amended at the 10th and Final Plenary Meeting (Document C09/121), page 4.

ITU Policy for the Protection of Staff against retaliation for reporting misconduct

Section 1 Definitions

The following definitions shall apply for the purposes of the present policy:

a) Misconduct: means any failure by a staff member to comply with his or her obligations under the Constitution and Convention, Staff Regulations and Staff Rules, Financial Regulations and Rules, and other relevant administrative issuances, or to observe the standards of conduct expected of an international civil servant. It includes any request or instruction from any staff member to violate the above-mentioned Basic Instruments, regulations, rules or standards. Such a failure could be deliberate (intentional act), or result from an extreme or aggravated failure to exercise the standard of care that a reasonable person would have exercised with respect to a reasonably foreseeable risk (gross negligence) or from a complete disregard of a risk which is likely to cause harm (recklessness). Misconduct may include, but is not limited to, fraud, corruption, bribery, breach of integrity, abuse of authority, or waste or abuse of ITU's resources.

b) Retaliation: means any direct or indirect detrimental action recommended, threatened or taken against a staff member because that staff member has engaged in an activity protected by the present policy, or has cooperated with a duly authorized official, audit or investigation. Retaliation is itself misconduct.

Section 2 Duty to report and protection

- 2.1 A staff member, who has information or evidence to support a reasonable belief that misconduct (as defined in section 1 above) has occurred, has a duty to report it to the official responsible for taking appropriate action, including to the Secretary-General, as appropriate.
- 2.2 It is the duty of staff members to fully cooperate with duly authorized audits or investigations. A staff member who, in good faith, reports misconduct or cooperates in an audit or investigation or with a duly authorized official, has the right to be protected against retaliation.
- 2.3 Protection of the identity of a staff member who reports misconduct or who cooperates with a duly authorized official, audit or investigation, will be maintained to the extent possible within the legitimate needs of the ITU's Regulations and Rules and the investigation. Should such a staff member himself or herself disclose his or her identity, ITU will not be obliged to maintain confidentiality.
- 2.4 Retaliation against individuals, who have reported misconduct or who have cooperated with audits or investigations, violates the fundamental obligation of all staff members to uphold the highest standards of efficiency, competence and integrity, and to discharge their functions, and regulate their conduct, with the best interests of ITU in view.

- 2.5 Retaliation against a staff member constitutes misconduct which, if established, will lead to disciplinary action and/or any other appropriate administrative measures.

Section 3

Scope of application

- 3.1 Protection against retaliation applies to any staff member (regardless of the type of appointment or its duration), including related personnel, who:
- (a) Reports misconduct as defined in Section 1a above; or
 - (b) Cooperates in good faith with a duly authorized audit or investigation.
- 3.2 Making a report or providing information that is intentionally false or misleading constitutes misconduct.
- 3.3 A staff member who brings frivolous or baseless charges and who transmits and disseminates unsubstantiated rumours detrimental to ITU or a staff member may be subject to disciplinary measures or other appropriate action.
- 3.4 A staff member who brings malicious charges shall be subject to disciplinary measures, including action under ITU Staff Rule 10.1.2a (7).
- 3.5 The present policy is without prejudice to the legitimate application of regulations, rules and administrative issuances, including those governing evaluation of performance, non-extension or termination of appointment. However, the burden of proof shall rest with the Administration, which must prove by clear and convincing evidence that it would have taken the same action without the protected activity referred to in Section 2 above.

Section 4

Reporting retaliation to the Ethics Officer

- 4.1 Individuals who believe that retaliatory action has been taken against them because they have reported misconduct or cooperated with a duly authorized audit or investigation should submit all information and documentation available to them to support their complaint to the Ethics Officer as soon as possible and not later than six months after the staff member becomes aware of the retaliation. Complaints may be made in person, by regular mail or by e-mail, by fax or through the Ethics Office helpline.
- 4.2 The functions of the Ethics Officer with respect to protection against retaliation for reporting misconduct or cooperating with a duly authorized audit or investigation are as follows:
- (a) To receive complaints of retaliation or threats of retaliation;
 - (b) To keep a confidential record of all complaints received;

- (c) To conduct a preliminary review of the complaint to determine if (i) the complainant engaged in a protected activity; and (ii) there is a prima facie case that the protected activity was a contributing factor in causing the alleged retaliation or threat of retaliation.
- 4.3 The Ethics Officer will seek to complete the preliminary review within 45 days of receiving the complaint of retaliation.
- 4.4 All staff members shall cooperate with the Ethics Officer and provide access to all records, documents and data requested by the Ethics Officer, except for medical records that are not available without the express consent of the staff member concerned and other records that are subject to confidentiality requirements.
- 4.5 If the Ethics Officer finds that there is a credible case of retaliation or threat of retaliation, the matter will be referred for investigation in writing to the Secretary-General, who will appoint an investigator. The Ethics Officer will immediately notify in writing the complainant that the matter has been so referred. The investigator will seek to complete the investigation and submit a report to the Ethics Officer within 120 days after the date of his/her appointment.
- 4.6 Pending the completion of the investigation, the Ethics Officer may recommend that the Secretary-General take appropriate measures to safeguard the interests of the complainant, including but not limited to temporary suspension of the implementation of the action reported as retaliatory and, with the consent of the complainant, temporary reassignment of the complainant within or outside the complainant's department or unit, or placement of the complainant on special leave with full pay.
- 4.7 Once the Ethics Officer has received the investigation report, recommendations on the case will be submitted to the Director of the Bureau or, in the case of the General Secretariat, to the head of department concerned, and to the Secretary-General. These recommendations may include disciplinary actions to be taken against the retaliator.
- 4.8 If the Ethics Officer finds that there is no credible case of retaliation but finds that there is an interpersonal problem within a particular department or unit, it will advise the complainant of the existence of other mechanisms of conflict resolution in ITU.
- 4.9 If the Ethics Officer finds that there is no credible case of retaliation but there is a managerial problem relating to a particular Bureau or department, it will advise the Director of the Bureau or, in the case of the General Secretariat, the head of department concerned, and the Secretary-General.
- 4.10 Where, in the opinion of the Ethics Officer, there may be a conflict of interest with the investigator conducting the investigation as referred to in Section 4.5 above, the Ethics Officer may recommend to the Secretary-General that the complaint be referred to an alternative investigator.

Section 5

Protection of the person who suffered retaliation

- 5.1 If retaliation against an individual is established, the Ethics Officer may, after taking into account any recommendations made by the investigator and after consultation with the individual who has suffered retaliation, recommend to the Director of the Bureau or, in the case of the General Secretariat, to the head of department concerned, appropriate measures to correct the negative consequences of the retaliatory action. Such measures may include, but are not limited to, the rescission of the retaliatory decision, including reinstatement, or, if requested by the individual, transfer to another department, unit or function for which the individual is qualified.
- 5.2 Should the Ethics Officer not be satisfied with the response from the Director or, in the case of the General Secretariat, from the head of department concerned, a recommendation will be made to the Secretary-General. The Secretary-General will provide a written response on the recommendations of the Ethics Officer and the Director concerned or, in the case of the General Secretariat, the head of department concerned, within a reasonable period of time.
- 5.3 The procedures set out in the present policy are without prejudice to the rights of a staff member who has suffered retaliation to seek redress through the internal recourse mechanisms. A staff member may raise a violation of the present policy in any such internal recourse proceeding.

Section 6

Action against the person who engaged in retaliation

Retaliation against an individual because that person has reported misconduct on the part of one or more ITU officials or cooperated with a duly authorized audit or investigation of ITU constitutes misconduct which, if established, will lead to disciplinary action and/or transfer to other functions in the same or a different department or unit.

Section 7

Prohibition of retaliation against outside parties

Any retaliatory measures by ITU staff members against a contractor or its employees, agents or representatives or any other party engaged in dealings with the ITU because such person or entity has reported misconduct will be considered misconduct which, if established, will lead to disciplinary measures or other appropriate action.

Section 8

Entry into force

The present policy shall enter into force on the date of promulgation of the present Service Order. It shall not apply retroactively. It will apply to any retaliation that a staff member becomes aware of from the date of promulgation of the present Service Order.
