
Policy on Handling Allegations of Misconduct against the President of IFAD

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Useful references: [By-laws for the Conduct of the Business of IFAD](#); and Terms of Reference and Rules of Procedure of the Audit Committee of the Executive Board ([EB 2023/138/R.9/Rev.1](#))

Action: The Executive Board is invited to review and approve the Policy on Handling Allegations of Misconduct against the IFAD President and the amendments to the Terms of Reference and Rules of Procedure of the Audit Committee of the Executive Board. The Executive Board is further invited to submit the draft resolution contained in annex III to the Governing Council for adoption, at which time the policy and the amendments to the Terms of Reference shall come into force and effect.

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Policy on Handling Allegations of Misconduct against the President of IFAD

I. Introduction

1. In 2022, three external experts conducted a review of IFAD's investigation processes and practices in respect of generally accepted investigation standards and to benchmark IFAD's procedures for whistleblower protection against retaliation with those of similar organizations – United Nations agencies and multilateral development banks. The final report setting out the findings and recommendations from this external review was released to the President on 2 February 2023 and shared separately with the Audit Committee.
2. The President, the Office of Audit and Oversight (AUO) and the Ethics Office (ETH) generally considered the conclusions of the external review report to be valid and the recommended actions to be useful and relevant. Management likewise committed to the implementation of the external review recommendations, including recommendation 10 of the final report: "IFAD should, in consultation with IFAD's Legal Department, AUO, and Audit Committee, develop and formalize a policy and procedures to handle allegations against IFAD's President."
3. In accordance with the Management action plan presented to the Audit Committee in June 2023, AUO and ETH, with the support of the Office of the General Counsel (LEG), jointly developed a draft of the proposed Policy on Handling Allegations of Misconduct against the IFAD President (annex I), as well as the accompanying draft amendments to the Terms of Reference and Rules of Procedure of the Audit Committee of the Executive Board (annex II, hereinafter the "the Audit Committee ToRs") and the draft resolution relative to the amendments to section 6 of the By-laws for the Conduct of the Business of IFAD (annex III), for review by the Audit Committee.

II. Overview of the proposed policy

4. The proposed policy features the following main components:
 - (a) Intake and initial evaluation: an intake and initial evaluation procedure for receiving and reviewing complaints against the President, to be conducted by AUO and ETH.
 - (b) Decision to refer complaint: a procedure involving the Audit Committee and the Executive Board for reviewing the initial evaluation findings of AUO and ETH, and for deciding on whether the complaint against the President should be referred to an external body for further review and investigation.
 - (c) Investigation by external body: a preliminary assessment and investigation procedure for referred complaints, to be conducted by an external investigative entity in accordance with applicable investigative standards and procedures under relevant AUO rules and procedures.
 - (d) Review of the final investigation report and decision on post-investigation actions: a procedure involving AUO, ETH, the Audit Committee, the Executive Board and the Governing Council which outlines the process for reviewing the external investigative entity's final investigation report and the actions to be taken by the governing bodies following the conclusion of the investigation.

III. Recommendations

5. The Executive Board is invited to review and approve the policy and the amendments to the Audit Committee ToRs. The Executive Board is further invited to submit to the Governing Council for adoption the draft resolution contained in annex III relative to the amendments to section 6 of the By-laws for the Conduct of the Business of IFAD required to regulate the respective roles and powers of the Governing Council and the Executive Board with respect to the policy. Upon said adoption, the policy, the amendments to the By-laws and the amendments to the Audit Committee ToRs shall come into immediate force and effect.

Policy on Handling Allegations of Misconduct against the IFAD President

I. Introduction

1. This policy provides the framework and establishes governing principles for handling allegations of misconduct against the IFAD President. It is aligned with recommendation 10 of the 2022 External Review of IFAD's Investigation Practices to "develop and formalize a policy and procedures to handle allegations against IFAD's President"; and has been prepared in accordance with guidance and best practice expectations provided by the United Nations Representatives of Investigative Services (UNRIS) in its 2015 draft working paper on [Joint] Advice on the Modalities for the Investigation of Complaints of Misconduct by Executive Heads.

II. Scope of application

2. This policy applies to the handling and investigation of all allegations of misconduct by the President while in office. The term "misconduct", as used in this policy, shall have the same definition as that provided under IFAD's internal legal framework, which shall be applicable to the President to the extent provided for in this policy. This policy does not apply to managerial issues such as performance management issues and performance-related disagreements.
3. This policy will also apply to the handling and investigation of allegations of misconduct by the Vice-President or any of the Associate Vice-Presidents, while any of these officers are temporarily serving as President in an acting capacity pursuant to section 6.3 of the By-laws for the Conduct of the Business of IFAD.
4. An investigation under this policy is a fact-finding exercise, not a punitive undertaking. Investigations under this policy are administrative in nature, as opposed to criminal investigations and other judicial actions. Administrative investigations are part of IFAD's internal legal framework, which is based on IFAD's internal rules and on general principles of international administrative law, not on national laws.
5. Unless otherwise provided for under this policy, the principles, processes and procedures set out in relevant IFAD regulations, rules, policies, administrative issuances or procedures, including the principles of confidentiality, due process, protection of whistleblowers, protection against retaliation and protections against bad faith complaints, shall be applicable to complaints of misconduct against the President dealt with under this policy.

III. Initial evaluation, referral and investigation process

A. Reporting and initial evaluation

6. Complaints of misconduct against the President shall be reported to the Office of Audit and Oversight (AUO) in accordance with the procedure for reporting complaints of misconduct provided under AUO relevant rules and procedures. Potential instances of workplace harassment, retaliation or abuse of authority can also be reported to the Ethics Office (ETH).
7. All incoming complaints will be promptly registered by AUO or ETH, as appropriate, upon receipt. AUO or ETH, as appropriate, will acknowledge in writing the receipt of complaints and notify complainants of any relevant procedural matters.
8. All incoming complaints will go through an initial evaluation jointly conducted by the AUO Director and the Chief of Ethics (hereinafter referred to as "the Responsible Officers") to determine whether such complaints merit, wholly or in part, referral to an external investigative entity for formal review. A complaint is

deemed sufficient to merit referral if: (i) it is considered to have been made in good faith; and (ii) it relates to the commission of misconduct by the President.

9. A complaint will be considered to have been made in good faith if, following the initial evaluation, there is no indication that would reasonably lead to the conclusion that the complaint is frivolous, vexatious or otherwise constitutes an inappropriate use of the complaint procedure provided under this policy. Frivolous or vexatious complaints include complaints against the President which, upon initial evaluation by the Responsible Officers, are deemed to be patently lacking in materiality and/or credibility. The Responsible Officers will periodically report to the Audit Committee, for information, on complaints that were considered frivolous or vexatious.
10. As with all malicious and false complaints of misconduct by staff members, those made against the President are considered misconduct and/or unsatisfactory conduct and may lead to the institution of disciplinary proceedings and the imposition of disciplinary measures.
11. In conducting the initial evaluation, the Responsible Officers will implement all necessary measures to ensure confidentiality and restrict access to the complaint and all information relating thereto on a strict need-to-know basis.

B. Initial evaluation report

12. At the end of the initial evaluation, the Responsible Officers will prepare a report documenting their findings and conclusions, for submission to the Audit Committee. The report should include any of the following recommendations from the Responsible Officers: (i) a referral recommendation, if the Responsible Officers decide that the complaint, wholly or in part, merits referral to an external investigative entity for formal review; and/or (ii) a closure recommendation, if the Responsible Officers decide that the complaint, wholly or in part, does not warrant further review or investigation. In the case of a referral recommendation, an external investigative entity will be identified in the recommendation. The report may also include a recommendation for the imposition of interim measures, as further described in section F. The Responsible Officers should endeavour to secure a consensus on their recommendations in the initial evaluation report. However, in the event of disagreement between the Responsible Officers on the initial evaluation report, separate initial evaluation reports and/or recommendations will be individually submitted by each Responsible Officer to the Audit Committee.
13. The Audit Committee is responsible for reviewing the initial evaluation report, or separate initial evaluation reports and/or recommendations, as appropriate, and for submitting a report to the Executive Board for its consideration. The Audit Committee may request the AUO Director and/or AUO personnel, or the Chief of Ethics and/or ETH personnel, to provide clarification as to the report or serve as resource persons and support the Audit Committee's review of the report.
14. AUO or ETH, as appropriate, shall notify the complainant of the Executive Board's decision, where appropriate.
15. In all matters covered under this policy, where a decision of the Executive Board is required, the Executive Board should attempt to secure a consensus in lieu of taking a vote thereon. However, the Executive Board shall take decisions by vote at the request of any member, in which case the decision is taken by a two-thirds majority of the total number of votes. All Audit Committee meetings and Executive Board sessions called in accordance with this policy shall be conducted in closed sessions.

C. Referral and preliminary assessment

16. If a referral recommendation is endorsed by the Executive Board, AUO shall promptly prepare and transmit a referral notification letter, together with the initial

evaluation report(s), to the external investigative entity. Copies of the referral notification letter and its attachment(s) shall be simultaneously transmitted by AUO to the Audit Committee.

17. Upon receipt of the referral notification letter from AUO, the external investigative entity will commence the formal review by conducting a preliminary assessment to determine whether the referred complaint warrants investigation. In doing so, the external investigative entity will consider the criteria detailed in relevant AUO rules and procedures, and in particular whether the complaint is credible, material and verifiable.

D. Investigation and reporting by the external investigative entity

18. If the external investigative entity deems that the complaint warrants investigation, it will conduct an investigation in accordance with the relevant and applicable investigative standards and procedures set forth under relevant AUO rules and procedures, which shall be observed by the external investigative entity to the maximum extent practicable.
19. If the preliminary assessment indicates that the referred complaint does not warrant an investigation, the external investigative entity will recommend the closure of the matter and confidentially transmit a closure report to the Audit Committee, for review and report to the Executive Board. The closure report will contain the external investigative entity's preliminary assessment findings and grounds for closing the referred complaint. Upon referral of the closure report, the Executive Board shall decide on the closure of the matter.
20. If an investigation is opened following the preliminary assessment, the external investigative entity will gather all evidence, both inculpatory and exculpatory, and determine whether it is sufficient to substantiate the allegations.
21. The external investigative entity will then prepare a confidential investigation report for the Audit Committee's review and submission to the Executive Board for any further action as specified in section E below. The investigation report serves as a complete record of the investigation, including the external investigative entity's findings and recommendations, as well as all the evidence gathered and analysed by the external investigative entity to support their findings.
22. The external investigative entity will endeavour to expeditiously conclude the investigation, normally within six months from the commencement of the preliminary assessment of the referred complaint, subject to the complexity and availability of evidence.

E. Post-investigation actions

23. Upon closure of the investigation, if the external investigative entity concludes that the allegations are unfounded or unsubstantiated, it will confidentially transmit an investigation report to the Audit Committee, for review and report to the Executive Board. Upon referral, the Executive Board shall decide on the closure of the matter.
24. If the external investigative entity concludes that the allegations are substantiated, the Audit Committee shall, after review, formulate charges on the basis of the investigation report. The Chairperson of the Audit Committee, on behalf of the Audit Committee, will submit a copy of the investigation report and the letter of charges to the President and provide a reasonable opportunity for the latter to respond in writing within 10 working days from receipt of the investigation report, and to identify any perceived factual errors, introduce additional rebuttal or clarificatory information, or provide any other comments on the report and/or the investigative process.

25. The Audit Committee shall review the investigation report, the letter of charges and the President's written response to the investigation report, if any, and prepare a report thereon for the decision of the Executive Board. The Executive Board shall review the matter and, if it considers that a decision of the Governing Council is warranted on the allegations and/or on any measure to be imposed, the Board shall make a recommendation to the Governing Council accordingly. AUO, ETH and/or the external investigative entity may be required to serve as resource persons during the Executive Board's deliberations. The Governing Council Bureau shall be informed of the Executive Board's decision and a special session of the Governing Council shall be called if so requested by the Executive Board.
26. In accordance with rule 10 of the Rules of Procedure of the Executive Board, the Executive Board shall elect a representative of a member to act as Chairperson for any meeting held under this policy.
27. Upon receipt of the Executive Board's decision, the Governing Council will convene in a closed session and decide on any appropriate measure to impose based on the investigative findings, including termination of the appointment of the President. Any decision by the Governing Council shall be taken by a two-thirds majority of the total number of votes, in accordance with article 6, section 8 of the Agreement Establishing IFAD. The President will be notified of any measure imposed by the Governing Council.

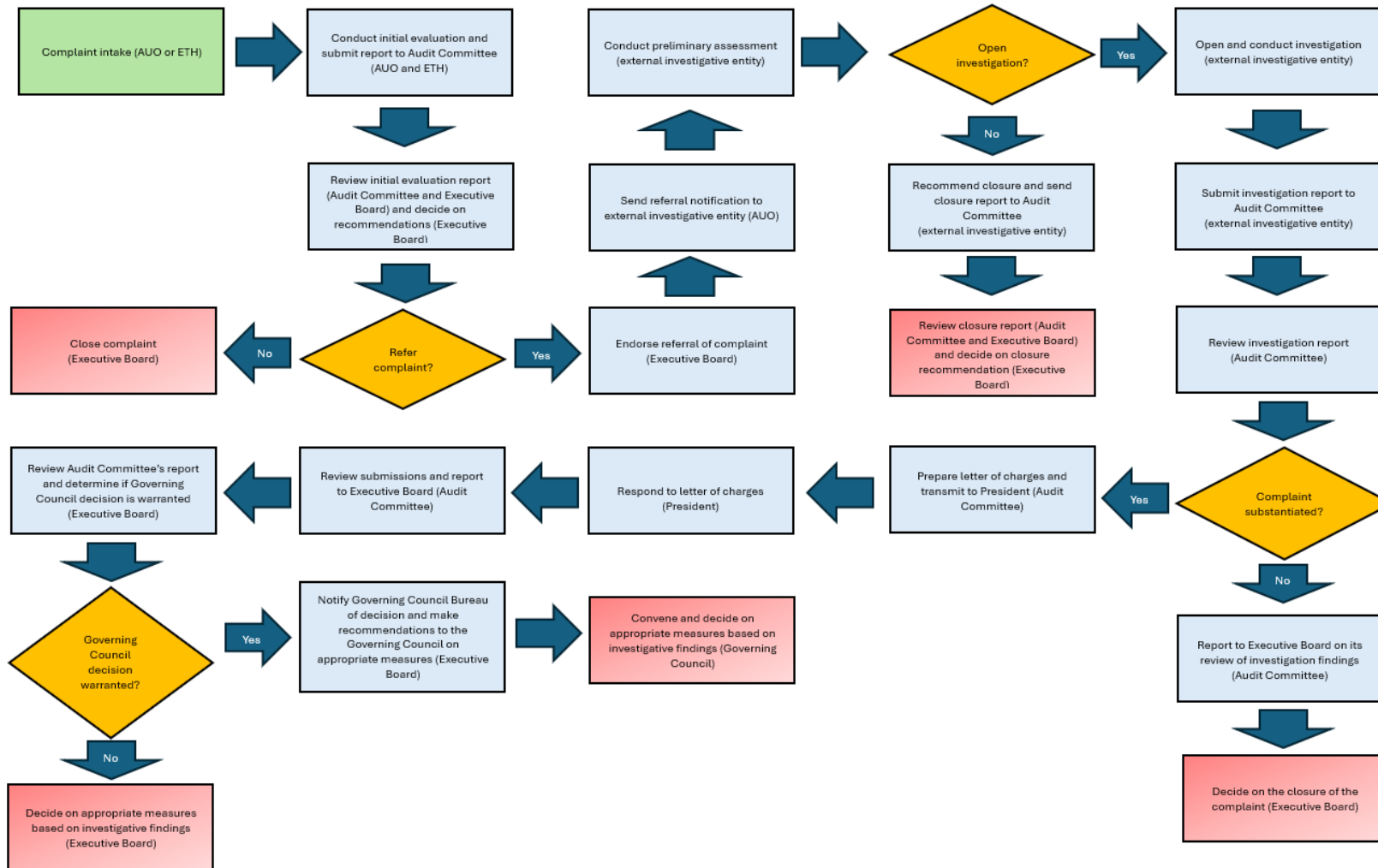
F. Interim measures

28. At any time from the initial evaluation stage and during the investigation process outlined under this policy, and before a final decision is taken on the complaint, the Executive Board, on its own initiative or upon recommendation of the Audit Committee, may impose on the President any interim measure(s) deemed appropriate under the circumstances, including suspension from office.
29. The President shall be notified in writing of the decision made on any interim measure, the reason(s) for the decision, and the expected duration and conditions of the interim measure(s).
30. Interim measures imposed under this policy are not deemed disciplinary measures or assumption of guilt, and will not prejudice the rights of the President.

G. Rights and responsibilities of parties

31. The entire process of the investigation of allegations against the President under this policy is managed under a strict confidentiality protocol. The standards of confidentiality set forth in IFAD's internal legal framework will also apply to investigations against the President.
32. Unless otherwise provided in this policy, the responsibilities and obligations of IFAD staff members, IFAD non-staff, IFAD contractors and external entities under IFAD's internal legal framework, as well as the rights of parties involved in an investigation process set forth therein, are deemed applicable and granted to the President and other parties to an investigation under this policy.
33. Complainants and other witnesses have a right to be protected against retaliation in any form following the submission of a complaint, or otherwise having cooperated with an investigation under this policy. Allegations of retaliation by the President shall be reported and formally reviewed in accordance with the process outlined under this policy. Allegations of retaliation allegedly committed by the President against the AUO Director and/or AUO personnel, or the Chief of Ethics and/or ETH personnel shall be reported directly to the external investigative entity.
34. All decisions under this policy are not administrative decisions and therefore not subject to legal challenge.

Process flowchart¹



¹ This flowchart is included only to exemplify the processes described in the policy and has no authoritative power.

Proposed amendments to the Terms of Reference and Rules of Procedure of the Audit Committee of the Executive Board

The Terms of Reference and Rules of Procedure of the Audit Committee of the Executive Board will be revised to reflect the role and responsibilities of the Committee with respect to the Policy on Handling Allegations of Misconduct against the IFAD President and a new paragraph p will be added in section 3.1. The revised Terms of Reference and Rules of Procedure are set out below. For ease of reference, the insertions are underlined.

Terms of Reference and Rules of Procedure of the Audit Committee of the Executive Board

3. Responsibilities

3.1. The Executive Board may refer to the Audit Committee any question related to the financial administration and internal oversight of the Fund for which the Executive Board is responsible under the Agreement Establishing IFAD and the Financial Regulations of IFAD adopted by the Governing Council. In addition, the Audit Committee shall have the following permanent responsibilities:

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- (p) Perform the functions assigned under the Policy on Handling Allegations of Misconduct against the IFAD President. In so doing the Audit Committee will:
 - (i) Review initial evaluation reports submitted by the Office of Audit and Oversight and by the Ethics Office and report thereon to the Executive Board;
 - (ii) Review closure or investigations reports submitted by external investigative entities and report thereon to the Executive Board;
 - (iii) If allegations are substantiated, formulate charges on the basis of the investigation report and notify the letter of charges to the President;
 - (iv) Review the investigation report, the letter of charges and the President's written response to the investigation report, if any, and prepare a report thereon for the decision of the Executive Board;
 - (v) Recommend to the Executive Board the imposition of interim measures, deemed appropriate under the circumstances.

Draft resolution .../XLVIII

Approval of the amendments to the By-laws for the Conduct of the Business of IFAD

The Governing Council of IFAD,

Taking into account article 6.8(a) of the Agreement Establishing IFAD, sections 6 and 14 of the By-laws for the Conduct of the Business of IFAD, and rule 41 of the Rules of Procedure of the Governing Council;

Having considered the Policy on Handling Allegations of Misconduct against the IFAD President approved by the Executive Board at its 143rd session and the recommendations thereat as contained in document GC 48/L.X;

Decides:

1. That a new paragraph 5 shall be added to section 6 of the By-laws for the Conduct of the Business of IFAD, to read as follows:

“The handling of allegations of misconduct against the President shall be regulated by a policy to be approved by the Executive Board, which will have the authority to impose interim measures deemed appropriate under the circumstances, including suspension from office. The Governing Council shall retain final authority on any decision to be taken pursuant to Article 6, Section 8 of the Agreement.”