



**Executive Board of the  
United Nations Development  
Programme, the United Nations  
Population Fund and the United Nations  
Office for Project Services**

Distr.: General  
6 April 2023

Original: English

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**Annual session 2023**

5 to 9 June 2023, New York

Item 4 of the provisional agenda

**Ethics**

**Activities of the UNOPS Ethics Office in 2022  
Report of the Ethics Office**

*Summary*

This report is submitted to the Executive Board in accordance with its decision 2010/17, whereby the UNOPS Ethics Office (formerly the Ethics and Compliance Office) is requested to submit its report to the Board at its annual session.

In accordance with section 3(h) of the Secretary-General's bulletin "United Nations system-wide application of ethics: separately administered organs and programmes" (ST/SGB/2007/11), the UNOPS Ethics Office submits this report annually to the Executive Director. Additionally, in accordance with Section 5.4 of amendment 1 to that bulletin, the Ethics Panel of the United Nations reviewed the draft report during its 153rd meeting on 14 February 2023. The UNOPS Audit Advisory Committee reviewed a draft of the report in March 2023.

The present report covers the period from 1 January 2022 to 31 December 2022.

This is the 14<sup>th</sup> annual report presented by the Ethics Office since its establishment in 2009.

*Elements of a decision*

The Executive Board may wish to take note of the present report and comment on progress made by the UNOPS Ethics Office in renewing its efforts to promote a culture of ethics at UNOPS.



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## I. Introduction

1. This report, submitted in accordance with decision 2010/17 of the Executive Board of UNDP, UNFPA and UNOPS, covers the activities of the UNOPS Ethics Office in 2022. The report is submitted to the Executive Director of UNOPS pursuant to section 3(h) of the Secretary-General's bulletin "United Nations system-wide application of ethics: separately administered organs and programmes" (ST/SGB/2007/11).

2. The Ethics Office was established in 2009 pursuant to the Secretary-General's bulletin ST/SGB/2007/11 and is based on the principles of independence, impartiality and confidentiality. The office, based in Copenhagen, provides services to approximately 5,300 UNOPS personnel (about 12 per cent staff and 88 per cent international and local contractors as of 31 December 2022) in over 80 countries around the world.

3. The mandate of the office is to "cultivate and nurture a culture of ethics, integrity and accountability, and thereby enhance the trust in and credibility of the United Nations, both internally and externally". Consistent with the mandate of the ethics offices of other separately administered organs and programmes, the office has specific responsibility for:

- (a) developing standards, training and education on ethics issues;
- (b) providing guidance to management to ensure that UNOPS policies and procedures promote the standards of integrity called for under the Charter of the United Nations;
- (c) providing confidential advice and guidance to personnel on ethical issues;
- (d) raising awareness of ethical standards and expected behaviour;
- (e) receiving requests for the protection of personnel against retaliation in accordance with the respective policy;
- (f) administering the UNOPS financial disclosure programme; and
- (g) providing an annual report on its activities to the executive head.

4. The office is a member of and meets regularly with the Ethics Panel of the United Nations. The panel, comprising eight members, consists of the heads of the ethics offices of the separately administered organs and programmes of the United Nations and the Ethics Office of the United Nations Secretariat.

5. In 2022, the office saw an increase in its day-to-day workload of nearly 7 per cent compared to 2021, handling 1,156 ethics-related matters of which approximately 58 per cent pertained to services rendered and 42 per cent to providing ethics advice and guidance, including with regard to cases relating to advice on alleged retaliation. Its activities included:

6. **Protection against retaliation.** The office reviewed, updated and launched the UNOPS whistle-blower protection policy (Operational Instruction Ref.OI.Ethics.2022.01 "Protection against Retaliation") – drawing from good practice in the field as well as inputs from the Ethics Panel – and initiated the development of a user-friendly guide on protection against retaliation.

7. **Training and awareness-raising.** The office developed and launched a global training series to foster a values-based approach in daily operations from an ethics perspective ("Ethics-in-action"), including raising awareness on 'speaking up', decision-making when faced with ethical dilemmas, the updated protection-against-retaliation policy, and engaging with personnel in a dialogue about rebuilding trust in a culture of accountability at UNOPS.

8. **Independence.** The office initiated the independent review of the independence of its function carried out by the ethics offices of the International Monetary Fund (IMF) and the United Nations Educational, Scientific and Cultural Organization (UNESCO). The office also strengthened its direct access to the Bureau of the Executive Board and Board members.

9. **Advice and guidance.** As a critical part of its role, the office continued to provide ethics advice and guidance directly to individuals in 489 matters, including those related to outside

activities, potential conflicts of interest, employment issues, advice on the financial disclosure programme, receiving gifts and honours, and potential misconduct.

10. **Coherence.** Throughout 2022 the office deepened its collaboration with the Ethics Panel of the United Nations in the areas of outreach, communications, and policy standardization.

11. **Financial disclosure programme.** In 2022, the office completed the 2021 financial disclosure programme by reviewing 1,065 statements by UNOPS personnel, providing advice to prevent or mitigate potential conflicts of interest and issuing recommendations regarding outside activities and reminders of previous advice given.

12. **Policy and standard-setting.** The office reviewed UNOPS third-party due-diligence procedures and controls and reported its findings to the Executive Director. It contributed to the establishment and recruitment of a victims support specialist within UNOPS to support alleged victims of workplace misconduct, and to the establishment of management evaluation and rebuttal processes for individual contractor agreement holders at UNOPS.

13. Due to the challenges to UNOPS operations following the irregularities and possible misconduct linked to the S3i investments and the departure of the previous executive director, 2022 was a volatile year for the Ethics Office.

14. The first trimester of the year saw the resignation of the previous executive director, the departure of the previous chief ethics and compliance officer, turnover of personnel, and the appointment of an interim director of the office. The first trimester of 2022 was therefore dedicated mainly to stabilizing regular operations of the office, ensuring continuity of its day-to-day operations with a focus on guaranteeing its availability and responsiveness to all personnel and business units in the delivery of its core mandate. With the changes in senior management in the second trimester of 2022, and stopgap measures to fill vacancies, the office stabilized day-to-day operations with increased requests for guidance and assistance by personnel, assessed the efficacy and alignment of current practices with the Ethics Panel, operationalized Board decisions, and participated in third-party reviews to further the required transformation of UNOPS. Finally, the third trimester 2022 was marked by relative stabilization through the appointment of the Director of the Ethics Office, allowing for foundation-building and initiation of changes based on the recommendations of the third-party reviews.

15. The UNOPS Ethics Office is committed to continuing its work during 2023 to improve its operational excellence, to strengthen protection against retaliation at UNOPS, increase trust in the Ethics Office, and further contribute through its policies and practices to a culture of ethics, integrity and accountability.

## II. Constitution of the Ethics Office

16. As of the first quarter of 2022, the office operated with a structure consisting of a chief ethics and compliance officer (D1), two ethics and compliance advisors at the ICS 11 level (ICA), one ethics and compliance specialist at the ICS 10 level, (ICA) and an ethics and compliance associate at the ICS 6 level (ICA).

17. The previous chief ethics and compliance officer and director of the Ethics Office, respectively, separated from service in March 2022, and a director ad interim of the office was appointed in the same month. Following a competitive process, the position of director was filled effective 14 November 2022 with the appointment of the current incumbent.

18. To strengthen the work of the office on internal accountability mechanisms and protection for whistle-blowers, two positions at the ICS 11 level, (ICA) were advertised in June 2022 and

filled competitively in December 2022. As of January 2023, the office is fully staffed with the addition of the full-time personnel enumerated above.

19. The office did not request an increase in its annual budget in 2022, which thus remains static for 2023.

20. With regard to independence, the Director of the office has direct access to the Acting Executive Director and has been free from undue interference in carrying out his mandate under ST/SGB/2007/11 and in identifying the work programme and priorities of the office. The Director also serves on the UNOPS management team in an ex-officio advisory capacity.

21. The office notes decision 2022/16 encouraging “direct and independent communication with the Executive Board, as needed”, and has had regular and unhindered access to the Bureau of the Board (including a formal briefing in August 2022), Executive Board members, and a regular in-camera session with the UNOPS Audit Advisory Committee.

22. Complying with decision 2022/16, the office initiated an independent review of the UNOPS ethics function in October 2022 to ensure the independence and impartiality of its work. The objective was to independently review the ethics function and ensure the independence and impartiality of its work in detail, taking into account applicable policies and standards. In that respect, two ethics offices of the Ethics Network of Multilateral Organizations were identified as members of the Ethics Panel of the United Nations – those of the IMF and UNESCO. The review is expected to be completed by 31 March 2023, and will recommend further adjustments to the governance of the office to ensure it can exercise its mandate independently and free from undue pressure.

### III. Mandated activities of the Ethics Office

23. In 2022, the office handled 1,156 matters (figure 1), a near 7 per cent increase from the 1,082 matters handled in 2021. This was a continuing trend since 2019 (figure 2). The increase was partly due to increased awareness of the services provided and increased internal and external collaboration of the office, but was also a positive indicator of the wider social awareness and expectations for healthy workplaces (also reflected in various global hotline benchmark reports<sup>1</sup>), signalling an increase in reporting activity, including on topics such as retaliation for reporting misconduct.

24. Of the 1,156 matters handled in 2022, 667 were related to services provided by the office while 489 were related to ethics-related advice and guidance.

25. The 667 matters related to services represent an increase from 576 in 2021. This area constitutes approximately 58 per cent of the workload of the office. Such services include work on the UNOPS annual financial and conflict-of-interest programme; contributing to coherence in internal and external practices relating to ethics; providing services related to policy- and standard-setting; training and awareness raising; protection against retaliation; and matters where the office was alerted to an issue and referred the case to the responsible party. Main drivers for the increase were related to the strengthened engagement of the office with policy- and standard-setting, coherence, and protection against retaliation.

26. Of the 667 matters handled, 44 related to providing services with respect to protection against retaliation, a 110 per cent increase compared to 2021 (21 matters). Of those, 35 were related to the provision of advice to individuals concerned about potential retaliation issues. Depending on the facts of the individual case and how such cases evolve, some such cases may result in a formal request for protection against retaliation, of which the Ethics Office received eight in 2022 – a 60 per cent increase over 2021, when the Ethics Office received five formal requests. In 2022 the

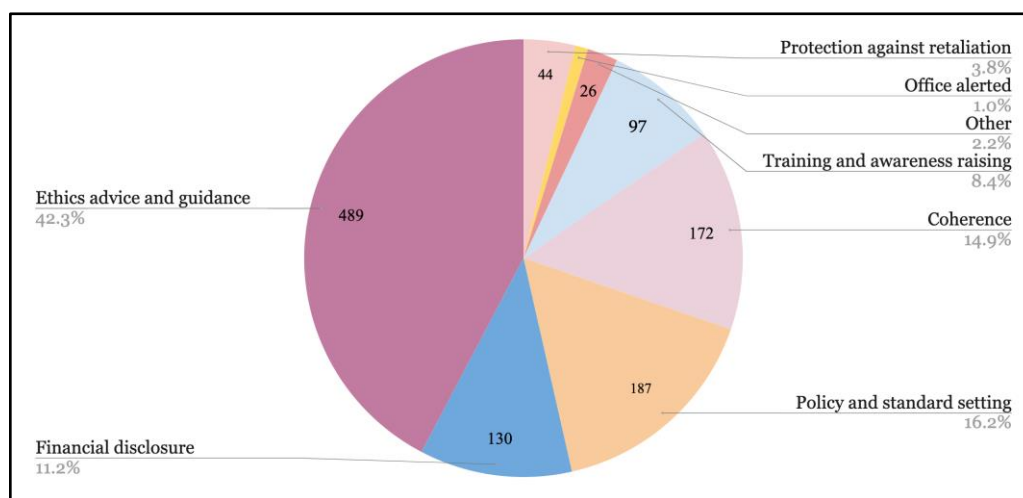
<sup>1</sup> Source: Navex Global Hotline and Incident Management Benchmark Report, 2022, and ECI Global Business Ethics Survey Report, 2021.

Ethics Office engaged in one case on a preventive basis to safeguard the interests of an individual, preventing further escalation of the case.

27. Ethics-related advice and guidance were requested in connection with 489 (figure 3, next page), constituting approximately 42 per cent of the workload of the office. The portfolio included advice and guidance connected with outside activities, potential conflicts of interest, employment matters, queries related to the financial disclosure programme, receiving gifts and honours, and potential misconduct. While the overall trend in this area had augmented since 2018 (343 matters), 2019 (401 matters), 2020 (441 matters) and 2021 (506 matters), 2022 saw a slight decrease (489 matters). More colleagues sought advice in the areas of potential conflicts of interest, employment related matters and receipt of gifts and honours than in 2021, but requests concerning the pursuit of outside activities decreased. This may be due to the fact that, in 2021, there was an exceptional wave of requests for approvals of teaching activities of personnel working at UNOPS on a part-time retainer basis for a large regional project.

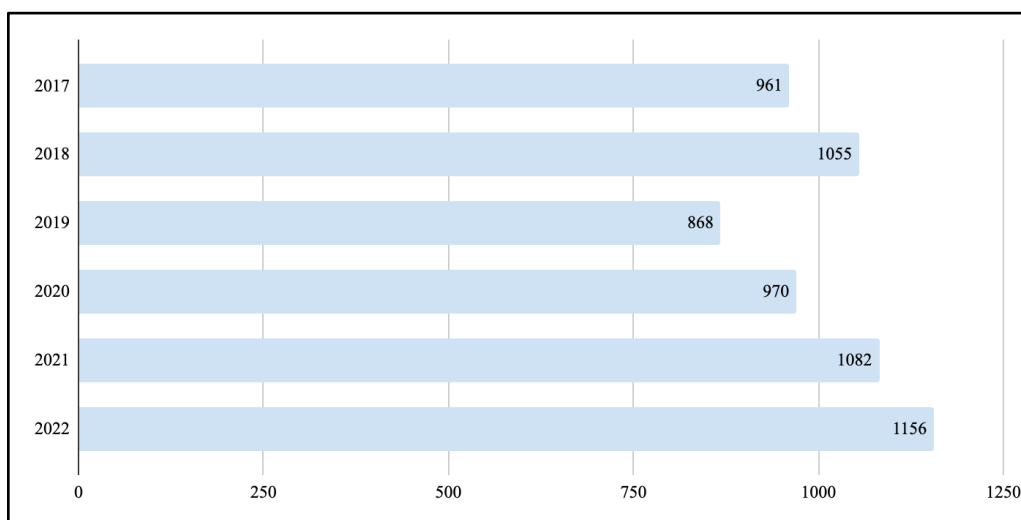
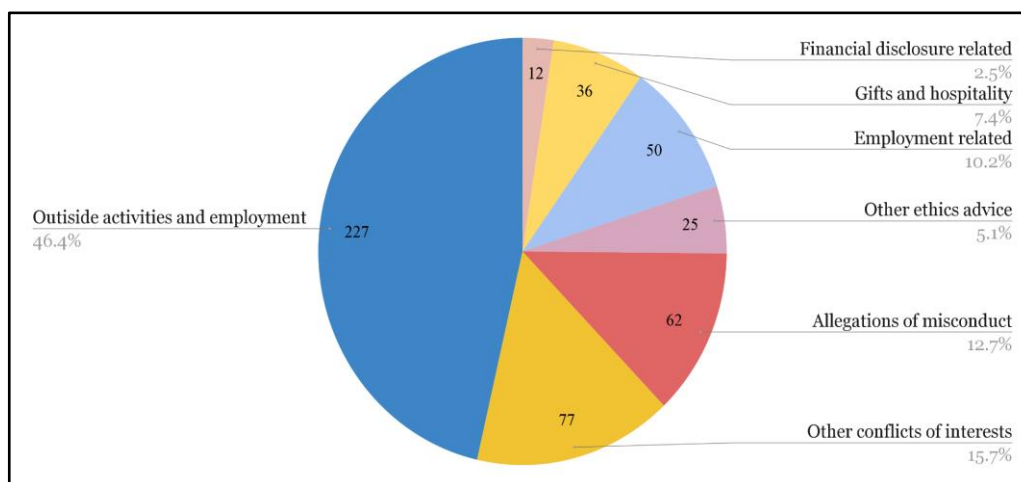
28. The following is an outline of the 1,156 matters handled by the office depicted in figure 1 (see section A, “Policy and standard setting”) and figure 3 (see section B, “Confidential advice and guidance”). Dedicated chapters outline activities related to “Training and awareness raising” (see section C), “Protection against retaliation” (see section D) and the “Financial disclosure programme” (see section E).

**Figure 1. Breakdown of matters handled, by category 2022<sup>2</sup>**



## <sup>2</sup> Key to categories

*Protection against retaliation* includes formal requests for protection against retaliation, advice given in relation to protection against retaliation, and preventive steps taken to reduce likelihood of retaliation. *Policy- and standard-setting*: Initiatives with respect to ethics policies, collaboration with other units on related policies, work carried out to meet Joint Inspection Unit recommendations. *Training and awareness-raising*: Creation, collaboration on and delivery of training and internal communications. *Financial disclosure and conflict-of-interest programme*: Administration of the annual financial disclosure and conflict-of-interest programme. *Coherence*: Collaboration, coordination and information-sharing with the Ethics Panel of the United Nations, other multilateral organizations and other UNOPS units for efficiency gains and to align procedures and practices. *Office alerted*: Ethics Office contacted regarding matters falling outside its mandate (referred onward).

**Figure 2. Trends of matters handled 2017-2022****Figure 3. Breakdown of matters related to ethics-related advice and guidance in 2022<sup>3</sup>**

### A. Policy and standard-setting

29. A core responsibility of the office is to develop standards, training and education on ethics issues and provide guidance to management to ensure that UNOPS rules, policies, procedures and practices reinforce and promote the standards of integrity called for under the Charter of the United Nations and the Standards of Conduct of the International Civil Service. Accordingly, the

<sup>3</sup> **Key to categories**

*Employment-related:* Includes advice on ethics issues in relation to recruitment, employment and post-employment restrictions. *Misconduct allegations* include advice on duties and options in circumstances of possible misconduct and possible referrals. *Financial disclosure-related:* Advice and inquiries on obligations to file (not the annual financial disclosure and conflict-of-interest programme process itself).

office advised internal and external stakeholders on policies, procedures and practices, thus enhancing consistent application of ethics-related issues within the United Nations system.

*UNOPS task force for preventing sexual exploitation and abuse*

30. Implementing recommendations from an external review, the Director of the Ethics Office engaged in efforts to strengthen support for victims by advocating for the establishment of a victims support specialist role, with a view to increasing transparency and communication with victims of workplace misconduct. The role was created to promote the development of a common understanding of what a victim-centred approach would entail at UNOPS. The office will continue to engage with stakeholders in 2023 to further define and embed such approaches in UNOPS policies and practices.

*Compliance and third-party due diligence*

31. In December 2018, UNOPS leadership decided to broaden the focus of the Ethics Office with regard to compliance, tasking the Ethics and Compliance Office to “implement and maintain a framework to ensure policies and procedures are fit for purpose and materially complied with”.

32. However, in order to align the office setup with comparable offices in other United Nations organizations, the broader responsibility for “compliance” responsibilities was removed from the mandate of the office in June 2022. The office now retains only the compliance activities that fall directly under its express mandate pursuant to ST/SGB/2005/22 and ST/SGB/2007/11, such as the financial disclosure programme, management of conflicts of interest, protection against retaliation, and outside activities.

33. The “*third-party reviews of the effectiveness of the UNOPS oversight mechanisms for the Sustainable Investments in Infrastructure and Innovation initiative and UNOPS internal control systems, risk management and overall governance structures*” also identify this structural gap. As of the writing of this report, management is considering streamlining the broader compliance functions under the Executive Office in the context of the UNOPS comprehensive response plan.

34. In the meantime, and throughout 2022, the Ethics Office, in conjunction with the Legal Group and the Chief Risk Officer, conducted and finalized a review of UNOPS due diligence procedures, which incorporate elements of managing certain third-party compliance risks, including money laundering and counter-terrorist financing, bribery, corruption and fraud. The review included controls in respect of third parties, including vendors, grantees, implementing partners, and donors. A due-diligence working group of functional and regional representatives helped oversee the review. The review recommended a number of improvements, including a dedicated due-diligence unit, training, provision of due-diligence tools, a roster of external reviewers, and a review of potential high-risk counterparties by oversight mechanisms. The office outlined the need for an improved compliance framework that would better enable management to identify and assess integrity risks. At the time of writing this report, management is considering those recommendations in the context of the UNOPS comprehensive response plan.

*Introduction of management evaluation process and performance appraisal rebuttal*

35. Further to the implementation of recommendations from an external review with a view to encouraging ‘speaking up’, management accountability and transparency at UNOPS, the office provided input and advice on the creation of additional review processes for individual contractor agreements in the form of a management evaluation process for individual contractor agreement holders to contest administrative decisions, and a performance rebuttal mechanism for individual contractor agreement holders to contest performance appraisal ratings below “fully met expectations”. Both processes were launched in September 2022 as part of a wider initiative to strengthen the individual contract agreement modality.

*Guidance for hosted entities*

36. In collaboration with a hosted entity of UNOPS, the office initiated the development of guidance for personnel of hosted entities attending meetings in the context of private-public



partnerships and conflicts of interest that may arise in such instances. More broadly, the office initiated the development of guidance to address actual or perceived conflicts of interest in the interaction of UNOPS personnel with third-party constituents as part of their governance structures and joint outreach efforts. These guidelines are expected to be completed and promulgated in 2023.

## **B. Confidential advice and guidance**

37. The direct provision of ethics advice and guidance to individuals is a critical part of the work of the office. Any member of UNOPS personnel may contact the office directly for confidential, independent and impartial advice on ethics-related questions and dilemmas.

38. As outlined above, 489 matters related to ethics advice and guidance in 2022 (figure 3) comprising mainly advice and guidance concerning outside activities, receiving of gifts and honours, potential misconduct, and potential conflicts of interest.

### *Outside activities*

39. The conditions and restrictions under which UNOPS personnel may engage in outside activities to maintain the independence and impartiality expected of United Nations personnel is outlined in Operational Instruction Ref.OI.Ethics.2018.04 (“Outside Activities”).

40. In 2022, there were 227 requests for advice with respect to outside activities. They represented approximately 46 per cent of total requests for advice, which could include requests for approval for the writing and publication of scientific papers for advanced degrees, part-time teaching activities, and the use of social media.

41. In executing its mandate under the relevant instruction, the office works collaboratively with a human resources team. Following determination by the office of a potential or actual conflict of interest in the personnel’s pursuit of the outside activity, the matter is conveyed to Human Resources, which considers additional factors within their purview. The office shares a final communication with the requester, advising whether the activity is approved or not. In order to shorten the time spent on administrative tasks, the office is consolidating a new streamlined form to automate parts of the process that will be rolled out in the first quarter of 2023 as part of a series of updates to enhance operational excellence.

42. While the overall trend in this area has been upward since 2018 (343 matters), 2019 (401 matters), 2020 (441 matters) and 2021 (506 matters), 2022 saw a slight decrease in the overall requests for outside activities (489 matters). In 2022 more colleagues sought advice in the areas of potential conflicts of interest, employment-related matters, and receiving gifts and honours than in 2021, while requests for pursuing outside activities decreased. This may be due to the exceptional wave of requests, in 2021, for approvals of teaching activities of personnel working at UNOPS on a part-time retainer basis for a large regional project.

### *Prohibition of accepting gifts, honours or benefits*

43. The prohibition of accepting gifts, honours or benefits is laid out in the Operational Instruction Ref.OI.Ethics.2020.01 (“Prohibition of accepting gifts, honours, decorations, favours or non-UN remuneration or benefits from governmental and non-governmental sources”) of the office. The policy strictly prohibits the receipt of gifts, honours, decorations, favours or any form of non-United Nations remuneration or benefits.

44. In 2022, there were 36 requests for advice in this category. Questions may relate to the refusal of an unanticipated honour, decoration, favour or gift or the filling of a gift declaration form administered by the office.

### *Reports of misconduct*

45. The office provides confidential advice to colleagues where allegations of misconduct other than retaliation are brought to its attention, notably workplace harassment. While addressing such allegations does not fall under its direct mandate, the office does not turn away personnel or

simply refer them to the respective office mandated to deal with such complaints. The office seeks to provide a safe space for listening to concerns, consulting with the person and exploring options for informed decision-making prior to referring the person seeking advice to, for example, Human Resources (“People and Culture Group”) or the Office of the Ombudsman. Any advice is given on the basis of strict confidentiality, and referrals are only made pursuant to the express approval of the person alleging misconduct. Providing such space is an important component of the ‘speak-up’ process at UNOPS.

#### *Conflicts of interest*

46. With regard to cases of perceived or real conflicts of interest in the exercise of the functions of UNOPS personnel, the office continued to review cases and provide proactive advice. In 2022, it issued guidance and recommendations in the form of mitigating measures in 77 cases, a slight increase from 73 cases in 2021.

### **C. Training and awareness-raising**

47. According to the applicable Secretary-General’s Bulletin, the office is mandated to develop training and education on ethics issues. In that respect, a new e-learning course on ethics and standards of conduct, mandatory for all new personnel, was developed and launched in September 2021. Implementing recommendation 3 of the Joint Inspection Unit report (JIU/REP/2021/5), the main parts of the course are now mandatory as a refresher for all personnel, to be completed every two years. Implementing decision 2022/16, the office updated its website in August 2022 and continues to review and improve its web presence.

#### *“Ethics-in-action”*

48. Following the revelation of irregularities in relation to S3i in March 2022, from April 2022 onwards the office initiated the collaborative development of a comprehensive awareness-raising campaign (“Ethics-in-action”) to foster a culture of ethics, integrity and accountability, launching the programme in November 2022. An indicative global roll-out plan for “Ethics-in-action” is in place, to be further refined and executed throughout 2023.

49. The programme aims to initiate a dialogue on ethics-related topics with UNOPS personnel globally, raising awareness on managing ethical dilemmas, the availability and challenges of a vibrant “speak-up” culture, and existing channels to raise concerns about potential misconduct, with a special focus on the updated policy on protection against retaliation.

#### *Other awareness-raising activities*

50. In 2022 the office developed comprehensive content on conflicts of interest, gifts, outside activities, and protection against retaliation, designed to facilitate in-depth awareness-raising for personnel on those topics, given the need for information indicated by the requests for advice received in 2022. The initiatives were rolled out in the Latin America and the Caribbean region in September and October 2022, with the participation of 114 personnel.

51. The office participated in multiple global-standards-of-conduct training sessions alongside colleagues from Human Resources and the Internal Audit and Investigations Group. The sessions were held for the Somalia country office in June 2022 (48 participants) and the Geneva office (70 participants). The office facilitated two workshops on ethical culture and ‘speaking up’ for the Argentina country office (86 participants) and the Mexico country office (85 participants), and a town hall for the Panama country office (58 participants). In August 2022, the Director of the office held hybrid workshops with management and personnel of the UNOPS New York Service Cluster, the Peace and Security Cluster, and the Sustainable Development Cluster. Topics covered were the mandate of the office and the updated policy of protection against retaliation, with the participation of approximately 133 personnel.

52. The Director of the office participated in a global UNOPS town hall meeting in September 2022 alongside the Acting Executive Director and the Director of the Internal Audit and Investigations Group to provide updates from the Executive Board session. The town hall was

joined by 1,386 UNOPS personnel and allowed an opportunity for the Director of the office to provide information to personnel about the launch of the “Ethics-in-action” programme, the updated policy on protection against retaliation, and the independence of the Ethics Office.

#### *Senior leader induction briefings*

53. Throughout 2022, the Director of the office led nine orientation and induction sessions for new senior leaders at UNOPS: incoming country directors and country managers, heads of programme, heads of office and heads of support services in the Latin America and the Caribbean region. Participants were briefed on the mandate and scope of the work of the office and their responsibilities as leaders in relation to a culture of ethics at UNOPS.

### **D. Protection against retaliation**

54. Undertaking the responsibilities in accordance with the policy for protection of personnel against retaliation continues to be a key part of the mandate and workload of the Ethics Office.

55. Sections 4.7 and 4.8 of the UNOPS operational directive “Human Resources, Ethics and Culture” (Ref. OD.PCG.2017.01) reiterate provisions from the Standards of Conduct for the International Civil Service of the International Civil Service Commission and stipulate that “[a]ll UNOPS personnel have a duty to report suspected wrongdoing” and “[a]ny UNOPS personnel who reports suspected wrongdoing in good faith or who cooperates in good faith with an investigation or audit or other duly authorized fact-finding activity has the right to be protected against retaliation. Any UNOPS personnel facing retaliation in violation of that right may seek protection against retaliation through the Ethics Office”.

56. The reporting of suspected misconduct or wrongdoing in good faith remains one of the most effective tools to identify wrongdoing. ‘Speaking up’ by personnel plays a key role in allowing concerns to be reviewed and addressed before they escalate.

57. Pursuant to decision 2022/16, the office reviewed, updated and published its policy for protection against retaliation in August 2022 and presented it to the Executive Board at its second regular session 2022.

58. In updating its protection against retaliation policy (OI.Ethics.2022.01), UNOPS drew from current good practice in the field as well as inputs from the Ethics Panel, in particular the policies of the United Nations Secretariat, UNDP and UNFPA. The office is continuously reviewing its practices with internal and external stakeholders, including members of the Ethics Panel and the Ethics Network of Multilateral Organizations, and will continue to adapt its policy to align with current good practices in the field. A review and assessment of the policy by the Ethics Office is foreseen on a biennial basis.

59. The purpose of the protection against retaliation policy is to ensure that UNOPS functions in an open, transparent and fair manner. The policy reiterates the commitment of UNOPS to protect from retaliation individuals who report misconduct or wrongdoing, or cooperate with duly authorized audits or investigations. The updated policy:

- (a) Strengthens the duty of care in cases where there is an immediate risk to the safety and security of an individual coming forward, and for individuals reporting sexual harassment, abuse or exploitation;
- (b) Underlines the necessity for a victim-centred approach for individuals reporting sexual or violent misconduct or prohibited conduct;
- (c) Includes provisions that the office can recommend to the Executive Director, at any time while a report of alleged retaliation is under consideration, that interim measures be taken in order to safeguard the interests of an individual;
- (d) Articulates that protection against retaliation can also apply to former personnel;
- (e) Clarifies the procedures to be followed when there is a conflict of interest if the Ethics Office reviews a request,

- (f) Clarifies terms such as “retaliation”, “protected activity”, “detrimental action” and “confidentiality” to render them more user-friendly, and
- (g) Clarifies the avenues available for informal resolution, including the Office of the Ombudsman.

*Requirements of the current policy*

60. In order for personnel to be protected from retaliation under the UNOPS policy, the office needs to determine that the personnel participated in a “protected activity” (see paragraph 61, below) and suffered a “detrimental action” (see paragraph 62, below) as a consequence of that participation.

61. The protection against retaliation policies of the ethics offices members of the Ethics Panel of the United Nations do not generally utilize the term “whistle-blower”. Ultimately, their scope is much broader than some whistle-blower policies. For example under the UNOPS policy, “protected activity” includes all good-faith reports of wrongdoing or misconduct (not only those that raise matters that imply a significant risk to the organization) through established channels, as well as cooperation with audits and investigations, even by individuals who were not involved in reporting the alleged misconduct. Therefore, the policy applies whistle-blower protection to activities beyond those involving significant risk to the organization, and ultimately protects from retaliation those who engaged in a “protected activity”.

62. A “detrimental action” is any action taken, recommended or threatened that adversely affects the employment or working conditions of an individual. It may take many forms, such as non-extension or termination of an appointment, constructive dismissal, or arbitrary reassignment. Retaliation is where the purpose of a detrimental action is to punish, intimidate or injure an individual because they engaged in a protected activity.

63. When an individual reports alleged wrongdoing or misconduct in good faith, protection against retaliation does not depend on the eventual substantiation of the claim reported. This is in keeping with the UNOPS commitment to foster an institutional culture conducive to providing safe and supportive channels for personnel to “speak up” when they perceive improper conduct. In some cases, under the conditions outlined in section 8 of the UNOPS protection against retaliation policy, reporting misconduct or wrongdoing outside the established internal channels will qualify for protection against retaliation.

*Procedures to be followed*

64. The UNOPS legal framework for determining the existence of retaliation comprises several stages and involves several authorities.

65. First, upon receipt of a formal request for protection, the Ethics Office must conduct a preliminary review to determine whether (a) the personnel engaged in a protected activity; and (b) there is a prima facie case that the protected activity was a contributing factor in causing the alleged retaliatory detrimental action. The link of causality is important because retaliation, by its very definition, happens in reaction to a person’s engagement in a protected activity.

66. The prima facie standard applied during the preliminary review does not require the personnel requesting protection against retaliation to provide irrefutable proof of causality between the protected activity and the alleged retaliation; nor does it require that the personnel investigate such claims on their own accord. However, the personnel is responsible for providing some evidence or verifiable information to cumulatively support each of the elements outlined above.

67. Once a prima facie case is established, the office will refer the matter, in writing, to be investigated by the Internal Audit and Investigations Group. At this stage the burden of proof reverts to the administration, which has to provide clear and convincing evidence that it would have taken the same action absent the protected activity, or that the alleged retaliatory action was not made for the purpose of punishing, intimidating or injuring the individual.

68. Upon receipt of the investigation report from the Internal Audit and Investigations Group, the office will conduct an independent review of its findings, applying the same reverse burden of proof to make a final determination as to whether retaliation is established. If the office considers that there has been retaliation against an individual, it may recommend to the Executive Director consideration of disciplinary procedures, as well as appropriate measures to correct negative consequences suffered as a result of the retaliatory action and protect the individual from further retaliation. The Executive Director will issue a written decision on the advice of the office within 30 days.

69. The remedies available to personnel disagreeing with a determination under the framework depend on the stage of the process at which the determination occurred.

70. Where a preliminary review by the office determines that there is no prima facie case of retaliation, recourse against the decision may be sought by referring the matter to the Chair of the Ethics Panel, in writing, within 30 days of the notification of the determination.

71. After the office issues a final written recommendation to the Executive Director, any action or non-action by the Executive Director in response to that recommendation may constitute a contestable administrative decision for which recourse may be sought through the management evaluation process.

#### *Case work*

72. Management of individual cases for protection against retaliation require an experienced Ethics Office team member to review and evaluate the facts presented in a case, gather additional information, factually, emotionally and psychologically accompany the person claiming retaliation, and provide wider options and assistance for resolution of a case. Cases of claimed retaliation often involve complex, time-sensitive and protracted dynamics requiring a thorough understanding of United Nations policies, practices and structures.

73. Upon receipt of a request for protection against retaliation or threat of retaliation, the office will consult with the individual to determine the best way forward, provide support to the individual as appropriate, and, with the consent of the individual, liaise with any persons or parties within UNOPS as necessary in order to effectively provide such support. The office will keep a confidential record of such requests.

74. In relation to protection against retaliation, the office differentiates between two types of cases:

- (a) Cases where individuals seek advice and voice their concern about potential retaliation issues; and
- (b) Cases where individuals are in situations where they believe that they are the subject of possible retaliation and/or believe that retaliation may happen to them in the near future because they engaged in a protected activity.

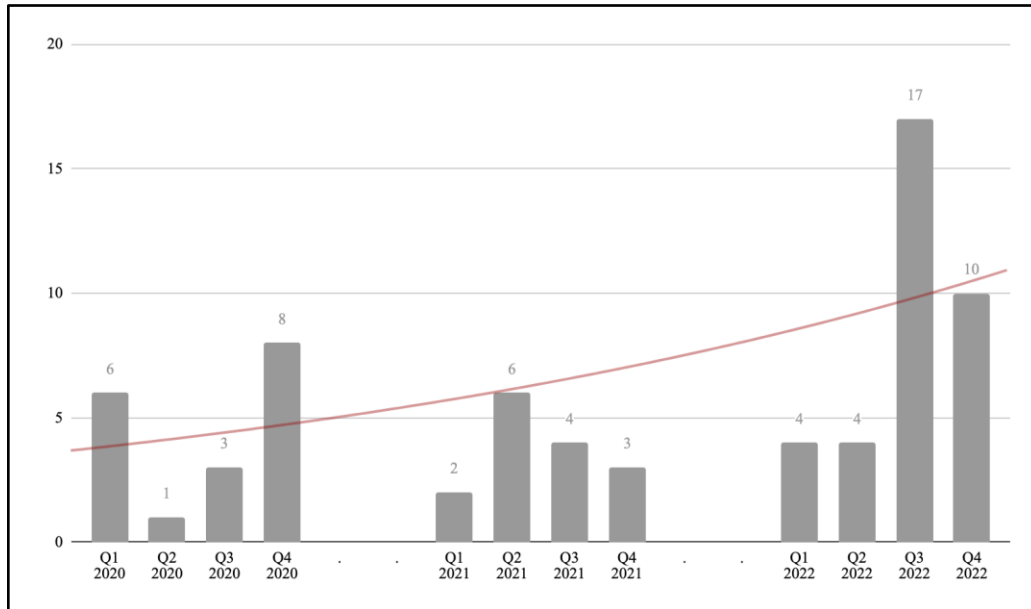
#### *Requests for advice*

75. Requests for advice include scenarios where colleagues wish to voice their concern about potential retaliation issues or seek guidance on how to handle a difficult situation that may result in retaliation. Depending on the facts of the request for advice and on how the cases evolves, some cases starting as requests for advice may lead to a formal request for protection against retaliation.

76. In 2022, the Ethics Office handled 35 requests for advice, a 133 per cent increase as compared to 2021 (15 cases). In previous years, the office received 18 (2020) and 11 cases (2019) respectively (see figure 4). The office noted a spike and record high of intake in this category in the third quarter of 2022 (figure 4). While these cases do not mean that there was an increase in actual retaliation, the office sees this as an expression of increased awareness and confidence on the part of personnel to come forward with concerns. The office will continue to monitor this case trend over the next reporting period so as to better understand the increase.

77. In several case examples under this category, the office provided continuous advisory support to personnel over a period of several months in order to assist them and to monitor evolving situations.

**Figure 4. Matters related to requests for advice about potential retaliation**



#### *Cases of protection against retaliation*

78. In 2022, eight personnel contacted the office requesting formal protection against retaliation. Five of those are under review at the time of writing this report. The year 2022 saw an increase in cases received as compared to 2021 (see figure 5, below).

79. This case category includes personnel contacting the office in situations where they believe that they were the subject of possible retaliation or that retaliation may happen to them in the near future because they engaged in protected activities.

80. In 2022, the office issued formal determinations outlining its findings in five cases. Three of those were issued in cases received in the latter part of 2021, while two were issued for cases received in 2022. No prima facie case of retaliation was found in those cases.

81. In cases of protection against retaliation, the office will review whether a member of personnel has engaged in a “protected activity” and has been subjected to a “detrimental action” for the purpose of punishing, intimidating or injuring that individual because they engaged in the protected activity.

82. Of the five determinations issued by the office in 2022, all were closed at the preliminary review stage. It was determined that personnel had engaged in protected activities in all of those cases. However, detrimental actions could be established in only two cases. In the cases where participation in a protected activity and detrimental acts were found, it could not be established that the participation in a protected activity had been a contributing factor to the detrimental action. Therefore, no prima facie case of retaliation was found.

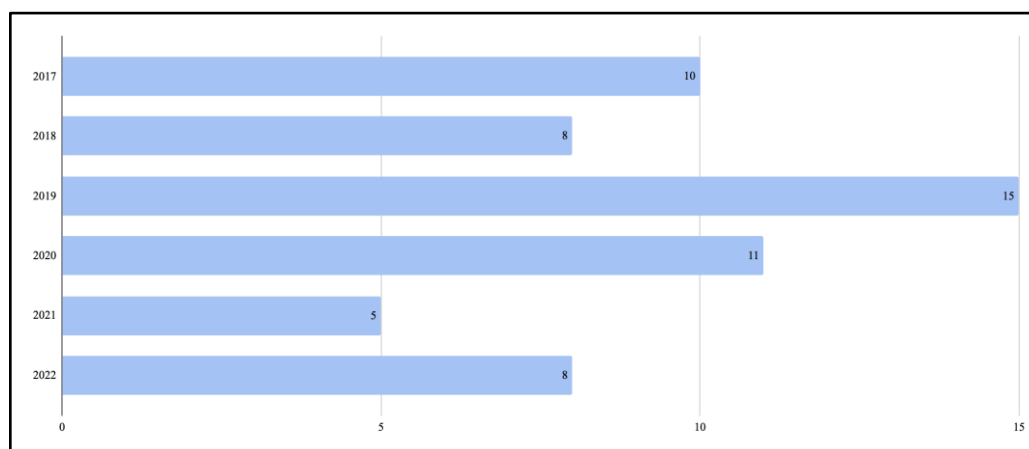
83. The fact that review by the office did not ultimately find that retaliation occurred did not hinder it from taking preliminary protective actions during the course of the review, in accordance with its ability to safeguard the interests of an individual where action by the administration may cause irreparable harm. For example, in one particularly urgent case, the office recommended

interim measures during its preliminary review to protect the interests of the individual claiming retaliation; these were implemented within three days.

84. Any party receiving a determination from the office that there was no prima facie case of retaliation may seek recourse by requesting a review of the decision by the Chair of the Ethics Panel.

85. In 2022, the Chair received eight cases for review of determinations from among the constituencies of the panel, six of which were upheld, one was overturned and one is ongoing (at the time of writing this report). With respect to UNOPS Ethics Office determinations specifically, two reviews were requested, both of which were upheld by the panel.

**Figure 5. Formal requests for protection against retaliation: 2017-2021**



#### *Preventive measures*

86. In one case related to advice in relation to protection against retaliation, a person who was afraid to speak up approached the office to seek advice on a confidential matter. Following encouragement from the office to ‘speak up’, and an explanation of the process of protection against retaliation, the person was able to engage the issue in a preventive manner, and informed the office that the person had more “confidence that I can make a change” and that the person felt empowered “to say no (...) to ensure that things are in line with our rules and regulations”.

87. In another case, feedback was received stating that the person was glad they had approached the office and that, through their case, they had “learned to speak up” and were glad to know that there was support from the office.

88. In both instances the office prevented further escalation of the cases through its ongoing support and guidance.

#### *Confidentiality*

89. As a principle, the office will treat confidentially every interaction and all documentation received, meaning that every interaction remains between the reporting party and the office. Only with the individual’s consent will the office contact any other office or personnel to obtain additional information or records related to a request for protection.

90. The office will ask for express authorization from a reporting party to take any action, share information with any other office, to refer a case or obtain any additional information and records from any other person or office on a party’s behalf.

91. According to paragraph 10 of the policy, the practice of confidentiality may differ in cases where the office may be required to cooperate with requests for information from United Nations

oversight bodies or United Nations tribunals where a risk of danger is posed to an individual, or where a risk of environmental damage or a threat to public health is involved.

*Overhaul of the 'speak-up' and whistle-blowing processes*

92. The third-party reviews of the effectiveness of the UNOPS oversight mechanisms found that "the whistle-blower mechanism was not functioning effectively due to a lack of trust in confidentiality during the processing of complaints and fears of retaliation among staff".

93. Pursuant to decision 2022/24, in the course of 2023 the office will cooperate with the Acting Executive Director and any forthcoming Executive Director to overhaul the 'speak-up' and whistle-blowing processes completely, establish a clear, centralized and uniform process that encourages reporting, and safeguard fair and confidential treatment of all reports with appropriate rules and protocols, in line with United Nations system best practices in accordance with and in follow-up to decision 2022/16, paragraph 9.

## **E. Financial disclosure programme**

94. Section 3 (g) of ST/SGB/2007/1 requires the ethics offices of the separately administered programmes to create a financial disclosure programme.

95. The office has continued to engage an external reviewer to carry out the initial review of submitted financial disclosure and conflict-of-interest statements and to gather information, where needed, in line with review guidelines issued by the office.

*Annual cycle, 2021*

96. The office launched the annual filing cycle, 2021, in July 2021 and completed it in September 2022. The review included 1,065 statements by UNOPS personnel. Eighty-one per cent (859 filers) disclosed that they had no relevant information in response to the questions asked, while 19 per cent (206 filers) provided disclosures that were subsequently reviewed by the office. After review, 133 of those disclosures were closed with no further action needed. Seventy-three required additional follow-up, and the office provided advice and recommendations to the relevant personnel and their managers, or took further action for approvals. The advice consisted mainly of preventing or mitigating potential conflicts of interest, recommendations regarding outside activities, and reminders of previous advice given.

97. Delays in the review cycle, 2021, are attributable to the on-boarding of a new external reviewer and the turnover in the Ethics Office in 2022.

*Annual cycle, 2022*

98. The office launched the annual filing cycle, 2022, in September 2022. The review includes 1,023 filers for the annual programme, 2022. The office is currently reviewing their statements with the help of an external reviewer, with a view to providing advice and recommendations to the relevant personnel and/or their managers relating to preventing and/or mitigating potential conflicts of interest. As of the writing of this report, the review is ongoing.

## **F. Other activities**

*Joint Inspection Unit*

99. In June 2020 the Joint Inspection Unit of the United Nations launched its system-wide review of the status of the ethics function and issued a report (JIU/REP/2021/5) with its recommendations.

100. The Joint Inspection Unit recommended that ethics offices should ensure that periodic refresher courses in ethics are introduced as mandatory for all staff and non-staff of their respective organizations, irrespective of seniority, category and level, every three years from 2023 onwards (recommendation 3). In that respect, the office will require all UNOPS personnel from 2023 onwards to complete the mandatory ethics and standards of conduct e-learning course as a



periodic refresher every two years, covering topics such as the importance of ethics at UNOPS, the mechanisms available for speaking up, and protection against retaliation. This recommendation was therefore closed by the auditor in October 2022.

101. The Joint Inspection Unit also recommended that ethics offices evaluate, by 2025 latest, the effectiveness and efficiency, including “value for money”, of their financial disclosure and declaration-of-interest programmes and, on the basis of the findings, propose changes where appropriate (recommendation 4). To that end, the office will conduct a review of the effectiveness and efficiency of the UNOPS financial disclosure and declaration of conflicts-of-interest programme on the basis of lessons learned from the 2022 and 2023 exercises, and will propose changes to the programme by an accelerated deadline of 2023 (two years prior to the suggested deadline of 2025).

#### *Audit Advisory Committee*

102. The Director of the Ethics Office presented its annual report, 2021, to the Audit Advisory Committee in April 2022 and participated in joint sessions with the committee and the Executive Director in June 2022 and August 2022. The Director of the office also had an in-camera session with the committee in October 2022.

#### *Recommendations and actions from UNOPS third-party reviews*

103. In November 2022, the third-party reviews of the effectiveness of the UNOPS oversight mechanisms were issued. Main recommendations under the purview of the office’s mandate have been included in the UNOPS comprehensive response plan. Updates on items will be provided to the Executive Board on an ongoing basis and will be reflected in next year’s report.

## **IV. Ethics Panel of the United Nations and Ethics Network of Multilateral Organizations**

#### *Ethics Panel of the United Nations*

104. The Ethics Panel of the United Nations consists of the heads of the eight ethics offices of the separately administered organs and programmes of the United Nations and the Ethics Office of the United Nations Secretariat. It is mandated to establish a unified set of standards and policies of the United Nations Secretariat and of the separately administered organs and programmes, and to consult on important and particularly complex cases.

105. Collaboration with the Ethics Panel is a cornerstone of UNOPS cohesion with the wider community of separately administered organs and programmes, serving to align common ethics-related practices. That collaboration is critical to the independence of the UNOPS Ethics Office. The collaboration was strengthened by the office in 2022 and will continue throughout 2023.

106. In 2022 the office continued its active participation in monthly meetings and several ad-hoc informal sessions of the ethics panel. Repeated consultations regarding its updated policy on whistle-blower protection and good operational practices were held with various members.

107. The office is participating in a working group to develop updated and coherent guidance on outside activities and on the prohibition on the receipt of gifts and honours, and to enhance system-wide collaboration with regard to ‘speaking up’.

108. Most notably, and in order to allow UNOPS personnel to voice their concerns or questions in relation to ethics-related questions outside UNOPS, a series of joint outreach activities were conducted in 2022. In the second and fourth quarters of 2022, the office invited UNOPS personnel to attend outreach activities of UNFPA, the United Nations Secretariat and UNDP in the Africa, Europe the Middle East and South America on ethics-related topics, such as protection against retaliation, conflicts of interest, political and outside activities, ‘speaking up’, and bystander interventions.

*Ethics Network of Multilateral Organizations*

109. UNOPS is a member of the Ethics Network of Multilateral Organizations, which comprises the ethics offices of over 40 multilateral organizations (including international financial institutions).

110. As a member of the Ethics Network of Multilateral Organizations, the office continued to engage with the wider membership of the network. At the time of writing this report, two members of the network – the Ethics Office of IMF and the Ethics Office of UNESCO – were conducting an independent review pursuant to Executive Board decision 2022/16.

111. In 2022, the Director of the office attended the annual conference of the Ethics Network of Multilateral Organizations.

## **V. Conclusion**

112. Following the challenges to UNOPS operations in the wake of the irregularities linked to the S3i investments, the Ethics Office, while stabilizing its operations and ensuring continuity of its day-to-day services, contributed to reform efforts by updating its policy on protection against retaliation; developing and launching a global awareness-raising campaign to foster values-based decision-making in ethical dilemmas; and initiating an independent review of its independence. Building on that work, the Ethics Office will continue to engage with all relevant stakeholders throughout 2023 to continue to restore the trust placed in its institutional makeup and to safeguard a culture of ethics at UNOPS.

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