



Geneva, 2 May 2019

SERVICE ORDER NO. 19/10

ITU INVESTIGATION GUIDELINES

This Service Order is to promulgate the ITU Investigation Guidelines (“the Guidelines”) for internal administrative investigations. The purpose of the Guidelines is to guide the process of administrative investigations to ensure that investigation activities are conducted thoroughly, objectively, effectively and in respect of the principle of due process, in accordance with professional standards and international practice.

During the course of any investigation process, it is important to be mindful of both the rights as well as the obligations of all investigation participants. Furthermore, it is critical that those conducting investigations maintain objectivity, impartiality, and fairness throughout the investigation process and conduct their activities competently and with the highest levels of integrity.

The Guidelines reflect the general principles and methodologic approach which the investigative body follows, and are consistent with generally accepted investigation standards for international organizations as laid down in the “Uniform Principles and Guidelines for Investigations,” adopted by the 10th Conference of International Investigators.¹

The procedures described here are a guide to best practices and the process to be followed. To ensure consistency in the investigation of cases, investigations are to be conducted in accordance with the guidelines to the greatest extent possible. However, the circumstances of a particular investigation may require flexible application of the guidelines, and such deviations do not, in or of themselves, constitute a breach of due process.

ITU personnel, at all levels, shall give the investigative body their full cooperation, as appropriate.

Houlin ZHAO
Secretary-General

¹ As endorsed by the 10th Conference of International Investigators (June 2009). Issuance of the Guidelines is also further to an informal recommendation made by the Joint Inspection Unit in its report *Review of management and administration in the International Telecommunication Union (ITU)* (JIU/REP/2016/1).

ITU INVESTIGATION GUIDELINES

I. Primary Objectives of the Investigative Process

1. With respect to ITU personnel², the primary objective of the investigative process is to conduct a formal fact-finding inquiry to examine allegations of or information concerning misconduct or other wrongdoing involving ITU personnel in order to determine whether they have occurred and if so, the person or persons responsible.
2. With respect to vendors³, the primary objective of the investigative process is to establish the facts relevant to an allegation in order to enable the Union to take necessary actions, including termination of the contract.
3. With respect to both ITU Personnel and vendors, the investigative process also gathers evidence relevant to a decision on whether referral of cases to national law enforcement authorities for investigation and prosecution is appropriate.
4. Investigations are not disciplinary proceedings. They are facts finding activities that are administrative in nature.

II. Types of allegations investigated

5. Allegations of fraud, corruption and other proscribed practices should be reported in accordance with the provisions of the ITU Policy Against Fraudulent and Other Proscribed Practices. Depending on the type of allegation and the supporting information provided, the Ethics Office will perform a preliminary review.⁴ The purpose of the preliminary review by the Ethics Office will be to determine whether there are credible allegations of a proscribed practice under the ITU Policy Against Fraudulent and Other Proscribed Practices.
6. In accordance with its approved Charter, ITU Internal Audit (IAU) shall investigate allegations, or presumptions, of fraud or mismanagement.⁵ These concern the allegations of fraud, corruption or other proscribed practices as per the ITU Policy Against Fraudulent and Other Proscribed Practices, except for misconduct covered by the ITU Policy on Harassment and Abuse of Authority⁶. For investigations under the ITU Policy for the Protection of Staff Against Retaliation for Reporting Misconduct (Service Order 11/04), consistent with Sec. 4.5 thereof, the Secretary-General shall appoint the investigative body.
7. Where allegations are raised involving potential misconduct by Secretary-General, the matter will be referred by the Chairman of the Independent Management Advisory Committee (IMAC) to the Chair of Council for decision on how to proceed.

III. Confidentiality

8. To protect the rights of all individuals involved in the investigative process, the investigative body carries out all investigations in a confidential manner. The identity of a complainant and/or whistleblower who submits a complaint in good faith (to any of the identified reporting channels) is not made public, nor is the identity of any witness who provides information to the investigative body. The confidentiality of a complainant's, whistleblower's or witness' identity or information is always contingent upon his/her good faith and truthfulness throughout the investigative process, and may be revoked or limited in absence of truthfulness.

² Including but not limited to: ITU appointed staff (including staff members holding a short-term contract as well as those on secondment) and related personnel such as interns, JPOs and individuals who are working under a Special Service Agreement (SSA) with ITU.

³ Vendors includes partners, suppliers, contractors and other parties in a commercial relationship with ITU.

⁴ If the allegations involve a complaint under the ITU Policy on Harassment and Abuse of Authority (Service Order 19/08), with the consent of the complainant, the Ethics Office will refer the matter to the Secretary-General for review and consideration under the provisions of that policy.

⁵ S.O. 13/09, § 9 and Section G

⁶ S.O. 19/08

9. The investigative body includes the identity of witnesses in its confidential investigation reports and will attach records of related witness interviews when these are relevant to the conclusions in the reports. The investigation reports are confidential documents and the investigative body shall share them only with the delegated authority competent to authorize any further administrative action on the basis of such reports. This is however, without prejudice to any decision taken by the delegated authority to share the report as part of an administrative proceeding, or as a result of a decision by the Governing Bodies of the Organization, or on other exceptional basis aimed at ensuring the effective administration of justice. The investigative body keeps a copy of the final report of investigative findings in its confidential files.
10. Likewise, ITU personnel who are involved in the investigative process must not disclose to anyone outside investigative body any information that becomes known to them as a result of the investigative process without prior authorization from the investigative body, unless such information has become public through other sources.
11. Unauthorized disclosures of the identity of a complainant, a subject of the investigation or a witness, any other investigative information, or any other information that current or former ITU personnel may have obtained relating to the investigation process constitutes a breach of confidentiality and may result in administrative action, including a disciplinary action pursuant to the relevant provisions of the ITU Staff Regulation and Staff Rules
12. Information contained in or retrieved from ITU computing resources (ICT) is governed by the relevant sections of Service Order 09/07 on *Use of ITU Computing Resources*.

IV. Investigation Standards

13. Investigations shall be conducted in accordance with the General Principles set out in the “Uniform Principles and Guidelines for Investigations,” as endorsed by the 10th Conference of International Investigators.

V. Standard of Proof

14. The standard of proof used to determine whether a complaint is substantiated is preponderance of evidence.

VI. Rights and Obligations of Subjects and Other Investigation Participants

a) Rights

15. During an investigation, all investigation participants have a right to:
 - With respect to the person under investigation, a presumption of innocence throughout the investigation;
 - A professional, impartial and thorough investigation; and
 - Due care in the handling and sharing of confidential information during the conduct of the investigation.
16. All persons interviewed will:
 - Be advised of the ITU Policy on Protection Against Retaliation for Reporting Misconduct;
 - Have the interview(s) scheduled at a reasonable place and time and be provided with the details of the individual(s) conducting the investigation interview;
 - Be treated with fairness and given an explanation of the investigation process;

- Have the assistance of an interpreter during an interview, if required, within one of the official languages of ITU⁷.
17. To the extent possible, interviews shall be conducted by a minimum of two persons.
 18. An individual who has been made the subject of an investigation is entitled to:
 - Be advised in writing of the nature of the allegations and his or her role in the investigation no later than at the time of interview;
 - Be given the opportunity to explain his or her actions and to provide any documents or information that may be relevant to the factual determination of the matter, along with the names and details of any witnesses who may have relevant information; and
 - Be given an overview of the Organization's legal or regulatory provision believed to have been breached.
 19. An individual who has been made the subject of an investigation is also entitled to:
 - Be interviewed in the course of the investigation.
 - Be accompanied to the interview by a suitable third party, who will act as an observer, provided the third party undertakes to respect the confidentiality of the investigation, is reasonably available, and is not connected to the matter under investigation whilst bearing in mind that the presence of an observer shall not relieve the subject of the obligation to respond personally on the matter under investigation;
 - Choose to also provide a signed statement containing any clarification of her/his statements during the interview(s) without changing the content as recorded in the interview minutes;
 - Be provided with a copy of the relevant part of the draft investigation report, redacted –to the extent possible and practicable- to protect witnesses and individuals reporting potential misconduct.
 - Be given the opportunity to provide comments on the factual findings and conclusions of the report along with any countervailing evidence within a reasonable time (normally between ten and thirty working days, depending on the seriousness and complexity of the matter).
 20. An individual who has been made the subject of an investigation has the right to be informed in writing of his/her status and to know the nature of the allegation(s). This notification will take place at the earliest possible time. Situations may prevent advance notification of the subject prior to her/ his interview. Such situations include, but are not limited to, the following: (a) the evidence (documentary, electronic, physical, or witness statements) related to the allegation(s) has not been secured (i.e. preserved, collected and recorded) and might be tampered with; or (b) other safety or security issues exist that would threaten the investigation (e.g. retaliation against the complainant, informant or witness, flight of the subject). Once these issues are adequately addressed and evidence is seized and fully secured, the individual must be notified in writing that she/he is the subject of an on-going investigation. The notification will take place no later than at the beginning of his or her interview as the subject of the investigation.
 21. If during the course of the investigation new facts giving rise to allegations of wrongdoing on the part of an investigation participant are discovered, the investigation participant will be notified, as soon as practicable, that she/he has become a subject of the investigation.
 22. In the event that in the course of the investigation additional allegations are raised against the investigation subject, the investigators will inform the subject of these new allegations.

⁷ In cases of investigation with respect to vendors, the situation may require interpretation from/into a local language

23. The supervisor of the subject of an investigation may be informed of the initiation of the investigation on a reasonable need to know basis.

b) Obligations

24. ITU personnel who have information or evidence to support a reasonable belief of suspected fraud, corruption and other proscribed practices have a duty to report it.
25. The Ethics Office and IAU shall have full, unrestricted and prompt access to all ITU staff, records, documents, and other materials, assets and premises, and operations and functions within ITU in order to obtain such information and explanations as considered necessary to fulfil their responsibilities.
26. Investigation subjects and participants shall not interfere with the investigation and shall abstain from withholding, destroying of -or tampering with- evidence, and from influencing, coaching or intimidating the complainant and/or witnesses.
27. Investigation participants shall refrain from discussing or disclosing the investigation or their testimony to anyone except the investigators. In no case shall an investigation participant discuss with the investigation subject and/or complainant and/or other investigation participant the nature of the evidence requested or provided or testimony given to investigators.
28. Individuals who are the subject of an investigation may be placed on suspension pending investigation in accordance with the provisions of ITU Staff Rule 10.1.3.

VII. Complaints

29. ITU Personnel who have information or evidence to support a reasonable belief of suspected fraud, corruption and other proscribed practices have a duty to report it to Ethics Office or any of the channels described in the ITU Policy Against Fraud, Corruption and Other Proscribed Practices.
30. ITU shall accept both anonymous and non-anonymous complaints. However, an anonymous complaint should contain enough detailed information to allow the relevant investigative body to obtain independent corroboration of the facts, and to assess the gravity of the allegation. If there is no way to independently corroborate the information provided by the anonymous source, ITU may not be in a position to investigate the complaint and may be required to close the case.
31. The Ethics Office shall acknowledge receipt of those reports made by identifiable sources.
32. Where an investigation finds that an allegation was knowingly false, the investigative body will recommend appropriate action, which may include a recommendation for consideration of disciplinary or other action.

VIII. Investigative Process

33. The investigative process is comprised of three parts:
 1. Assessment,
 2. Investigation, and
 3. Reporting.

Assessment

34. Depending on the type of allegation and the supporting information provided, the Ethics Office will perform a preliminary review.⁸ The purpose of the preliminary review by the Ethics Office

⁸ If the allegations involve a complaint under the ITU Policy on Harassment and Abuse of Authority (Service Order 19/08), with the consent of the complainant, the Ethics Office will refer the matter to the Secretary General for review and consideration under the provisions of that policy.

will be to assess whether there are credible allegations of a proscribed practice under the ITU Policy Against Fraudulent and Other Proscribed Practices.

35. In most cases, the potential subject of an investigation is not notified during the assessment process.
36. The outcome of the assessment is a recommendation to the Secretary-General for his/her decision to either: (A) close the matter, (B) assign the case to IAU, (C) assign the case to another investigative body. Where the case is assigned to IAU or another investigative body, the information forwarded will not disclose the identity of the individual reporting the allegation, unless she/he has agreed to such disclosure.
37. The Ethics Office will seek to complete the assessment within 45 working days of receipt of the allegations. Delays in completing the assessment may occur in exceptional circumstances. In such circumstances, the Ethics Office will justify the reasons for the delay.

Investigation

38. An investigation is the process of planning and conducting appropriate lines of inquiry to obtain the evidence required to objectively determine the factual basis of allegations. This will include: (i) interviewing people with relevant information and recording their testimony; (ii) obtaining documents and other evidence; (iii) conducting financial and IT analysis; and (iv) evaluating information and evidence; and (v) reporting and making recommendations.

Reporting and information

39. At the end of the investigation, the investigative body will draft a report, the format of which depends on the outcome of the investigation.

A. Closure Report

40. Closure reports are internal, confidential documents prepared for investigations that do not result in a recommendation for consideration of disciplinary, administrative or other action.

B. Investigation Report

41. If the investigation reveals evidence that fraudulent or other proscribed practices occurred, an investigation report will be issued, setting out the allegations, the investigation methodology and the facts established during the investigation. The report presents relevant inculpatory and exculpatory information identified or collected during the investigation.
42. Where the complaint involves more than one allegation, the investigation report will provide details of the investigative steps undertaken to corroborate each allegation, the evidence gathered as relevant to each allegation, and the investigation findings relating to each allegation. Investigative findings in the report are based on facts and related analysis, which may include reasonable inferences. The report will contain a recommendation for consideration of disciplinary, administrative or other action.
43. The investigative body will seek to submit its investigation report to the Secretary-General within 120 days of initiating the investigation. Delays in completing the investigation may occur in exceptional circumstances. In such circumstances, the investigative body will justify the reasons for the delay.

The investigative body may decide, at its discretion, whether to inform the individual reporting the allegation that an investigation has been concluded, taking into account confidentiality considerations.

C. Management Letter

44. In some instances, a management letter may be issued. Such letter shall be prepared to convey to the responsible manager(s) issues arising from the investigation that require immediate corrective action in order to strengthen internal controls and prevent similar fraudulent or other proscribed practices from happening.

IX. Referral to National Authorities

45. Where an investigation reveals credible evidence of a crime/offence, the investigative body shall, as appropriate, recommend to the Secretary-General referral of the case to the competent national law enforcement authorities for investigation and prosecution and will prepare a summary of evidence for transmittal to the national authorities concerned.