



**SAHARA
AND SAHEL
OBSERVATORY**

WHISTLEBLOWER AND WITNESS PROTECTION POLICY

May 2023

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ACRONYMS

AMLC/FTP	Anti-Money Laundering Counter Financing of Terrorism Policy
GCGHU	Governance Compliance and Grievance Handling Unit
IT	Investigative team
MRT	Monitoring and Reporting Team
OSS	Sahara and Sahel Observatory
PPP	Prohibited Practices Policy
WWPP	Whistleblower and Witness Protection Policy

DEFINITIONS^{1,2,3,4,5}

Anti-Money Laundering and Counter Financing Terrorism Policy (AML/CFT): OSS policy on how to combat money laundering and counter financing of terrorism.

Board members: Board of Administration members of the OSS.

Breach: Failure to comply with OSS rules and standards of conduct.

Conflict of Interest: Any situation in which an individual, group of individuals or an entity, involved in the decision-making process has, could have, or could be perceived as having the ability to improperly influence the performance of their official duties and responsibilities.

Corruption: Any direct or indirect offering, giving, receiving or soliciting, in any capacity whatsoever, anything of value and/or any improper advantage of any kind for oneself or for any other person or entity, in order to act or refrain from acting in breach of one's official duties or legal, contractual or professional obligations, or in order to influence one's own actions or those of another person or entity.

Counterparty: Any individual, organization, institution or other involved in OSS activities.

Covered Individual: Any individual working at any level or grade within the OSS.

Evidence: A physical object, record, document in any form, testimony, or other information used to prove the existence or nonexistence of a claim or fact.

External Individual: Persons who are not Covered Individuals.

External Retaliation: Actions taken by an individual or group of individuals who are not Covered Individuals, to retaliate against a Whistleblower, Witness, or anyone associated with either who has reported suspected Misconduct or participated in an OSS investigation.

External Whistleblowers and Witnesses: Whistleblowers or Witnesses who are not Covered Individuals.

¹ <https://www.afdb.org/fileadmin/uploads/afdb/Documents/Policy-Documents/18136242-EN-WHISTLE-BLOWING-POLICY-FINAL-FINAL-WKF.PDF>

² <https://www.greenclimate.fund/sites/default/files/document/policy-whistleblower-protection.pdf>

³ <https://www.oecd.org/corruption/anti-bribery/39532693.pdf>

⁴ <https://legalinstruments.oecd.org/en/instruments/OECD-LEGAL-0316>

⁵ file:///C:/Users/Admin/Downloads/afd-group-policy-prevent-and-combat-prohibited-practices.pdf

False or Malicious Report: Any inaccurate or misleading report intentionally or recklessly made, to obtain an improper advantage and/or cause harm to any person or entity.

Fraud: Any use of deception with the intent to gain an unfair advantage of any kind for oneself or a third party, by omission, misrepresentation, concealment of facts or any other method that knowingly or recklessly misleads or avoids an obligation, or causes harm to another party.

Governance Compliance and Grievance Handling Unit (GCGHU): Independent body within the OSS that reports directly to the Executive Secretary. It is responsible for ensuring adherence to governance principles and regulations. It oversees the implementation of OSS' policies and procedures, and addresses grievances or complaints raised by stakeholders, partners or any individual or entity working or involved in OSS' activities. This unit plays a crucial role in promoting transparency, accountability, and ethical conduct, while effectively managing and resolving any grievances or disputes that may arise within the organization.

Investigative Team (IT): Subdivision of the Governance Compliance and Grievance Handling Unit in charge of conducting investigations under the jurisdiction of GCGHU.

Misconduct: Any behavior or action that violates OSS policy, is morally or ethically unacceptable, or is contrary to the standards or policies of the Observatory. Misconduct includes, but is not limited to, prohibited practices, illegal acts or instructions involving violation of law, waste, mismanagement, abuse of power, conflicts of interest, etc.

Monitoring and Reporting Team (MRT): Subdivision of the Governance Compliance and Grievance Handling Unit in charge of monitoring and reporting any suspicious activity in relation with OSS activities.

Prohibited Practices Policy: Policy of the OSS on Prohibited Practices.

Prohibited Practices: Specific actions that fall under the definition of the OSS Prohibited Practices Policy.

Retaliation against Whistleblowers and/or Witnesses: Actions taken in retaliation against a whistleblower, witness, or anyone associated with one of them, for reporting alleged Misconduct or participating in an OSS investigation.

Retaliation: Any harmful action, directly or indirectly, recommended, threatened or taken against a person.

Whistleblower: Any person, group of persons or entity who, with knowledge or good faith belief in its truth, reports or intends to report a concern, allegation or other information indicating that Misconduct is occurring or has occurred in the activities of the OSS.

Witness: Any person, group of persons, or entity who, in good faith, cooperates, or is about to cooperate with an investigation, and provides information or evidence.

1. INTRODUCTION AND RATIONALE

Protecting Whistleblowers and Witnesses is essential to maintaining the trust and credibility of Stakeholders and Partners and upholding the values of integrity, transparency, accountability and responsibility. Therefore, having an effective whistleblower and witness protection policy in place is critical to meeting regulatory requirements^{6,7,8} and minimizing financial, operational and reputational risks.

The Sahara and Sahel Observatory (hereafter OSS or Observatory) is committed to conducting its activities with the highest standards of integrity, honesty, and transparency. The OSS recognizes the importance of whistleblowers in bringing to light any Misconduct, fraud, or unethical behavior that may occur within the Observatory or in connection with its activities.

This Whistleblower and Witness Protection Policy (hereafter the Policy or WWPP) is designed to ensure that any concerns or suspected Misconduct are promptly and appropriately addressed and that anyone who reports such concerns is protected from any form of retaliation. It provides clear guidance on how to report concerns or suspected Misconduct and how to protect those who come forward to report such concerns.

In addition, by implementing and consistently enforcing the WWPP, the OSS will be able to protect the resources entrusted to it and ensure that they are used effectively and efficiently.

2. OBJECTIVES

The purpose of the Policy is to provide a clear and consistent framework for whistleblower and witness protection within the Observatory and its activities.

The purpose of the WWPP is to provide a framework within which all reports are investigated in a fair, impartial and timely manner and appropriate action is taken to address any Misconduct or wrongdoing.

The Policy specifically provides the OSS with a framework to help it guide its efforts to:

- Encourage individuals to report concerns about potential Misconduct and/or unethical behavior within the Observatory or its activities, without fear of retaliation, harassment, or other adverse actions as a result of reporting concerns;
- Provide clear guidelines for reporting such concerns;

⁶ <https://www.afdb.org/fileadmin/uploads/afdb/Documents/Policy-Documents/18136242-EN-WHISTLE-BLOWING-POLICY-FINAL-FINAL-WKF.PDF>

⁷ <https://www.greencimate.fund/sites/default/files/document/policy-whistleblower-protection.pdf>

⁸ <https://www.ohchr.org/en/instruments-mechanisms/instruments/basic-principles-and-guidelines-right-remedy-and-reparation>

- Ensure that reports are handled promptly and confidentially, with appropriate investigation and follow-up;
- Promote a culture of transparency, accountability, and ethical behavior within the Observatory;
- Enhance the reputation of OSS by demonstrating its commitment to ethical behavior and responsible governance.

3. SCOPE

The WWPP applies to individuals who report suspected Misconduct⁹ as defined in the Policy, and to individuals who provide allegations or information in connection with complaints or grievances involving suspected Misconduct¹⁰.

The Governance Compliance and Grievance Handling Unit (GCGHU) is responsible for handling reports of alleged Misconduct related to matters within its jurisdiction. Otherwise, the GCGHU shall assist the competent body in the conduct of the investigation.

The WWPP applies at two distinct but complementary levels:

3.1. At the institutional level

OSS Board members, staff or other persons working for the Observatory are required to report any act of fraud, corruption or other violation of which they become aware. This approach would promote a culture of integrity, accountability and transparency within the Observatory, thereby ensuring that it is able to carry out its functions properly and that the Policy is fully implemented.

3.2. At the Counterparties level

All Counterparties (executing agencies, institutions, organizations, individuals, etc.) involved in OSS activities must comply with the Policy and are expected to report any act of fraud, corruption or any other violation, including those involving OSS staff members.

4. PRINCIPLES

OSS is committed to maintaining the confidentiality of all information related to Whistleblowers and Witnesses (and, upon request, their immediate family members and/or associates) to the fullest extent possible, and to treat all individuals involved in the Whistleblowing and Witness Protection process fairly and impartially.

⁹ See the OSS' Prohibited Practices and Anti-Money Laundering and Counter Financing Terrorism Policies.

¹⁰ Any person or entity who makes a False or Malicious Report, is not protected by the Policy and may be subject to sanctions or disciplinary action in accordance with OSS' Procedure for the Protection of Whistleblowers and Witnesses, and the provisions of any contractual agreements existing between the Observatory and the person or entity.

The Observatory will make every effort within its means to protect Whistleblowers and Witnesses who report in good faith and have a reasonable belief that the information, report, or evidence provided is accurate.

The OSS does not accept that Whistleblowers and Witnesses be subjected to any form of retaliation or adverse treatment, as a result of their reporting of Misconduct.

Suspected Misconduct must be freely reported to the GCGHU, which will work with the reporting individual(s) during the investigation, proactive integrity review, or other inquiry, to ensure that there is no fear of retaliation.

All reports of Misconduct will be promptly investigated and resolved in a timely manner.

Reporting suspected Misconduct does not provide Whistleblowers or Witnesses with immunity from sanctions resulting from their own Misconduct. Reporting should in no way be viewed as an escape from complicity in Misconduct. However, the circumstances surrounding the Misconduct, including potential coercion, may be considered in determining the appropriate sanction or action based on the report and the level of cooperation provided.

All Covered Individuals must refuse to participate in any form of Misconduct.

5. REPORTING AND INVESTIGATION

5.1. Suspected Misconduct

Any allegations of suspected Misconduct (as defined by the Policy) could be reported by any person or entity. Reports must be addressed to the GCGHU.

Covered Individuals are required to promptly report any suspected Misconduct related to the activities of the Observatory as soon as they become aware of such suspicions, subject to available protections.

OSS employees or others working for the Observatory do not need approval, authorization, or clearance to report suspected Misconduct.

Regardless of status or rank, OSS personnel who receive a report of suspected Misconduct made in good faith, are required to promptly report it to the GCGHU, subject to available protections.

Reports of suspected Misconduct will be handled in accordance with the relevant OSS policies and standards. The GCGHU is responsible for diligently and comprehensively addressing reports of suspected Misconduct in an independent and objective manner by conducting administrative fact-finding investigations that are not influenced or controlled by any person or entity, and strictly adhere to the principles of fairness and due process of law.

In accordance with the Prohibited Practices Policy (PPP) and the Anti-Money Laundering and Counter Financing Terrorism Policy (AML/CFTP) of the OSS and any subsequent related policies, Counterparties and Partners shall promptly notify the Observatory of any reports of suspected Prohibited Practices found or alleged in connection with any OSS-related activity.

All reports and information mentioned or referenced in the preceding paragraphs of this section shall be submitted to the GCGHU in person or by one of the following ways:

Email: gcghu@oss.org.tn
Hotline: +216 71 206 633/634
Mailing Address: Governance Compliance and Grievance Handling Unit
Observatoire du Sahara et du Sahel
BP 31. Boulevard du Leader Yasser Arafat. Tunis 1080
Tunisia

Any individual, including OSS employees or others associated with the Observatory, who wishes to report suspected Misconduct and is unsure about the reporting requirements or any matter covered by the Policy, may seek confidential advice from the GCGHU.

If a report of suspected Misconduct is made against OSS staff, Board members, or other persons working for the Observatory (other than the Executive Secretary and GCGHU staff), or their immediate family members, such report shall be made to the Executive Secretary (ES) and the GCGHU.

Reports of suspected Misconduct against GCGHU personnel must be made to the ES and the Head of the GCGHU, and the suspected personnel must be suspended from their duties in the GCGHU during the investigation. Reports of suspected Misconduct made against the Head of the GCGHU must be sent to the Executive Secretary who will appoint another member of this Unit as its Interim Head, to replace the former one who will be suspended of his/her duties during the investigation. Reports of alleged Misconduct against the ES must be made to the Head of the GCGHU, and the First Advisor who will replace the ES and who is the person to whom the GCGHU should report during the investigation period.

Reports of suspected Misconduct must be made in good faith and, whenever possible, should include any information or evidence that reasonably supports the belief that Misconduct may have occurred. Prior to making such reports, individuals or entities are not required to evaluate or determine whether the report meets any threshold of seriousness or severity. Reporting individuals or entities are not required to substantiate the alleged Misconduct or meet any standard of proof.

As a detailed report can help ensure a successful investigation, it is recommended that it is as specific as possible. Therefore, to the extent possible, reports should answer the following questions¹¹:

- (1) What kind of suspected Misconduct is supposed to take place?
- (2) When, where, and how the suspected Misconduct occurred?

¹¹ These details are by no mean not mandatory to start an investigation and their absence should not prevent their reporting, nor shall it prevent the GCGHU or any other investigative competent authority to conduct their duties with regards to reports on suspected Misconduct

(3) Who was involved and may have knowledge of the matters being reported?

Relevant documents or other supporting materials should be attached to the report or submitted as soon as practicable.

Reports of suspected Misconduct, along with any accompanying information or evidence, can be submitted in any language. If the report is not in English or French, the GCGHU will endeavor to provide translation or interpretation as needed.

5.2. Retaliation

Whistleblowers or witnesses who believe they may experience or be subjected to retaliation for reporting suspected Misconduct or for cooperating with a GCGHU investigation, should raise their concerns with the GCGHU in person or through the appropriate channels, using the following ways¹²:

Email: gcghu@oss.org.tn
Hotline: +216 71 206 633/634
Mailing Address: Governance Compliance and Grievance Handling Unit
Observatoire du Sahara et du Sahel
BP 31. Boulevard du Leader Yasser Arafat. Tunis 1080
Tunisia

In assessing whether a Covered Individual or a Counterparty has retaliated against a Whistleblower or Witness, the GCGHU, in collaboration with the appropriate body, will consider whether:

- (1) or witness has established a case of retaliation by demonstrating that he or she has a reasonable belief that his or her reporting of suspected wrongdoing or cooperation in an investigation of wrongdoing is, or has been, a contributing factor in taking or threatening to take a detrimental action by the Covered Individual or Counterparty; and
- (2) The Covered Individual or the Counterparty has failed to establish, by clear and convincing evidence, that the same action would have been taken or threatened even in the absence of the report or cooperation.

5.3. Cooperation

The OSS expects all Whistleblowers and Witnesses who cooperate with GCGHU investigations to do so in good faith and to provide information or evidence that they believe to be true.

OSS Counterparties are required to cooperate fully with the Observatory in any investigation of suspected Misconduct relating to its activities, and shall take all necessary steps to ensure the full cooperation of relevant persons and entities subject

¹² Reporting and investigation of retaliation follow the same rules and procedures as provided in the previous section on suspected Misconduct

to such investigation.

Subject to applicable protections, the GCGHU has the authority to request the cooperation of persons (e.g., by providing information, evidence, etc.) who are not Covered Individuals or Counterparties, such as witnesses, in its investigation of suspected Misconducts.

Any OSS employee, Board member or other person working for OSS does not need authorization or approval to cooperate fully with any GCGHU investigation. Failure to do so or obstruction of cooperation may result in disciplinary action according to OSS' Procedure for the Protection of Whistleblowers and Witnesses.

6. PROTECTION AND REMEDIES FOR WHISTLEBLOWERS AND WITNESSES

OSS protects the right of anyone to remain anonymous when making a report of suspected Misconducts. Whistleblowers or Witnesses have the option of requesting that their identity, and that of their close family member(s) or associate(s), and any specific information shared during or after an investigation, remain confidential. The GCGHU is committed to honoring such confidentiality requests to the extent possible, taking into account the legitimate needs of the investigation.

To the extent possible, the OSS, including the GCGHU, will protect the identities of Whistleblowers and Witnesses and any confidential information provided by them from unauthorized disclosure, both during and after an investigation, in accordance with its established policies and procedures.

During an ongoing investigation, the GCGHU will take reasonable steps to protect the confidentiality of any non-public information related to an investigation, and will take reasonable steps to prevent the unauthorized disclosure of its findings. The GCGHU will protect the confidentiality of its staff conducting an investigation and the identity of any investigator involved in it.

In cases where the conduct of an investigation may require the lawful disclosure of confidential information, the GCGHU will obtain the express consent of Whistleblowers, Witnesses, and other parties to the investigation whose confidentiality has been granted.

If required by legal proceedings or other legal obligations, such as those imposed by law enforcement authorities and deemed unavoidable by the OSS, disclosure of Confidential Information may be permitted to comply with such obligations. In such a case, OSS will notify the Whistleblower, Witness or other protected party within a reasonable time of the need to disclose.

The GCGHU staff must have:

- Exclusive access to investigation files, and
- Authority to determine whether or not such files may be shared with other OSS employees or External Individuals, on a need-to-know basis and subject to their confidentiality obligations.

GCGHU employees who have a conflict of interest in an investigation will be recused from the investigation, but will still be bound by confidentiality as any other GCGHU employee.

Subject to the communication policy of the OSS, the Observatory will inform the whistleblower of the outcome of the investigation through the GCGHU, i.e., whether the alleged Misconduct was substantiated and whether disciplinary action was taken.

Upon request, Whistleblowers and Witnesses whether Covered Individuals, or external Whistleblowers and Witnesses, will be provided with temporary protection for themselves and their families before, during and after an investigation, as necessary, to ensure their safety and well-being.

If OSS determines that there is a reasonable concern that Whistleblowers and Witnesses may fear that they and/or their close family members and/or associates may suffer or will suffer retaliation as a result of reporting suspected Misconduct, the GCGHU will recommend to the OSS Executive Secretary that protective measures be taken, as appropriate, to ensure the personal safety and well-being of such individuals (including cooperating with appropriate authorities) to secure necessary protection and taking other reasonable measures to reduce the risk of retaliation against external Whistleblowers and Witnesses).

If an investigation confirms retaliation against a Whistleblower or Witness who is a Covered Individual, OSS employee, Board member or other person working for OSS, the affected individuals may request, and the GCGHU may recommend, that OSS take corrective actions. Where appropriate, the GCGHU will consult with the Executive Secretary to ensure that the remedies it recommends are practical, proportionate and consistent with international administrative law¹³. The Executive Secretary, together with the Head of the GCGHU, shall determine the final corrective action, if any, to be implemented immediately.

The OSS will protect a Whistleblower or Witness if an investigation confirms external retaliation. The Observatory may also require the Counterparty to take appropriate measures or remedial action to protect and assist the external Whistleblower or Witness.

Covered Individuals who retaliate against external Whistleblower and Witness will be subject to appropriate corrective or disciplinary actions or sanctions in accordance with OSS policies and guidelines. Similarly, any Counterparty that directly or indirectly disregards, encourages, participates in, or engages in retaliation against whistleblowers or witnesses will be subject to sanctions in accordance with relevant OSS policies and any legal agreements between OSS and the Counterparty.

¹³ Corrective measures may encompass actions such as rescinding or discontinuing the retaliatory action, and, if applicable, reinstating to a previous position or reissuing a contract.

7. PROCEDURAL SAFEGUARDS

Procedural safeguards for whistleblowers, witnesses, or subjects of an investigation will be provided throughout an investigation in accordance with international best practices, as set forth in the OSS Whistleblower and Witness Protection Procedure.

Any person or entity involved in a report of suspected Misconduct must be notified within a reasonable time of the report made against them, provided that such notification does not interfere with the investigation of the suspected Misconduct. In addition, consistent with the principle of due process, no findings will be made with respect to a Covered Person or Entity, if the Covered Person or Entity has not had an opportunity to respond to the report of alleged Misconduct.

8. POLICY MANAGEMENT, MONITORING AND REPORTING

The Monitoring and Reporting Team (MRT) and the Investigative Team (IT) of the GCGHU are responsible for the implementation of this Policy. The GCGHU shall work with the Secretariat to provide advice and ensure the effective implementation of the Policy, including that Counterparties have effective whistleblowing and witness protection policies and practices in place.

The GCGHU shall submit an annual report to the Executive Secretary for information. The ES may forward this report to the OSS Board and Funds, as appropriate.

The GCGHU will maintain and publicly disclose a case registry of reports of suspected Misconduct, within the limits of this Policy and in accordance with OSS policies and standards regarding disclosure of information.

The GCGHU Monitoring and Reporting Team (MRT) will proactively monitor and review the implementation of this Policy and the effectiveness of Whistleblower and Witness Protection with respect to OSS activities, on a risk-based approach.

9. EFFECTIVENESS AND REVISION

This Policy will come into effect upon its adoption by the OSS Board. It will apply to all OSS ongoing activities to the extent reasonably possible, and to those that will be approved after the effective date of the Policy.

This Policy shall remain in effect until amended or superseded. The GCGHU will periodically review the Policy to improve its effectiveness and recommend changes to it, subject to the approval of the ES. The GCGHU will also seek new standards or policies for Whistleblower and Witness Protection developed and implemented by peer institutions and Partners in the context of its activities.