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UNCAC Coalition

Policy and Procedure on Preventing and Addressing Misconduct

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I. General

1. Policy Statement

- 1.1. The purpose of this policy is to establish a Coalition-wide common approach in support of those who report or witness misconduct including abusive conduct, retaliation, or harassment, and ensure accountability for those who perpetrate it. The Coalition is dedicated to fostering a safe, equitable, and inclusive environment.
- 1.2. All staff members and non-staff personnel have the right to invoke the applicable procedures in this policy without fear of intimidation or unfavorable treatment. Retaliation against an individual who reports misconduct or cooperates with an investigation of such a report itself constitutes misconduct.

2. Scope of Policy

- 2.1. This policy applies to all individuals associated with the UNCAC Coalition including employees, volunteers, contractors, board members, and other stakeholders.

3. Definitions

For the purpose of this policy the following definitions apply:

- 3.1. **Misconduct:** Any behavior that violates the organization's code of conduct or policies, or is illegal. Conduct that is merely technical or minimal in nature does not constitute misconduct. Misconduct may include, but is not limited to, conflicts of interest, or unethical activity.

- 3.2. **Abusive Conduct:** Abusive conduct is intentional behavior in the workplace that a reasonable person would find hostile or offensive or that the perpetrator knows will be hostile or offensive to the affected individual. It may include repeated verbal abuse, such as the use of derogatory remarks, insults, and epithets, verbal or physical conduct that a reasonable person would find threatening, intimidating, or humiliating, or the gratuitous sabotage or undermining of a person's work performance.
- 3.3. **Harassment:** Harassment is unwelcome conduct which makes the harassed person feel offended, humiliated and/or intimidated, or is meant to make them feel that way. It can concern or be motivated by a person's actual or perceived ethnic origin, religion, belief, physical ability, age, sex, gender, sexual orientation or other aspects of their identity. This, of course, can come in many different forms. Harassment encompasses various offensive behaviors, while abusive conduct specifically refers to hostile or offensive behavior in the workplace, and can be a form of harassment when it involves mistreatment and offensive behavior towards an individual.
- 3.4. **Retaliation:** Any direct or indirect detrimental action that adversely affects the actual or prospective employment or working conditions of an individual, where such action has been recommended, threatened, or taken for the purpose of punishing, coercing, intimidating, or injuring an individual because that individual engaged in a protected activity.
- 3.5. **Complaint:** A formal or informal allegation of misconduct made by an individual or group. Complaints may be submitted by the affected individual or individuals, or one or more witnesses to alleged misconduct. Complaints submitted in accordance with the Coalition's policies, which require the reporting person to have a reasonable belief that the contents within the complaint are true, constitute protected activity.
- 3.6. **Affected Individual:** The person affected by the alleged misconduct.
- 3.7. **Whistleblower:** An individual who reports misconduct and has a reasonable belief that what they reported is true.

4. Obligations of managers and supervisors

- 4.1. Managers and supervisors have an obligation to uphold standards of expected conduct and must foster an environment of mutual respect. In addition to leading by example, managers and supervisors shall remind staff of expected standards and take prompt steps to address conduct that falls short of expected standards.

II. Resolution Mechanisms and Procedures

5. Early intervention and handling reports of misconduct outside of the formal complaint procedures

- 5.1. Early intervention to identify concerns, address perceived inappropriate behavior, and resolve conflicts may be effective in ensuring that inappropriate behavior is discontinued. If the affected individual wishes to deal with the matter informally, the Managing Director (MD) or the designated person or persons on the Coalition's Coordination Committee (CCC) – the Board – can lead a supervised conversation with the accused and the affected individual including discussing the conduct in question, or providing an opportunity for a facilitated discussion, subject to mutual consent. They can try to reach an agreement to re-establish a safe and pleasant working environment.
- 5.2. Affected individuals may choose not to consent to the manager/supervisor's direct intervention with the alleged offender, however it may not be possible to address the matter in question without such consent. If an affected individual does not feel comfortable confronting the accused then other interventions may be arranged including, but not limited to, a confidential discussion with the MD, or the designated person or persons on the CCC.
- 5.3. An affected individual may still pursue informal resolution of a matter after they have made a formal complaint without prejudice to formal proceedings. If informal resolution efforts fail, formal complaints will proceed according to the normal timeline unless the complaint is withdrawn. Formal complaints may be made without first attempting to resolve matters through informal resolution mechanisms.

A. Approaching the alleged offender

- 5.4. Alleged offenders may not be aware of the negative impact of their behavior on others. Affected individuals may, on a voluntary basis and if they feel comfortable and safe doing so, approach the alleged offender about inappropriate behavior or instances of possible abusive conduct and ask the alleged offender to stop. However there is no requirement for such action to be taken.

B. Management intervention

- 5.5. Affected individuals who believe they have been subject to inappropriate behavior may raise this with their supervisor or other manager if they feel

comfortable doing so. The Managing Director, or any supervisor approached by an affected individual is expected to inform that person of their right to confidential advice, assistance, and information about options available under this policy, section V. The manager/supervisor shall maintain a record about the matter and any managerial/supervisory intervention taken.

- 5.6. Any manager/supervisor who has been informed about inappropriate behavior or instances of abusive conduct shall provide advice, assistance, and/or information in a timely, sensitive, and impartial manner. Any manager/supervisor who is unsure of what action to take should consult the designated member of the CCC for guidance.
- 5.7. Instances of possible violations of criminal law, such as physical assault, should be reported to local law enforcement.
- 5.8. Furthermore, if the abusive conduct involves physical violence of any kind, affected individuals are advised to contact, as appropriate and practicable, local law enforcement and seek urgent medical attention.

C. Mediation

- 5.9. Mediation is an informal, voluntary, and confidential process for resolving work-related concerns and promoting shared understanding of an issue, in which the mediator facilitates effective communications between the parties with a view of assisting them in finding a mutually agreeable resolution of their work-related concerns. Upon mutual agreement, the affected individual and the Coalition may submit a complaint to mediation by an individual who is acceptable to both parties. The cost of mediation shall be evenly divided between the parties. Mediation shall conclude if one or both parties withdraw at any time, the mediator determines the process is unsuccessful or no longer appropriate, or the mediation process leads to a mutually agreeable solution.

6. Receipt and Handling of Formal Complaints of Misconduct

A. Formal complaints mechanism

- 6.1. Covered individuals are invited to report misconduct, including retaliation, in writing or orally, in person or by virtual means, to the following authorised recipients: their supervisor, the Managing Director, or to the CCC member designated for that role by the CCC, and whose name, phone number and e-mail address for that purpose (reporting@uncaccoalition.org) will be published on the Coalition's website.

B. Seeking Guidance and Advice

- 6.2. If someone is unsure whether or how to utilise this policy, or they require confidential advice at any stage in the process, they are encouraged to seek guidance and advice from an independent legal expert of their own choosing. Confidential communications with the authorised member of the CCC designated for handling reports may also be utilised for informal advice and guidance on this policy, however such advice does not constitute legal advice and does not constitute legal representation. Retaliation against anyone who seeks guidance or advice concerning this policy is prohibited. However, no official investigation will commence unless or until an oral or written complaint is filed in accordance with section II. E. of this policy.

C. Time to file

- 6.3. A report of misconduct (including retaliation) must be made within 120 days after the individual making the report first becomes aware of the alleged misconduct. Reports submitted after 120 days will be considered only on a discretionary basis.

D. Investigation

- 6.4. Investigations include gathering and reviewing inculpatory and exculpatory evidence, interviews, and producing a confidential report. Bare, overly vague allegations unsupported by examples or evidence will not be investigated.
- 6.5. The investigating person/s or body will give adequate opportunity to the complainant and the accused to present relevant evidence (e.g. text messages or emails), testimony or witnesses to make their case.

E. Content of Reports

- 6.6. Reports should ideally include the following information:
- A broad description of the suspected misconduct
 - What happened? Provide a detailed description of what the reporting person knows about the issue or incident(s) and how they came to know about it.
 - Who is involved? Who is responsible? Was anyone else involved?
 - Who is/are the potential victims or affected persons?
 - Who else knows about the issue? Were there any witnesses?

- When did the incident(s) occur? Information about dates and times.
 - Where did the incident(s) occur?
 - Date of the report
 - Preferred contact details, if applicable
 - Whether you would like to report confidentially. If so, please identify in your report any information (besides your name) that may reveal your identity or identifying information.
- 6.7. The reporting person need not identify the specific law, rule, regulation, or policy being violated if the statements obviously implicated misconduct under a particular provision. Even disclosures that are proven wrong may be protected from retaliation if they provide proof, either in the form of testimony or documentary evidence, that shows the matter reported was one that a reasonable person in the reporting person's position would believe to evidence misconduct. The test for assessing the reasonableness of the reporting person's reasonable belief is (1) whether a disinterested observer with knowledge of the essential facts known to and readily ascertainable by the employee or applicant (2) could reasonably conclude that the actions reported evidence a violation.
- 6.8. If the reporting person has legitimate access to documents or other items in support of their report (e.g., photos, screenshots, documents, messages, emails), then these should also be provided. However, they should not attempt to obtain items or information that are not already in their possession or not legitimately or lawfully available to them. The reporter should not seek to investigate the matter themselves prior to submitting their report. If the reporter is aware of evidence they do not have current, legitimate, or lawful access to, they should identify and describe those items to the best of their ability and where the evidence may be located.
- 6.9. The Coalition commits to keeping confidential records of every report received and shall store them, in a secure location with restricted access, for as long as necessary and legally required.

F. Documenting Oral Reports

- 6.10. In the case of oral reporting, such records may entail a complete and accurate written transcript, a detailed conversation log, or an audio recording, if so agreed by the reporting person. The Coalition will offer the reporting person the opportunity to check the transcript or minutes of the conversation, correct any mistakes, and sign it to confirm.

- 6.11. The same rules stated in the above paragraph apply if the reporting person requests a meeting with the authorised recipient, who is entitled to keep records of the meeting.

G. Business Secrets

- 6.12. Reporting persons and internal authorities may not use business secrets they became aware of as a result of the report unless it is necessary to comply with the law and such utilisation may only be to the extent required for the report.

H. Confidentiality and Anonymity

- 6.13. The confidentiality of any covered person involved in submitting an internal report of misconduct (including retaliation), the identity of the affected or impacted person, the alleged offender, or any person cooperating with an investigation, shall be maintained to the extent practicable, recognizing the need to conduct a full and thorough investigation. The affected individual's report and the contents therein will only be shared internally if someone meets the "need to know" standard. If a misconduct(including retaliation) report cannot be investigated on a confidential basis, the affected individual shall have the option to waive their confidentiality or to withdraw the complaint.
- 6.14. Furthermore, while the Coalition honours requests for confidentiality, the reporting person must nevertheless identify themselves to the authorised recipient.
- 6.15. If a person files a disclosure internally to authorised recipients listed in section 6.1 of this policy, their identity and identifying information will not be shared externally without their consent unless that disclosure is required by law or is compelled by a court order. The authorised individual may disclose reporting person's identity if it is necessary because of an imminent danger to public health or safety or an imminent violation of any criminal law. In the rare case where it is determined disclosing the reporting person's identity is necessary due to an aforementioned exception, the authorised recipient will attempt to contact the reporting person to inform them of the forthcoming disclosure and the justification unless it is determined that such information would jeopardise an administrative or judicial proceeding or criminal investigation procedure. The Coalition cannot guarantee confidentiality where the reporting person has told others of the fact of their report or the alleged misconduct.
- 6.16. The Coalition cannot receive or investigate anonymous disclosures because an inquiry's effectiveness may be limited if the authorized individual cannot communicate to seek further information or clarification; the Coalition cannot provide protection to a person whose identity is unknown, and the reporting person cannot be informed of the outcome of the investigation.

- 6.17. The unauthorized disclosure of the identity of an impacted individual and/or any other information or documentation relating to or arising from an allegation of any violation of a Coalition policy is strictly prohibited and may lead to disciplinary measures on staff or non-staff personnel or other individuals consistent with the terms of their legal relationship with the Coalition and in accordance with Austrian law.

I. Burden of Proof

- 6.18. During the investigation the reporting person and witnesses should be interviewed and inculpatory as well as exculpatory evidence should be sought and analysed.
- 6.19. The burden of proof for misconduct allegations is satisfied by a prima facie showing by the preponderance of the evidence. Preponderance of the evidence means evidence sufficient to support a reasonable belief, taking into consideration all relevant factors and circumstances that on a balance of probabilities, a given party has engaged in misconduct. The burden will then shift to the accused who must demonstrate by clear and convincing evidence that the action was legitimate and not linked in any way to discrimination or retaliation.

J. Right to Follow-up

- 6.20. The authorised recipients who received the report will acknowledge receipt of the report to the reporting person within four (4) business days. All written information submitted to the authorised recipient will be confirmed immediately but not later than after seven (7) calendar days. Matters of urgency will be responded to as quickly as possible. For non-urgent matters, reporting persons shall receive a communication regarding the process and timing within 10 business days, excluding holidays.
- 6.21. Reporting persons shall be informed about the action envisaged or taken as a follow-up to the report and the grounds for the choice of that follow-up within a reasonable timeframe, not to exceed three (3) months unless the particular nature and complexity of the subject of the report requires a lengthy investigation, in which case an extension to six (6) months may be required. Follow-up could include referral to other channels or procedures, closure of the procedure based on a lack of evidence or grounds, launch of an internal inquiry, and, possibly, its findings and any measures taken to address the issue raised, or referral to a competent external authority for further investigation insofar as such information would not affect the rights of the reporting person.

K. Withdrawal of Complaint

- 6.22. Complaints may be withdrawn by the affected individual at any stage before a final decision is made, however the manager/supervisor or designated person the CCC responsible for investigating the matter may, at their discretion, nonetheless decide to pursue the matter.

L. Investigation Report Transmission

- 6.23. The final report with the comments of the accused individual(/s) and the reporting person will be submitted to the deciding official, who shall make a prompt decision on the outcome, not to exceed 60 calendar days.
- 6.24. If the investigation is conducted by the Managing Director, the final, confidential report shall be transmitted to the designated person on the CCC, the Chair.
- 6.25. If the designated person on the CCC prepared the investigation report, the final report shall be transmitted to the Managing Director, the Chair, and Vice Chair of the CCC for the Managing Director's decision.

M. Investigation Report Contents

- 6.26. The report shall contain the established facts and evidence that have been gathered, shall conclude whether the allegations are substantiated and whether a Coalition policy has been violated, and shall state what disciplinary action was taken or recommended by the Managing Director.

N. Investigation Final Outcomes

- 6.27. Actions taken shall be in accordance with the laws of Austria and may include:
- a) Closing the case with no further action if the facts established by the investigation do not substantiate the complaint.
 - b) Closing the case with managerial action if the facts established by the investigation lead to a conclusion of some factual basis for the allegation warranting managerial action while not warranting disciplinary proceedings.
 - c) Initiate disciplinary proceedings against the alleged offender if the facts established by the investigation lead to a conclusion that the allegations are substantiated and the conduct in question may amount to abusive conduct or other misconduct.

- d) Initiate disciplinary proceedings against the reporting person if the facts established by the investigation show they filed a knowingly false complaint. Or,
- e) Take other appropriate action.

III. External Reporting

7. External reporting for whistleblowing

- 7.1. The Coalition encourages internal reporting; however, we recognize the right of employees, volunteers, consultants, and other stakeholders to report suspected misconduct wrongdoing directly to the competent public authorities either instead of, or in addition to, a report made internally. The Coalition also acknowledges that, in some circumstances, making misconduct public may be the only means of addressing it. This includes the media and/or donors.

A. Competent Authorities in Austria

- The [Federal Bureau of Anti-Corruption](#) (Bundesamt zur Korruptionsprävention und Korruptionsbekämpfung), which operates under the Ministry of Interior, serves as the external reporting agency for whistleblowing reports related to the private sector and public sector and is mandated to provide free legal consultations to reporting persons under the Whistleblower Protection Act. However, the Bureau may be required to initiate criminal proceedings if it learns of a possible criminal act.
- The Office of the Prosecutor for Economic Affairs and Corruption ([Wirtschafts- und Korruptionsstaatsanwaltschaft](#) – WKStA) operates a secure reporting mechanism through which anonymous reports can be filed.

8. External reporting for harassment

- 8.1. A person who has been subject to harassment has the right to make a complaint outside the Coalition and seek redress elsewhere if they are not comfortable using internal complaint mechanisms or deem them inadequate. An external complaint in Austria can be filed with:
 - The [Austrian Gleichbehandlungsanwaltschaft](#) (Ombud for Equal Treatment), which is also competent for harassment, provides [information and advice](#) through free phone consultations under 0800 206 119 or through [online forms](#).
 - The Arbeiterkammer (Chamber of Employees) provides [resources and advice](#), and may also offer free legal representation to employees.

- If the case involves possible criminal misconduct (e.g. sexual assault), a report should be filed with competent law enforcement bodies.

IV. Post-investigation process for alleged offenders who are staff members

9. Rights Retained by Accused Individuals

- 9.1. As a general rule, a staff member will be notified that they are under investigation. The need to prevent further harm, protect individuals involved, and risks of concealment or destruction of evidence or attempts to improperly influence witnesses will be factored into the decision on when such notification should occur.
- 9.2. Individuals accused of misconduct under this policy shall have the following rights:
 - The right to an effective remedy
 - The right to fair procedures
 - The right to defend themselves including the right to access the investigative file
 - The right to be heard
 - The right to be represented by outside counsel of their choosing during any informal or formal hearings, at their own expense.
 - The identity of the accused individual shall be protected in accordance with the same rules in section 6.13 of this policy, and reporting persons/affected individuals must also protect the identity of the accused individual.

10. Appeal mechanisms

- 10.1. Both the affected individual and the alleged offender may request a review of any adverse final decision or an alleged failure to make a decision within 60 calendar days of the submission of the investigative report.

11. Separation from the Coalition before a final decision on a formal complaint is made

- 11.1. If the alleged offender separates from the Coalition before any final decision on the formal complaint is made, the case will be reviewed and, if misconduct is confirmed, appropriate actions may be taken such as banning the offender from future employment or procurement.

12. Sanctions and disciplinary measures

- 12.1. Once an investigation has been completed, and a decision made on the outcome, appropriate measures shall be taken to ensure that incidents of abusive conduct or retaliation are not continued or repeated. The Managing Director is responsible for determining sanctions for all those who have a contractual relationship of employment of any kind and by the CCC in all other cases. Potential sanctions include:

- Verbal or written warningAdverse performance evaluation
- Reduction in wages or rates
- Mandatory awareness training
- Demotion
- Suspension
- Refusal to be recognised as the representative of an UNCAC Coalition member
- Expelling or suspension of membership in the UNCAC Coalition
- Cancellation of a consulting contract
- Non-extension of a limited employment or consulting contract
- Dismissal

- 12.2. The nature of the applied sanctions will depend on the gravity and extent of the case as well as on applicable legal provisions. The Managing Director or the designated CCC member can also determine that a written apology to the victim is mandatory. Certain severe cases, including acts of physical violence, may result in the immediate dismissal. Members of the CCC who have been found guilty of harassment or misconduct may be excluded from the CCC and/ or barred from running in future elections.

- 12.3. At regular intervals, the Managing Director will continue to monitor the status of the affected individual, the offender, and those they work closely with to ensure that retaliation as a consequence of the investigation does not occur or continue. If new or continued retaliation is detected the Managing Director will take appropriate action to address it.

V. Support

- 13.1. The Coalition is unable to provide all support services that affected individuals may need, therefore affected individuals are encouraged to seek medical support, psycho-social counseling, independent legal advice from a competent body (such as the Chamber of Employees), an attorney of their choice, and physical security as needed. Individuals affected by abusive conduct may be accompanied by one support person or their legal representative during the formal or informal processes for the purpose of emotional support provided that such accompanying person signs the required confidentiality agreement and certifies they do not have a conflict of interest and are not a witness of the alleged misconduct; support persons may not participate if they have a conflict of interest or witnessed the allegation.
- 13.2. If an affected individual's work performance is impacted by abusive conduct, their supervisor or the Managing Director will work with them to identify and address those areas and take that into consideration in subsequent performance reviews.
- 13.3. Reasonable accommodations may be made, such as establishing a new work plan, providing leave or alternative working arrangements, and maintaining due regard to confidentiality when communicating accommodations to any staff members or others if such notification is necessary and appropriate.

VI. Relief

- 14.1. Any covered individual who is subjected to retaliation or other abusive conduct shall be made whole by remedial action that neutralises its direct and indirect consequences including reinstatement to their former position.
- 14.2. A whistleblower whose internal report, or cooperation with an authorised audit or investigation, leads to the identification of misconduct will receive a certificate of appreciation acknowledging their contribution unless they do not consent to such certificate.

Interim Relief

- 15.1. The Coalition recognises that interim measures may be needed to support the affected individual, to ensure the integrity of the investigation and evidence, to

prevent the occurrence or repetition of prohibited conduct, or to prevent retaliation.

- 15.2. Upon request, interim relief may be provided if warranted for decisions that appear to constitute prohibited retaliation, in cases of particular urgency, and if it is determined that the implementation of the proposed or taken administrative action would cause significant damage. Measures may include:
 - 15.2.1. A suspension of an administrative action
 - 15.2.2. Measures to separate the alleged offender and affected individual
 - 15.2.3. A temporary change in reporting lines, or
 - 15.2.4. Placement of the alleged offender on administrative leave.
- 15.3. The Managing Director or the designated member of the CCC shall recommend and/or implement interim measures as appropriate.

ANNEX 1: Terms of Reference of the Coalition Appeals Board (CAB)

1. The terms of reference of the Coalition Appeals Board (CAB) are determined by this policy and may be amended by the CCC.
2. The role of the CAB is to review appeals concerning administrative decisions and/or any final determinations concerning any act of retaliation or other misconduct in violation of any policy of the Coalition, and to provide recommendations to the Managing Director. If the Managing Director's conduct or their decision is being challenged, then the CAB will also have decision-making authority. In all other cases the Managing Director will make final decisions concerning appropriate courses of action in accordance with this policy and Austrian law.

Principles of the CAB

3. The CAB shall respect the confidentiality of the matter, all discussions concerning the matter, and all records submitted to the board.
4. The CAB must operate independently without pressure, retaliation, or obstruction and any such efforts to interfere with a member of the CAB will be subject to this policy and may result in disciplinary action.

5. The members of the CAB must be objective in their review of the matter and consider both inculpatory and exculpatory evidence, examine new facts or procedural questions, and formulate a recommendation to the Managing Director to sustain, amend or revoke the sanction, or offer appropriate relief to the injured party.
6. The CAB shall also strive to work constructively with each other and act professionally, respectfully, and honestly in their discussions with each other and the parties.

Composition of the CAB and terms of service

7. The CAB is composed of:
 - 7.1. One member of the CCC appointed by the CCC to serve as Chair of the CAB;
 - 7.2. One staff member elected by staff and one Alternate also elected by staff to serve in cases of conflicts of interest or unavailability of the serving elected-member;
 - 7.3. The Chair of the CCC, who may assign their responsibility to an Alternate member of the CCC in cases of conflict of interest or unavailability.
8. To the extent possible, balanced and diverse representation on the CAB including, inter alia, gender and race, should be considered.
9. The staff member and designated Chair of the CAB may be reappointed or re-elected an unlimited number of times for periods of two years. Both members may withdraw their acceptance of the position on the CAB at any point in time, however they should make every effort to avoid such withdrawal in the event they are still seized of the case. The Chair of the CCC shall serve for the duration of their term as Chair of the CCC and the Chair may only assign their responsibility to an Alternate member of the CCC on a case-by-case basis. Each member must be informed of all applicable Coalition policies and procedures.
10. The Chair of the CAB shall be responsible for corresponding with the parties; scheduling meetings and any applicable hearings; maintaining files in a secure and confidential location; preserving and destroying records according to the applicable laws and the policies of the Coalition; and preparing the report to the Managing Director.
11. The CAB shall be responsible for preparing rules and procedures for implementing this policy and submit it to the CCC for review and approval, which shall be completed within 8 months.