



International Labour Office

## **REPORT OF THE ETHICS OFFICER**

**1 January - 31 December 2013**

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## INTRODUCTION

1. In April 2006, the Director-General decided to introduce a number of measures aimed at fostering a culture of integrity and high ethical standards within the ILO. In particular he decided that:
  - (a) a copy of the Standards of Conduct for the International Civil Service will be issued to each official with a request to sign a statement confirming that they have read and agree to observe these standards;
  - (b) an Ethics Officer function will be established to ensure support and compliance with ethical standards and to allow officials to report non-compliance of ethical standards without fear of retaliation; and
  - (c) a requirement for the periodic disclosure of interests by designated officials be established. These decisions were included in Circular Series 6, No. 662, *Ethics in the Office*, issued on 26 April 2006 and came into force on 1 May 2006.<sup>1</sup>
2. Upon its establishment, the function of Ethics Officer was entrusted to Mr. Guido Raimondi, who simultaneously served first as Deputy Legal Adviser, and later, as Legal Adviser. On 1 June 2010, Ms. Monique Zarka-Martres was appointed as the new ILO Ethics Officer and, with effect from 1 November 2010, her mandate was extended to the ILO International Training Centre in Turin (the Turin Centre). Ms. Zarka-Martres has been an ILO official since 1986, serving as Assistant Registrar in the ILO Administrative Tribunal, Legal Officer in the Office of the Legal Adviser, Coordinator of Policy Issues and, presently, Head of the unit on Labour Inspection, Labour Administration and Occupational Safety and Health in the International Labour Standards Department (NORMES).
3. The ILO Ethics Officer is entrusted with the following responsibilities:
  - (a) To provide guidance to the Human Resources Development Department (HRD) in ensuring that ILO policies, procedures and practices reinforce and promote the ethical standards called for under the Staff Regulations and the Standards of Conduct for the International Civil Service, and to ensure that ILO officials clearly understand the ethical standards that apply to them.
  - (b) On request, to counsel managers and all staff members on questions of ethics, including ethical standards that govern outside activities.
  - (c) To assist, in collaboration with HRD, in designing and promoting programmes to inform, educate and raise awareness of ethical issues for all ILO staff members.

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<sup>1</sup> Now converted into Office Directive on Ethics in the office, IGDS No. 76, 17 June 2009

- (d) To receive complaints regarding retaliation or threats of retaliation from individual officials who believe that action has been taken against them because they have reported misconduct or cooperated with an audit or investigation. In this context, the Ethics Officer is required:
- to keep a confidential record of all complaints received;
  - to conduct a preliminary review of the complaint to determine: (i) if the complainant engaged in a protected activity; and (ii) if there is a prima facie case that the protected activity was a contributing factor in causing the alleged retaliation or threat of retaliation;
  - to refer the matter to HRD, where appropriate, including for consideration of possible disciplinary action.
4. The Ethics Officer reports directly to the Director-General, to whom he/she presents a periodic report. This is the seventh report submitted by the Ethics Officer.
  5. The Ethics Officer has entered into regular dialogue with the members of the United Nations Ethics Network, which was established in 2010 and promotes a system-wide collaboration on ethics-related issues, with a specific focus on the coherent application of ethical standards and policies throughout the United Nations system.
  6. The Ethics Officer's functions cover three main areas: *promotion, consultation and whistleblower protection*.
  7. The three areas are addressed in the report separately.

## PROMOTION

### *Website*

8. The Ethics Office has created functional websites for the ILO (in English, French and Spanish) and for the Turin Centre (in English, French, Italian, Portuguese and Spanish), dedicated to ethics, which are regularly updated and can be accessed at the following addresses, respectively:

*<http://www.ilo.org/public/english/ethics/index.htm>*

*<http://www.itcilo.org/en/the-centre/about-us/ethics/home-page>*

### *Ethics training*

9. As noted above, the Ethics Officer has the responsibility to contribute to the creation and implementation of appropriate training programmes, in cooperation with HRD.
10. In April 2013, within the framework of the training workshop for ILO staff members serving on the Local Contracts Committee (LCC training), the Ethics Officer gave a presentation on “Ethics in Procurement”.
11. The presentation covered the following subjects: the conceptual framework of ethics at the ILO; the main responsibilities of the Ethics Officer’s mandate; why ethics is particularly important in procurement and the relevant ILO instruments and documents. Three case studies were submitted to the participants for discussion.
12. In addition, the eLearning module on Ethics which has been developed by the Ethics Office has been included in an e-learning programme on internal governance, mandatory for staff in all categories.

### *Ethics Survey*

13. On 17 May 2013, the Ethics Officer invited ILO staff members working at headquarters and in the field to complete a survey aimed at evaluating the ethics climate within the ILO. Since the establishment of the Ethics Office in 2006, this is the first time such a survey has been conducted within the Organization. A brief summary of the outcome of the survey is available on the Ethics website.

## CONSULTATION

### *In general*

14. The second area of responsibility for the Ethics Officer is the advisory function. Upon request, the Ethics Officer counsels managers and ILO officials on questions of ethics, including those related to outside activities. The consultation is not intended to replace existing procedures, especially with regard to outside activities, but rather to provide interested officials with guidance before they initiate the formal procedure, where appropriate.
15. This is a 360-degree advisory function, since it embraces both the administration and officials whose interests are not necessarily the same.
16. As in previous years, clarification was often required on the role of the Ethics Officer, in terms of his/her advisory function. A number of requests for advice received by the Ethics Office were related to ethical issues which did not pertain directly to the requesting official, but rather to alleged non-ethical behaviour of a colleague or supervisor.
17. Officials seeking guidance regarding other colleagues' behaviour were encouraged to report alleged wrongdoing through the appropriate mechanisms. In some cases, the Ethics Officer was asked, by the complainant, to inform the competent authority of the reported problem. In this context, the Ethics Officer informed the concerned officials that they would be provided with protection in the event that the reporting of misconduct to the competent authority or their intended cooperation with an audit or investigation led to retaliatory action, in accordance with the procedure contained in the IGDS Office procedure No. 186 on Whistleblower Protection (*See also below: "Whistleblower Protection."*).
18. Colleagues enquiring about the permissibility of outside activities received advice as to the suitability of the envisaged activity, and guidance on the appropriate procedure to be followed.

### *Requests for advice*

19. The Ethics Office received requests for advice on a wide range of subjects. A sample of such requests includes the following representative cases:

- a) An official asked the Ethics Officer's advice concerning the possibility of participating in the Advisory Board of a University-run project sponsored by the European Commission. The Ethics Officer replied that clarifications were needed on the extent to which his/her participation could be considered as an official participation on behalf of the ILO. In such a case, the Ethics Officer was not competent. If the outside activity or occupation was confirmed, time commitment for such an activity should be estimated. Participation to a group research or discussion should normally take place outside working hours. In this context, the time commitment for such participation could raise the outside activity to an occupation, and a formal request should be submitted to HRD, including all of the details. The Ethics Officer also recalled the obligations contained in Articles 1.2 (conduct) and 1.3 (use of information) of the Staff Regulations.
- b) The Ethics Officer was consulted about the possible recruitment of a person involved in criminal proceedings concerning alleged corruption, on the basis of the principle of presumption of innocence. The Ethics Officer considered that the Organization should ensure that any person recruited has the highest level of integrity, in addition to professional qualifications. In these conditions, it appeared impossible to recruit a person involved in such proceedings.
- c) A manager consulted the Ethics Officer about the possibility of offering a short-term or external collaborator contract to a friend for a task involving a specific expertise. The Ethics Officer recalled that, according to paragraph 9 of the Office Guideline, IGDS No. 68 on "Conflicts of interest", "being a close friend of someone who could be personally affected by a decision of the Office may result in a conflict of interest." In this case, according to paragraph 15 of the same guideline, it should be ensured that the concerned actions can withstand close scrutiny, which includes avoiding both the appearance and the reality of any conflict of interest. She suggested widening the choice of candidates and leaving the final decision to a hierarchical superior, who would not have relationships with the candidates.
- d) An official sought advice regarding an outside activity as a sports instructor. Presuming the activity was taking place outside working hours, she informed him/her that if the activity was remunerated, he/she should submit a request for permission to receive remuneration, with the relevant details, to HRD.
- e) The Ethics Officer was consulted about the possibility for the Office to receive free services from a private partner which was formerly, and may potentially be in the future, a service contractor. The Ethics Officer referred the official to the appropriate sections of key documents: Article 12 (2) of the ILO Financial Regulations, IGDS No.81 (Version 1) and IGDS No.83 (Version 1) on public-private partnerships, as well as the model public-private partnership agreement

available on JUR's website. She considered that the use of this agreement and the guarantee of a strict application, in the future, of the selection process of this service supplier's possible candidature, appear to address the ethical concerns in this matter.

- f) An official was offered the possibility of teaching in a distant country during a week. The Ethics Officer advised the official that considering the post was abroad, a period of leave should be taken to avoid interference with his/her obligations as an ILO official. Furthermore, she indicated that if the activity was remunerated, a request should be submitted through the official's responsible chief to the Director of HRD, in accordance with paragraph 8 of IDGS No. 70. She also drew his/her attention to paragraphs 20, 21 and 29(a) of IGDS No. 67.
- g) A prize was offered for a working paper written by an ILO official in the course of his/her functions. The Ethics Officer advised the official that since the research paper was an Office paper, its copyrights belonged to the ILO. A prize awarded for this work could be accepted on behalf of the ILO, but not personally by the official, and the paper should first be approved by his/her Director. She suggested that a formal request be made to HRD, through his/her Director, to accept this award on behalf of the ILO. PUB/DROITS or JUR should also be consulted in regard to copyright policies.
- h) An official intended to volunteer with an NGO promoting children's access to quality education in Africa and Asia. The Ethics officer informed the official that this type of outside activity appeared to be compatible with the status of an international civil servant. Since the official's name would appear on the NGO's website and that this activity may be indirectly related to the ILO Programme on the Elimination of Child Labour, she advised the official to submit a request to their responsible chief and copy HRD.
- i) An official was approached to lend his/her image to a campaign run by a financial services institution. The Ethics Officer recommended that the official refrain from participating in such a campaign, even in his/her private capacity, as it could be perceived as an endorsement by the ILO. She recalled that even in their private actions, international civil servants should regard themselves as representing the Organisation.
- j) An official wished to run as candidate in political elections. The Ethics Officer recalled that pursuant to article 1.6 of the Staff Regulations, any official who becomes a candidate for public office of a political character shall resign from the Office, and that this provision applies to all officials, even those on leave.

- k) An official was invited to join the Community Advisory Board of a University. On the basis of the information provided, the Ethics Officer advised the official that should the appointment entail advisory relations with the government, this situation may give rise to certain conflicts of interest, particularly in view of the obligation of independence and impartiality, and would therefore not be compatible with the official's status as an international civil servant. If the appointment is only of an academic nature, paragraph 19 of the Office Guideline IGDS No. 67 applies.
- l) An official wanted to publish a fiction novel. The Ethics Officer advised that, considering that the expected revenue was quite modest and that the subject was not related to the ILO, authorization was not necessary. However, she recalled his/her duty of reserve and the requirement that the book not contain any elements that could damage the ILO's reputation.
- m) An official was asked by a local newspaper to be interviewed regarding the opportunity offered by the ILO to learn a new language. The Ethics Officer indicated that she did not see any problem with the interview, but that in case the official mentioned the ILO as his/her employer, he/she must ensure that nothing said could damage the organisation's reputation.

## **WHISTLEBLOWER PROTECTION**

### *In general*

- 20. The third responsibility of the Ethics Officer relates to the protection of officials who believe that action has been taken against them because they have reported misconduct or cooperated with an audit or investigation (whistleblower protection). Officials are thus encouraged to report cases of disregard for these standards without fear of retaliation.
- 21. However, as stated above, the Ethics Office does not replace any existing mechanisms available to staff for the reporting of misconduct or the resolution of grievances, like those referred to in the Office directive "Ethics in the Office," IGDS No. 76 , paragraphs 18 and 19.
- 22. The Ethics Officer's role consists of making a preliminary review of complaints of staff who allege retaliation subsequent to their reporting of misconduct or cooperating with an audit or investigation. If appropriate, such a review can lead to a "qualified referral" of the matter to HRD for consideration of possible disciplinary action.

## *The Whistleblower Procedure*

23. In furtherance of the Office Directive “Ethics in the Office”, the Office procedure “Ethics in the Office: Whistleblower Protection”, was published as IGDS document No. 186 in September 2010.
24. Both documents provide for protection of all staff members against retaliation for reporting misconduct and cooperating with an audit or investigation. Office procedure No. 186 outlines the practical steps that the Ethics Officer should follow in reviewing such complaints.
25. The procedure for the protection of whistleblowers was created with the goal of ensuring fairness, respect of the rules of due process and confidentiality during the investigation of a complaint.
26. The procedure has been drafted taking into account the need to protect both the staff member alleging retaliation, and the rights of the accused official, by ensuring fairness and transparency, and by guaranteeing compliance with the rules of natural justice and due process. The credibility and integrity of the procedure is key in making whistleblower protection a powerful deterrent *vis-à-vis* possible temptations to retaliate, thus playing a fundamental preventative role. In addition, it encourages staff members to report wrongdoings that would otherwise remain undisclosed due to the fear of unpunished retaliation.
27. The fairness of the procedure is ensured through the following relevant provisions:
  - a) Full disclosure of the initial non-frivolous complaint to the alleged retaliator, unless the Ethics Officer considers that the disclosure would hinder the investigation or expose the complainant to the risk of further retaliation.
  - b) Possibility for the alleged retaliator to respond to the allegations.
  - c) Disclosure to the complainant and alleged retaliator, upon completion of the preliminary review or during the procedure in the event the Ethics Officer considers it appropriate, of all documents and evidence upon which the decision of the Ethics Officer will be based.
  - d) The possibility for the complainant and alleged retaliator to submit their written comments.
28. A specific provision granting the confidentiality of the procedure has also been included, while allowing the Ethics Officer the discretion to decide to release the final recommendation to other parties as necessary, after giving previous notice to the retaliator and the complainant, and providing them with the opportunity to comment on such release.

29. This procedure is not applicable to external parties, who cannot be granted the same procedural guarantees as an official. However, if it is established that any retaliatory measures were taken against a contractor or other individual engaged in any dealings with the ILO because of reported misconduct, this may lead to a qualified referral from the Ethics Officer to HRD recommending disciplinary action.

*Cases*

30. The Ethics Officer received a complaint in 2013 from a staff member who alleged that retaliatory action was taken against him/her because he/she denounced mismanagement of funds.
31. The Ethics Officer considered that the complainant was engaged in a protected activity and conducted a preliminary review to determine whether, *prima facie*, the protected activity was a factor in the alleged retaliation.
32. The procedure described in the IGDS No. 186 was followed and the Ethics Officer transmitted her conclusions to the Director of HRD.

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Monique Zarka-Martres

Ethics Officer