



**GOVERNING BOARD OF THE GLOBAL HEALTH EDCTP3 JOINT UNDERTAKING
DECISION N° GB/27/2023**

concerning the terms and conditions for internal investigations in relation to the prevention of fraud, corruption and any illegal activity detrimental to the Union's interest

THE GOVERNING BOARD OF THE OF THE GLOBAL HEALTH EDCTP3 JOINT UNDERTAKING,
(hereafter "GH EDCTP3 JU")

Having regard to Council Regulation (EU) No 2021/2085 of 19 November 2021 establishing the Joint Undertakings under Horizon Europe and repealing Regulations (EC) No 219/2007, (EU) No 557/2014, (EU) No 558/2014, (EU) No 559/2014, (EU) No 560/2014, (EU) No 561/2014 and (EU) No 642/2014, and in particular Article 30(6) thereof;

Having regard to the Rules of Procedure of the Governing Board of the GH EDCTP3 JU, in particular Article 10.

Whereas:

- (1) Regulation (EU, Euratom) No 883/2013 of the European Parliament and of the Council of 11 September 2013 concerning investigations conducted by the European Anti-Fraud Office (OLAF) and repealing Regulation (EC) No 1073/1999 of the European Parliament and of the Council and Council Regulation (Euratom) No 1074/1999 concerning investigations conducted by the European Antifraud Office¹ (hereafter "the Office") provide that the Office is to initiate and conduct administrative investigations within the institutions, bodies and offices and agencies established by or on the basis of the Treaty on the Functioning of the European Union or the Euratom Treaty;
- (2) The competence of the Office as established by the Commission extends beyond the protection of financial interests to include all activities relating to the need to safeguard

¹ OJ L 248, 18.9.2013, p. 1–22.

Union interests against irregular conduct liable to give rise to administrative or criminal proceedings;

- (3) The scope of the fight against fraud should be broadened and its effectiveness enhanced by exploiting existing expertise in the area of administrative investigations;
- (4) Therefore, on the basis of their administrative autonomy, all the institutions, bodies and offices and agencies should entrust to the Office the task of conducting internal administrative investigations with a view to bringing to light serious situations relating to the discharge of professional duties which may constitute a failure to comply with the obligations of officials and servants of the Union, as referred to in Articles 11, 11a, 12, second and third paragraphs, 12a, 12b, 13, 16 and 17, first paragraph, of the Staff Regulations of Officials and the Conditions of Employment of Other Servants of the European Communities (hereinafter referred to as 'the Staff Regulations'), detrimental to the interests of the Union and liable to result in disciplinary or, in appropriate cases, criminal proceedings, or serious misconduct, as referred to in Article 22 of the Staff Regulations, or a failure to comply with the analogous obligations of the Members, managers or members of staff of the institutions, bodies and offices and agencies of the Union not subject to the Staff Regulations;
- (5) Such investigations should be conducted in full compliance with the relevant provisions of the Treaty on the Functioning of the European Union, in particular the Protocol on privileges and immunities, of the texts implementing them and the Staff Regulations;
- (6) Such investigations should be carried out under equivalent conditions in all the Union institutions, bodies and offices and agencies; assignment of this task to the Office should not affect the responsibilities of the institutions, bodies, offices or agencies themselves and should in no way reduce the legal protection of the persons concerned,

HAS ADOPTED THIS DECISION:

Article 1

Duty to cooperate with the Office

1. The members of the GH EDCTP3 JU's bodies and members of staff of the GH EDCTP3 JU² shall be required to cooperate fully with the Office's agents and to lend any assistance required to the investigation. With that aim in view, they shall supply the Office's agents with all useful information and explanations.

2. The obligation laid down in paragraph 1 shall apply without prejudice to the relevant provisions of the Treaty on the Functioning of the European Union, in particular the Protocol

² Staff of the GH EDCTP3 JU includes the Executive Director. Any official or servant of the GH EDCTP3 JU and other members of staff not subject to the Staff Regulations.

on privileges and immunities, and of the texts implementing it, regarding representatives of the members of GH EDCTP3 JU.

Article 2
Duty to supply information

1. Any member of the staff of the GH EDCTP3 JU and of the bodies of the JU who becomes aware of evidence which gives rise to a presumption of the existence of possible cases of fraud, corruption or any other illegal activity detrimental to the interests of the Union, or of serious situations relating to the discharge of professional duties which may constitute a failure to comply with the obligations of members of the staff of the GH EDCTP3 JU liable to result in disciplinary or, in appropriate cases, criminal proceedings, or a failure to comply with the analogous obligations of members of the GH EDCTP3 JU's bodies and of the members of staff not subject to the Staff Regulations, shall inform without delay his hierarchical superior or the Executive Director, or, if he/she has justified reasons to consider it necessary, the Office directly.
2. The Executive Director and the managers of the GH EDCTP3 JU shall transmit without delay to the Office any evidence of which they are aware from which the existence of irregularities as referred to in the first paragraph may be presumed.
3. Staff of the GH EDCTP3 JU³ must in no way suffer inequitable or discriminatory treatment as a result of having communicated the information referred to in paragraphs 1 and 2.
4. Members of the bodies of GH EDCTP3 JU who acquire knowledge of facts as referred to in the first paragraph shall inform the Executive Director of the GH EDCTP3 JU or, if they consider it useful, the Office directly.

Article 3
Assistance from the GH EDCTP3 JU

At the request of the Director-General of the Office, a member of the staff of the GH EDCTP3 JU in charge of security shall assist the Office in the practical conduct of investigations.

Article 4
Informing the person concerned

Where an investigation by OLAF reveals the possible implication of a members of the GH EDCTP3 JU's bodies or member of staff of GH EDCTP3 JU, the person concerned shall be informed rapidly as long as this would not be harmful to the investigation. In any event, conclusions referring by name to the person concerned may not be drawn once the investigation has been completed without the person concerned having been enabled to

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comment on all the facts which concern him/her. The final investigation report shall make reference to any such comments.

In duly justified cases where necessary to preserve the confidentiality of the investigation or an ongoing or future criminal investigation by the EPPO or a national judicial authority, compliance with the obligation to invite the person concerned to provide his/her comments may be deferred in agreement with the Executive Director, or, in case the Executive Director is the person concerned, with the Chairperson of the Governing Board.

Article 5

Information on the closing of the investigation with no further action taken

If, following an internal investigation, no case can be made out against a member of the GH EDCTP3 JU's bodies or member of staff of GH EDCTP3 JU against whom allegations have been made, the internal investigation concerning him/her shall be closed, with no further action taken, by decision of the Director-General of the Office, who shall inform the person concerned in writing.

Article 6

Waiver of immunity

Any request from a national police or judicial authority regarding the waiver of the immunity from judicial proceedings of a member of the GH EDCTP3 JU's bodies or member of staff of GH EDCTP3 JU concerning possible cases of fraud, corruption or any other illegal activity shall be transmitted to the Director-General of the Office for his opinion. If a request for waiver of immunity concerns a representative of a member of GH EDCTP3 JU, the Office shall be informed.

Article 7

Effective date

This Decision shall take effect on the day of its adoption.

Done at Brussels, 01.11.2023

For the Global Health EDCTP3 Joint Undertaking Governing Board



Dr. Henning Gädeke

Chairperson of the Governing Board