



# ETHICAL GUIDELINES TO THE CODE OF CONDUCT FOR EU ELECTION OBSERVERS

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**Annexes 1 to 5 : Templates**

The Code of Conduct (CoC) for European Union (EU) Election Observers was established by Council Decision 9262/98 and is included as Annex III to the Communication from the Commission on EU Election Assistance and Observation – COM(2000)191.

### **CODE OF CONDUCT FOR EU ELECTION OBSERVERS**

*All EU observers are bound by the following EU code of conduct. This is in harmony with the code of conduct accompanying the Declaration of Principles for International Observation, to which EU observers should also adhere.*

- 1. Observers will respect the laws of the land. They enjoy no special immunities as international observers, unless the host country so provides.*
- 2. Observers will participate in all pre-election briefings with their supervising officers.*
- 3. Observers will be subject to the direction and management of the observer team leadership, carrying out their written terms of reference and covering the geographical schedules specified by team leaders.*
- 4. Observers should be aware of the presence of other electoral observation groups, and liaise with them under the direction of the EU EOM leadership.*
- 5. Observers will carry with them prescribed identification issued by the host government or election management body, and will identify themselves to any interested authority upon request.*
- 6. Observers will maintain strict impartiality in the conduct of their duties, and shall at no time express any bias or preference in relation to national authorities, parties, candidates, or with reference to any issues in contention in the election process.*
- 7. Observers will not display or wear any partisan symbols, colours or banners.*
- 8. Observers will undertake their duties in an unobtrusive manner, and will not disrupt or interfere with the election process, polling day procedures, or the vote count.*
- 9. Observers may bring irregularities to the attention of the election officials, but will not give instructions or countermand decisions of the election officials.*
- 10. Observers will base all conclusions on well documented, factual, and verifiable evidence, and will keep a record of the polling stations and other relevant places that they visit.*
- 11. Observers will refrain from making any personal or premature comments about their observations to the media or any other interested persons, but should provide, through a designated liaison officer or spokesperson, general information about the nature of their activities as observers.*
- 12. Observers will participate in post-election de-briefings with their supervising officers and will contribute fully towards EU reports on the elections being observed.*
- 13. Observers must comply with all national laws and regulations. Where these limit freedom of assembly or movement about the country, they must note where such rules prevent them from carrying out their duties.*
- 14. At all times during the mission, including during private time away from work, each election observer should behave blamelessly, exercise sound judgement, and observe the highest level of personal discretion.*

## *Ethical Guidelines for the Code of Conduct of EU Election Observers*

### **1. Purpose**

The Ethical Guidelines (EG) annexed to the Code of Conduct (CoC) were developed in line with the principles of the Code of Conduct for EU Election Observers established by the Council Decision 9262/98 and included as Annex III of the 2000 EC Communication on Election Assistance and Observation (COM(2000)191), the EU policy regarding Ethics and Integrity of EU election missions and a zero tolerance approach to breaches of the Code of Conduct.

*All members of EU election missions, including host country national staff, are expected, at all times, to contribute to a professional working environment and to adopt a level of personal conduct that is irreproachable and that abides by the principles stipulated in the Code of Conduct for EU observers.*

### **2. Applicability of the CoC and its Ethical Guidelines: to all personnel and at all times**

The CoC and its Ethical Guidelines are based on commitment, a spirit of cooperation and team work.

All members of EU election missions are bound by the Code of Conduct and its Ethical Guidelines. This includes the Chief Observer, the Deputy Chief Observer, the members of the Core Team, the members of the Service Provider, long and short-term observers, locally-recruited short-term observers and national staff, as well as experts/analysts participating in Exploratory, Follow-up or Election Expert Missions, or Election Assessment Teams.

### **3. Definition and Categorisation of Malpractice considered to be a breach of the CoC**

The following categories are considered to be malpractices constituting a breach of the CoC:

#### ***3.1 Breaches regarding Impartiality***

Members of EU election missions are required to maintain strict impartiality in the conduct of their duties and to exercise sound judgement. Personal preferences must never be expressed regarding national authorities, political parties and electoral candidates or regarding any existing controversy in the electoral process.

Members of EU election missions must always act with objectivity and base any conclusion on well-documented, factual, and verifiable evidence, rather than on any personal preference.

The following behaviour constitutes a failure to act with impartiality and could lead to a breach of the CoC:

- making decisions without having gathered all of the necessary information or without having analysed and considered it in a balanced manner (lacking objectivity);
- taking direction in work from national focal points, political parties, friends or other stakeholders outside the framework of the EU election mission (lacking independence);
- making decisions in line with personal interests or inclination (partiality and/or conflict of interest).

### ***3.2 Breaches regarding Confidentiality and Information-sharing***

Members of EU election missions are bound by a confidentiality clause.<sup>1</sup> During and after the assignment, members of EU election missions may not disclose, without prior authorisation of the mission leadership (CO and DCO) or the European Commission, any information related to the mission that has not been made public. They should also refrain from making any personal or professional comments about their observations to the media or to any other stakeholder.

Using personal social media accounts and making statements to the media (television, radio, press, online media, other) to comment on any aspect of the work of the mission or of the host country is not allowed. Members of the EU election missions may, however, share the photographs and content of the mission's social media pages in their personal social media accounts.

Duties of participants in an election mission must be professionally carried out with the interests of the election mission in mind. Information that has not been made public must never be disclosed - neither in the field, nor in their country of origin or in any other country.

For example, the following behaviour may amount to a breach of the CoC:

- commenting in public, such as through the media or social media platforms on the work and findings of the election mission without prior authorisation;
- publishing photographs, such as through the media or social media platforms, taken in the course of the work of the election mission without prior authorisation, except for the photographs from the mission's social media pages;
- engaging in debate either in the host country or elsewhere, such as through the media or social media platforms, on the work of the election mission without prior authorisation;
- having, prior to the deployment of the mission or during the mission, posted images, texts, any other media or shares/reposts on feeds/timelines, whereby the EU EOM member expresses or endorses any opinion regarding politicians or processes of the host country;

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<sup>1</sup> Code of Conduct, Annex 5: Administrative arrangements of the Letter of Assignment for EU election observers and contractual clauses for experts/analysts participating in the various types of EU election missions.

- publishing any information in the media or on social media platforms that may pose a danger to any member of the EU EOM or to the local community, or which may threaten the integrity of the EU EOM or the image of the EU in any other way.

### ***3.3 Breaches regarding Personal Discretion and Integrity***

Members of EU election missions must behave blamelessly and observe the highest level of personal discretion and integrity, including during private time outside of working hours. They must remain aware that their presence in the host country is at all times as members representing the EU election mission, and not in their personal capacity. In this regard, they must be very much aware that their behaviour will therefore reflect not only on the EU election mission but also on the EU image and its diplomatic representation in the host country. At all times, members of EU election missions must refrain from any involvement in criminal or unethical activities that could compromise the image of the EU, its diplomatic representation and the interests of the EU EOM.

For the same reasons, members of EU election missions should behave in a manner that demonstrates respect for the citizens and officials of the host country. Particular attention should be paid to the fact that **abuse of alcohol, use of illegal drugs or soliciting or engaging in prostitution/sex work, sexual and psychological harassment are** considered to be a serious breach of the CoC regardless of the prevailing local laws which might not prohibit such activities.

The following behaviour may constitute a failure to act with integrity and could amount to a breach of the CoC:

- frequenting any business where it is suspected that sex workers and/or victims of human trafficking are in service;
- public drunkenness or while on duty;
- use of illegal drugs.

### ***3.4 Breaches regarding Cultural Awareness, Dress Code and Treatment of National Staff***

EU election missions operate in diverse cultural environments. Local culture ought to be respected, as well as the cultural differences within the election mission. Members of EU election missions must respect the laws and be sensitive to the culture of the host country, maintain the highest level of private and public conduct, demonstrate respect for the citizens and officials of the host country and abstain from any type of conduct (i.e. actions, words or body language) that might be considered offensive, inappropriate or embarrassing.

#### ***Dress Code***

All members of EU election missions must be aware at all times that they are in the country as representatives of the EU election mission, and not in their personal capacity. They are therefore expected to present themselves in clothing appropriate for staff working in an EU election mission, which does not offend cultural values in the country. Some degree of formality is required, in particular, when meeting national authorities in all missions.

### ***Treatment of Colleagues, National and International Staff***

All mission members are expected to contribute to a professional working environment. All members are expected to be polite, considerate and respectful to all colleagues, both national and international.

Considering the nature of EU election missions, national staff members are expected to be given a working schedule that respects labour rights.

Any instance of abuse of power will be taken seriously and considered a breach of the CoC.

### ***3.5 Interpersonal Conflicts***

Members of EU election missions are expected to demonstrate an ability to work in a team and to avoid possible workplace conflicts.<sup>2</sup>

The intense workload, concentrated in a short period of time, may, however, lead to tensions that negatively impact on the productivity, the professionalism and the morale of the members of an election mission.

Some observers remain silent about conflicts until a near critical stage is reached, fearing that speaking out would damage their reputation and have an impact on their end-of-mission evaluations.

In order to prevent the escalation of interpersonal conflicts, members of EU election missions are advised to use the available mechanisms to handle difficulties in working relations during EU EOMs.

### ***3.6 Discrimination***

Non-discrimination and equal treatment are general principles applicable throughout the work of EU election missions.

Discrimination is considered to be any unfair treatment or arbitrary distinction where one person is treated less favourably than another, in a comparable situation, based on grounds of sex, racial or ethnic origin, religion or belief, disability, age or sexual orientation, or where a provision or action would put persons of a racial or ethnic origin, sex, religion or belief, disability, age or sexual orientation at a particular disadvantage compared with other persons.

Discrimination includes actions, made directly or indirectly, based on unwarranted distinctions or prejudice with the purpose or effect of treating individuals or groups unfairly or unjustly. Discrimination may be an isolated event affecting one person or a group of persons similarly situated, or it may manifest itself through harassment or abuse of authority.

While respecting the principle of non-discrimination and the principle of proportionality, any limitation of the application of these principles must be justified on objective and reasonable grounds and must be strictly aimed at legitimate objectives in the general interest of the EU election mission.

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<sup>2</sup> *Handbook for EU Election Observation*, 5.3.6: “Observers participating in EU EOMs are expected to fulfil the following criteria: (...) interpersonal skills (capacity for balanced judgement, ability to work in teams, ability to cope with difficult situations, respect for local attitudes and customs, good communication skills, readiness to work in a multicultural environment)”.

### ***3.7 Psychological Harassment***

Any improper conduct that takes place over a period, is repetitive or systematic and involves physical behaviour, spoken or written language, gestures, or other acts that are intentional and that may undermine the personality, dignity or physical or psychological integrity of any person may amount to psychological harassment.

Psychological harassment includes incidents where persons are abused, threatened or assaulted in circumstances related to their work, involving an explicit or implicit challenge to their safety, well-being and health.

Fundamentally, it comprises all forms of sustained, intentional, abusive behaviour, whether this is repetitive or systematic conduct that may undermine the personality, dignity or physical or psychological well-being of a person.

The following behaviour may constitute psychological harassment:

- offensive or degrading comments in private or public, bullying, antagonism, pressure, offensive behaviour, even refusal to communicate;
- insults relating to someone's personal or professional competence;
- insulting or threatening remarks, both oral and written;
- belittling someone's contributions and achievements;
- being isolated, set apart, marginalised, excluded, rejected, ignored, disparaged or humiliated by colleagues;
- impairing one's social relations;
- setting unrealistic working objectives;
- contrary to one's job description, not giving someone any work, or systematically giving them work which does not meet their profile;
- singling out one person from a group and treating him/her differently or negatively;
- being humiliated, derided and threatened, often in front of others;
- being overburdened with work or having all one's work taken away and being given trivial tasks.

A remark, a dispute, a clash of personalities at work, a management decision which is difficult to accept or a duly substantiated negative assessment cannot necessarily alone be considered as psychological harassment.

### ***3.8 Sexual Harassment***

Any conduct relating to sex which is unwanted by the person to whom it is directed and which has the purpose or effect of offending that person or creating an intimidating, hostile, offensive or disturbing environment may amount to sexual harassment. This includes any unwelcome



verbal, written, physical or other form of behaviour. The essential characteristic is that it is unwanted by the recipient.

The following behaviour may constitute sexual harassment:

- promises of some kind of reward (i.e. favourable career moves, etc.) in return for sexual favours, or threats of reprisals if such requests are turned down;
- repetition of coarse or suggestive remarks, or sexual insinuation;
- use of crude and obscene language and/or gestures;
- repeated and exaggerated compliments on the appearance of a work colleague;
- unwanted physical contact, rubbing against someone, pinching, deliberate unwanted kisses;
- acts of voyeurism or exhibitionism;
- use of pornographic material.

### ***3.9 Corruption***

Any deliberate action of a member of EU election missions which, directly or through an intermediary, aims at requesting or receiving an advantage of any kind for himself/herself or for a third party, or involves accepting a promise of such an advantage in order to act or refrain from acting in accordance with his/her duties in a way that damages or is likely to damage the financial interests of the EU election mission may be considered as corruption.

Members of the EU election missions should not seek or receive any favours, gifts or payments of any kind (apart from their stipulated remuneration) in respect of their work for the EU election mission. They ought not to deal with any matters in which they have personal, family or financial interests.

The following behaviour may amount to a breach of the CoC:

- acceptance of gifts of money or items of significant value<sup>3</sup>;
- acceptance of extravagant hospitality;
- dealing with financial or other matters in which there is a personal interest.

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<sup>3</sup> These rules are contained in the [Staff Regulations](#) and the [Code of Good Administrative Behaviour](#).

### 3.10 Fraud

Fraud consists of any intentional act or omission relating to:

the use or presentation of false, incorrect or incomplete statements or documents, which has as its effect the misappropriation or wrongful retention of funds from the general budget of the EU or budgets managed by, or on behalf of, the EU;

- non-disclosure of information in violation of a specific obligation (for example, provisions of EU or national law or of the relevant contractual arrangements) with the same effect;
- the misapplication of such funds for purposes other than those for which they were originally granted.

### 3.11 Obligation to Report Misconduct/Malpractice

Members of EU election missions have an obligation to report *to the assigned contact point* any misconduct/malpractice or any serious failure to comply with the professional obligations of other members of EU election missions.

In this context, whistleblowing arrangements are essentially a detection mechanism to bring cases to the attention of the management of the EU election mission. The duty to report only concerns breaches of the CoC/EG and/or professional wrongdoing.

These rules are not intended to apply to the reporting of the following types of information:

- Unsubstantiated rumours and hearsay;
- Matters of a trivial nature;
- Disagreements over EU policy, mission direction and management, security and operational instructions<sup>4</sup>;
- Personal disagreements or conflicts with colleagues or with the mission hierarchy;
- Malicious, frivolous or potentially defamatory disclosures (i.e. false or unverifiable accusations submitted with the aim of harming another person's reputation).

For the purpose of these EG, a whistle-blower is any member of EU election missions, who becomes aware of a serious breach of the CoC/EG and who, acting in good faith (believing in the veracity of the reported facts and having a reasonable conviction about the reliability of the information in his/her possession), reports the facts to the management of the EU election mission.

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<sup>4</sup> Article 3 of the Code of Conduct: "Observers will be subject to the direction and management of the observer team leadership, carrying out their written terms of reference (...). Art. 2 of the ToR for LTOs: "Failure to follow [the] Code of Conduct and instructions may result in an anticipated termination of the observer's assignment, immediate repatriation to the place of residence and non-recommendation for future EU EOMs".

**Facts should be reported to any of the contact points for breaches of the CoC (Observer Coordinator - OC) and other assigned member of the mission - see section 4) or, otherwise, directly to the Deputy Chief Observer (DCO).**

Members who report serious breaches of the CoC/EG in good faith must not be subject to retaliation (that is, of any direct or indirect action, or threat of action, resulting from the whistleblowing, which is unjustly detrimental to the whistle-blower, including, but not limited to, harassment, discrimination, negative appraisals or act of vindictiveness).

The management of the EU election mission (DCO) and OC will ensure that the identity of the person reporting in good faith remains confidential, if the person so wishes. This means that his or her name will not be revealed to the person potentially implicated in the alleged wrongdoings or to any other person, unless there is a specific need to know. The whistle-blower may authorise the disclosure of his or her identity.

#### **4. Contact Points for Breaches of the CoC**

Contact points are designated within EU election missions and are individuals to whom other members of the electoral mission may bring any concerns regarding the professional working environment.

In particular, EU Election Observation Missions (EU EOMs) have four contact points (two international members and two national members), in addition to the DCO and FPI acting as contact points in specific cases:

- the **Observer Coordinator (OC)** and another member of the EU EOM (ensuring gender balance), appointed by the Deputy Chief Observer (DCO) (usually the deputy OC, if applicable) - international contact points.
- two **national staff members** of different gender appointed by the DCO, proposed by the Core Team (CT) and Service Provider (SP) - host country contact points.
- for the remaining types of EU election missions, the Team Leader acts as the contact point.

#### *Assigned Contact Points*

##### *International Contact Points*

- Long-term observers (LTOs), short-term observers (STOs) and locally-recruited short-term observers (LSTOs) may seek advice, request mediation and/or submit any complaint to the OC and/or to the other appointed EU EOM member. The DCO, upon the OC's or the observers' request, may assist the OC and the other appointed EU EOM member in mediation between LTOs, STOs and/or LSTOs. The OC is the contact point for national staff that have a complaint against an observer.
- In all disputes involving national staff, the complaint should be forwarded directly, or through the host country contact points, to the OC who will coordinate with the DCO

and SP Project Manager. National staff members may also bring their concerns directly to the DCO or the SP Project Manager.

- During the EU EOM deployment, complaints from the observers may only be submitted until the CT departure.

#### *Deputy Chief Observer (DCO)*

- a) In disputes where one of the parties is a member of the CT or the SP, the contact point should be the DCO. When a dispute involves a member of the SP, the DCO must bring the matter immediately to the attention of FPI. In all disputes involving the SP, FPI will have to be put in copy of all communications.
- b) In disputes where one of the parties is the CO, the complaint should be forwarded directly to the DCO. The DCO will refer the case to EEAS and inform FPI.
- c) In disputes where one of the parties is a member of the EP delegation, the complaint should be forwarded directly to the DCO. The DCO will refer the case to the Head of the EP Delegation's Secretariat and inform EEAS and FPI.
- d) In disputes arising after the departure of the CT or during the Return Visit, the DCO will handle the case and inform FPI.

#### *FPI Programme Manager*

- In all disputes against the DCO, the complaint should be forwarded to the FPI Programme Manager (FPI will inform EEAS).

## **5. Mechanisms to Handle Complaints**

All members of an EU election mission are encouraged to bring disagreements to the notice of their assigned contact point for resolution before they reach a critical phase. Depending on the case, the person concerned or informed may proceed to try to find a solution through either an informal mechanism or through a formal mechanism.

### ***5.1. Informal Mechanisms: Dialogue, Advice and Mediation***

The informal mechanisms should be prioritised as, based on experience, they tend to be more informal, easy-going and speedy. However, in case of breaches to the CoC, utilizing a formal mechanism should be considered.

Three informal mechanisms are described below, namely, having a dialogue, searching for advice and going through mediation.

### ***5.1.1. Dialogue***

Any member of an EU election mission who believes that they have experienced or witnessed inappropriate behaviour by a colleague should be encouraged to speak with their assigned contact point (as specified in section 4) or, if appropriate, inform the concerned person having allegedly misbehaved at an early stage, in writing or verbally, that such alleged behaviour is offensive and must stop immediately.

### ***5.1.2. Advice***

If the EU election mission member does not wish to communicate directly with the person having allegedly misbehaved or if such communication has not been effective, or the misbehaviour may result in serious cases which require a formal administrative investigation, she or he should contact the assigned contact point (as specified in section 4) at an early stage, for advice.

This advice stage will provide members of EU election missions with an opportunity to talk about the issues that trouble them and may allow the contact point to help the mission members to identify their own solutions to problems in a timely manner.

The contact point should clarify if the case requires any further action, such as mediation or, if the person so wishes, submission of a formal complaint, and inform the complainant about the framework of informal and formal mechanisms to deal with workplace issues. Advising may take place in writing, face-to-face, over the phone or via video calls.

### ***5.1.3. Mediation***

If none of the above-mentioned methods proves to be effective, as a further step, EU election mission members may request mediation, where there is a dispute between two parties who are both willing to resolve their differences without the need for formal procedure/mechanism.

Requests for mediation may be addressed, either verbally or in writing, to any of the assigned contact points (as specified in section 4). The DCO may serve as the mediator. Alternatively, EU election mission members may request the support of another internal or external actor to serve as mediator.

Due to the specific context of EU election missions, the mediation sessions may be conducted via video-calls or by phone. In serious cases, a face-to-face discussion between the parties and the mediator may be recommended.

The mediator's role is to guide the parties to their own solution. Mediation sessions will provide the opportunity for each of the parties to present their arguments, and will facilitate a discussion between them in order to identify the problems and issues concerned on both sides.

Private discussions between the mediator and each of the parties involved may also take place. The objective of the mediation sessions is to help both sides to find an easy solution to their concerns. The mediator has no authority to decide the settlement or compel the parties to find a solution. The mediator only proposes a feasible solution.

Mediation is a confidential and non-binding procedure that may be suspended at any time upon the request of either of the two parties involved. The content of the mediation shall only be shared on a “need-to-know” basis, within the circle of the participants of the mediation process.

Participation in a mediation process, as such, has no direct impact on the observers’ end of mission evaluation. If an advisory discussion or mediation attempt fails, the parties may at any time seek a resolution via formal mechanisms.

Mediation is not suitable for situations involving serious breaches of the CoC, such as use of prostitution.

## **5.2. Formal Mechanisms**

At all times, and when informal mechanisms do not result in an effective resolution of a conflict or the alleged breaches might be serious, members of EU election missions have the option to submit a formal complaint through the procedures described below.

### **5.2.1. Procedures for individual complaints launched by short-term or long-term observers:**

- a) The complaint must be submitted in writing to the OC, providing full details of the event alleged, using the template attached in *Annex 1*- reason for the complaint, name of the alleged person who misbehaved, whether it was a single or a continuous event, any relevant supporting documentation and the names of any witnesses. The complaint and the witnessing of the possible breach or misbehaviour/malpractice must be objective, unbiased and impartial.
- b) Upon receipt of the complaint, the OC informs the DCO and FPI that an official complaint has been submitted. The OC and DCO determine if the nature of the complaint and the result of the alleged acts require immediate action such as the physical separation of members involved in the complaint.
- c) **Within 24 hours**, or as soon as possible after the persons involved are separated, if that is the case, the OC notifies the person against whom the complaint was made that a complaint has been filed and shares the factual information.
- d) The alleged rule-breaker should respond **within 48 hours** to the complaint in writing to the OC, providing his/her views in relation to the facts alleged in the complaint, using the template attached in *Annex 2*. The opportunity will be given to this individual, if s/he so wishes, to identify some witnesses to be consulted or to provide any existing supporting documentation.
- e) After receiving the response from the alleged rule-breaker, if found by the OC to be necessary, and after consulting the DCO, the OC should contact relevant witnesses identified in the complaint and attempt to obtain statements **within 48 hours**, using the template attached in *Annex 3*.

- f) Interviews between the OC and the parties involved may take place to clarify any issue. The interviews may be in person, via phone or video-call. The OC will provide in writing the content of the interview, signed by the person interviewed.
- g) Upon receipt of the responses of all involved relevant persons, the OC, in consultation with the second contact point, should produce a report to be submitted to the DCO for approval, using the template attached in *Annex 4*, **within maximum 5 calendar days**.
- h) The DCO will approve the report **within 48 hours** after receiving it from the OC. A copy of the report, containing the decision taken, is given to the complainant, to the alleged rule-breaker, and to FPI.
- i) When the complaint is considered well-founded and constitutive of a breach of the CoC, administrative measures should apply immediately<sup>5</sup> and such a breach should be reflected in the mission member's evaluation.

**Administrative procedures that are opened based on information from a confidential /undisclosed source may be permitted, as long as the rights of the person who is subject to such an administrative procedure are not affected.** The opportunity to comment on the facts or documents transmitted and the right to a fair hearing in defence of the person concerned must be fully respected.

### 5.2.2. Procedures initiated by the Observer Coordinator (OC)

**According to the Letter of Assignment signed by each observer<sup>[1]</sup>, “assignment can be terminated when the CO or the DCO determines that the observer has not performed his duties as described by the ToRs, the provisions of the letter of assignment (including its annexes) or if he has violated the code of conduct”.**

Steps to be followed:

- a) The Observer coordinator, as the main focal point for the Ethical Guidelines (EG), gathers all the relevant information from the field as well as from the CT/Service Provider's team on the observer's behaviour.
- b) If the behaviour corresponds to any of the cases of misbehaviour listed in the Code of Conduct (CoC) or to any of the cases of malpractice listed in Section 3 of the EG, the OC informs the DCO and FPI.
- c) The OC and DCO determine if the nature of the misbehaviour or malpractice require immediate action such as suspension.
- d) The OC notifies the person suspected of misbehaviour/malpractice.

<sup>5</sup> Appeal procedure to DCO decision has no suspensive effect

<sup>[1]</sup> Letter of Assignment - Annex 2: Terms of reference for Observers and Annex 5: Administrative arrangements, Paragraph 3.b.

- e) The alleged rule-breaker should respond **within maximum 48 hours** in writing to the OC, using the template attached in *Annex 2*.
- f) After receiving the response from the alleged rule-breaker, the OC should produce a report to be submitted to the DCO for approval, **within maximum 48 hours**, using the template attached in *Annex 4*,
- g) The DCO will approve the report **within maximum 48 hours** after receiving it from the OC. A copy of the report, containing the decision taken (termination or not of the assignment), is given by the OC to the alleged rule-breaker, as well as to FPI.
- h) The rule-breaker can appeal the decision taken according to Section 5.4 Appeals procedure.

### **5.2.3. Procedures for complaints against members of the Core Team (CT) and the Service Provider (SP):**

The procedure described in 5.2.1 applies. The complaint against a CT member should be submitted to the DCO who replaces the OC in handling the complaint. When a complaint involves a member of the SP (e.g. experts, international and national staff), the DCO must bring the matter immediately to the attention of FPI. FPI will cooperate with the Service Provider's Project Director and DCO in handling the complaint.

When the complaint is from the SP against a CT member, the SP expert should send his/her complaint to the SP (FWC Project Director). The SP sends the complaint to the DCO and put FPI in copy (for information).

### **5.2.4. Procedures for complaints against Chief Observer (CO), Deputy Chief Observer (DCO) or members of the European Parliament (EP) delegation:**

A complaint against the Chief Observer should be submitted to the DCO. The DCO informs EEAS and FPI. Depending on the subject of the complaint, the DCO will refer the case for resolution to EEAS with information to FPI.

The rights and obligations of the CO are governed by the HRVP letter of nomination and its annexes (the CoC and the EG are part of the annexes).

In a case involving members of the EP delegation, the DCO refers the case to the Head of the EP delegation's Secretariat and informs EEAS and FPI. EP will decide on the case and notify EEAS and FPI.

A complaint against the DCO should be submitted to FPI. The rules governing the DCO are those applicable to European Commission staff (Special Advisors).



### 5.2.5. Procedures for complaints involving locally-recruited short-term observers

The procedure described in 5.2.1 applies. The complaint should be forwarded to the OC, who will seek support from the DCO. The embassy/diplomatic representation of the LSTO should be informed.

### 5.2.6. Procedures for complaints involving national staff

The procedure described in 5.2.1. applies. The complaint should be forwarded directly to the OC, or to any of the assigned contact points (as specified in section 4) who will seek support from the DCO and the SP Project Manager, if needed. National staff may also directly address the DCO or the SP Project Manager.

## 5.3 Formal Mechanisms for Exploratory, Follow-up and Election Expert Missions and Election Assessment Teams

The procedure described in 5.2.1 applies. The complaint should be submitted to the team leader who handles the complaint or to the FPI Programme Manager. If the team leader is a party to the complaint (either the complainant or the person who allegedly committed malpractice), the complaint should be submitted directly to the FPI Programme Manager (FPI will inform EEAS). FPI handles the case in cooperation with the EEAS and the Framework Contractor/Service Provider's Project Manager.

## 5.4. Appeals Process

An appeal may be submitted against the decision taken, either by the person who allegedly misbehaved as well as the complainant. This is the procedure to be followed:

- a) The decision/evaluation may be appealed to the DCO within **5 calendar days**, using the template attached in *Annex 5*.
- b) The DCO issues a decision within **5 calendar days**, using the template attached in *Annex 6*.
- c) The decision of the DCO may be appealed to FPI (by e-mail sent to the Programme Manager) within **10 calendar days**, using the template attached in *Annex 5*.
- d) FPI will issue a decision, using the template attached in *Annex 7*, within a maximum of **30 calendar days** and informs the parties involved about the closure of the complaints process.

In the case of short-term or long-term observers, FPI will notify the respective national Focal Point about the appeal and the decision. In case of locally-recruited short-term observers, FPI informs the embassies/diplomatic missions of the LSTO about the appeal and the decision.

### 5.5. Appeals Process for Exploratory, Follow-up and Election Expert Missions and Election Assessment Teams

Any appeals are to be handled within the internal rules of the Service Provider (SP)<sup>6</sup>. The SP should inform FPI on the final outcome of the appeal.

## 6. Administrative Measures

Breaches of the CoC/EG may result in the immediate repatriation and **exclusion from any participation in an EU election mission for five years**. Under the same circumstances, the same administrative measure will apply to CO, DCO and SP members, and to experts participating in other EU election missions.

Breaches of the CoC/EG will be reflected in the observers' end of electoral mission evaluations and in core team members' "record of performance" as "not recommended" for future missions.

For SP members and experts participating in other EU election missions, declarations will be issued by the DCO/team leader stating whether the holder abided by the CoC during the mission (Template *Annex 8*).

## 7. Deadlines for Submitting Formal Complaints

**Mission members are strongly encouraged to report any workplace concerns as soon as possible after an alleged incident has taken place and to submit any formal complaints during their stay in the host country.**

After the end of the electoral mission, the capacity to investigate complaints, interview the parties involved and potential witnesses or to impose administrative measures against a person having allegedly committed malpractice is very limited.

The complaint may lead to an administrative procedure if submitted as follows:

- During the EOM deployment, any complaints from observers should be submitted until the CT departure<sup>7</sup> from the country (assigned contact points presence in the country).
- A complaint raised by SP staff or national staff, can still be submitted before SP departure from the host country.
- During the EOM return visit, a complaint can be submitted before CT and SP departure.
- Regarding other formats of EU electoral missions<sup>8</sup>, complaints shall be submitted before the experts' departure from the host country.

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<sup>6</sup> Experts have a contractual relation with the Service provider.

<sup>7</sup> For the record, the CT remains in the country approximately three weeks after the departure of the long-term observers

<sup>8</sup> E.g. Exploratory Mission (ExM), Election Expert Mission (EEM), Election Follow-up Mission (EFM).

## 8. Ethical Guidelines and Observer Evaluation

Evaluations<sup>9</sup> and records of performance given to LTOs, STOs and members of the CT at the end of their electoral mission are considered to be provisional for a period of 30 calendar days if no complaint is made against them.

Should a breach of the CoC/EG be established after the handover of the provisional evaluation, in accordance with the procedures of these Ethical Guidelines, the evaluation will be amended by the OC, DCO and/or FPI.

The concerned mission members will be notified of the determination of the complaint against them and of any possible change in their evaluations.

They will have the right to appeal in accordance with the deadlines established in section 5.4 of these guidelines.

The provisional evaluation will become final if no complaint is made against the mission member in a period of 30 calendar days following his/her departure from the EU EOM.

## 9. Data protection

Information regarding complaints and breaches of the CoC/EG, which are attributed directly or indirectly to an individual, should be treated as personal data.

In that respect, such information shall be treated confidentially and measures shall be taken to prevent unauthorised access.

All the parties involved (FPI, EEAS, the CO, the DCO, the Service Provider, the observers and the experts and the National Focal Points) shall handle complaints in line with the applicable Union data protection legislation, namely Regulation (EU) 2016/679, Regulation (EU) 2018/1725 and any other applicable regulations, rules and guidance.

In order to achieve the effective implementation of any administrative measures arising from a breach of the CoC/EG (exclusion from EU electoral missions for a 5-year period) and to enable National Focal Points to pursue their mandate in the nomination of observers, National Focal Points will be informed of any breach to the CoC/EG and of the administrative measures imposed on the observer from their State.

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**Annexes:**     -Handbook to the EG for EU observers  
                  -Templates (complaint forms)

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<sup>9</sup> “Guidelines for EU EOM observers evaluation” (cf. Annex 4 of the ‘Letter of Assignment’),

## TEMPLATES

### ***Annex 1 to the Ethical Guidelines: Complaint form*** (maximum 3 pages, not including supporting documents/annexes)

#### **Complaint Form**

##### **EU Election Mission:**

Date:

*Name of the complainant:*

*Position of the complainant:*

*Place of deployment:*

*Personal contact/email:*

*Name of the person who allegedly committed malpractice:*

*Position of the person who allegedly committed malpractice:*

*Place of deployment:*

##### **Reason for the complaint:**

*Describe the incident, identify the date(s) of the incident, whether it was an isolated event or a recurrent one. Try to be as objective as possible, setting out the facts of the matter. Indicate if mediation was requested or undertaken and the reason for its failure. State also whether the person who allegedly committed malpractice is aware of the alleged facts and of this complaint.*

##### **Name and contacts of witnesses:**

*Verbal corroboration by witnesses may be required, particularly if the supporting documentation is not sufficient to substantiate the allegations. Please provide the names, positions and contact details of the witnesses.*

*To protect the reputation of the EU mission, preference should be given to witnesses that work for the mission; only in specific circumstances, when no other option is available, should persons outside the mission be involved in the complaints process*

##### **Relevant supporting documentation:**

Signature

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***Annex 2 to the Ethical Guidelines: Response to a complaint form***  
*(maximum 3 pages, not including supporting documents/annexes)*

**Response to a Complaint**

**EU Election Mission:**

Date:

*Name of the respondent:*

*Name of the person who submitted the complaint:*

*Date of the complaint:*

**Response to the allegations made in the complaint:**

*Please indicate whether you accept the accuracy of the alleged facts made against you. Are the facts described true? Confirm the date of the incidents and provide any information that may serve to clarify the incident (s). Please be as objective and impartial as possible and strictly limit your descriptions to only facts.*

**Name and contact details of witnesses:**

*Verbal corroboration by witnesses may be required, particularly if the supporting documentation is not sufficient to either substantiate or refute the allegations. Please provide the names, positions and contact details of the witnesses.*

*To protect the reputation of the EU electoral mission, preference should be given to witnesses that work for the election mission; only in specific circumstances, when no other option is available, should persons outside the mission be involved in the complaints process, as far as they may factually substantiate their level of witnessing.*

**Relevant supporting documentation:**

Signature

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*Annex 3 to the Ethical Guidelines: Template for witnesses' statement*

**Statement**

**EU Election Mission:**

Date:

*Name of the witness:*

*Name of the person who submitted the complaint:*

*Name of the person who allegedly committed malpractice:*

*Date of the complaint:*

**Statement to the allegations made in the complaint:**

*Please indicate whether you confirm the accuracy of the allegations made and if you have directly witnessed the allegations. Are the facts described true? Confirm the date of the incidents and provide any information that may serve to clarify the incident (s). Please be as objective and impartial as possible and strictly limit your descriptions to only facts.*

**Relevant supporting documentation:**

Signature

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***Annex 4 to the Ethical Guidelines: Template for the report of the OC and decision of the DCO in relation to a complaint***

***Letterhead of the EU Election Mission***

Date:

**Subject: Report of the OC and decision of the DCO on the complaint submitted by**  
\_\_\_\_\_

**Persons involved in the complaint:**

Witnesses:

Supporting documentation submitted:

**Facts alleged in the complaint:**

**Response and facts confirmed by the person who allegedly committed malpractice:**

**Facts confirmed by the witnesses:**

**Allegations that were neither confirmed nor proven:**

**Conclusion and Decision:**

Do the facts, as proven to have been committed, amount to a breach to the EG/CoC?

Signature of the OC  
\_\_\_\_\_

Signature of the DCO  
\_\_\_\_\_

**Documents that should accompany the report of the Observer Coordinator:**

- Copy of the complaint submitted with date and signature and enumeration of any annexes.
- Copy of the notification of the Observer Coordinator to the person the complaint was made against with date.
- Copy of the response of the person the complaint was made against with date and enumeration of any annexes.
- Copy of the statements of the witnesses (if any) with date.
- Copy of the minutes of the interviews conducted by the OC with the parties with date and signatures.
- Eventually, copy of digital and/or CCTV recordings.

***Annex 5 to the Ethical Guidelines: Appeal form***  
*(maximum 3 pages, not including supporting documents/annexes)*

**Appeal Form**

**EU Election Mission:**

Date:

*Name of the complainant:*

*Position of the complainant:*

*Place of deployment:*

*Personal contact/email:*

***Appeal against*** (evaluation/ decision of the Observer Coordinator/Deputy Chief Observer)

***Date of the decision:***

**Reason for the appeal:**

- Was the decision made on the complaint/evaluation based on well-founded grounds?
- Was the appellant (and, in the case of a complaint, all parties involved) given the right and opportunity to be heard?
- Were the deadlines to deal with complaints respected?
- Was there any subsequent relevant argument that justifies reversing or reviewing the decision/evaluation?
- Do the facts as proven to have been committed amount to a breach to the EG/CoC?

Signature

\_\_\_\_\_



*Annex 6 to the Ethical Guidelines: Template for the DCO's decision on appeals*

***Letterhead of the EU Election Mission***

Date:

**Subject: Decision of the Deputy Chief Observer (DCO) on the appeal submitted by \_\_\_\_\_**

**Name of the appellant:**

**Subject and Reasons for the appeal:**

**Response of the DCO:**

- Was the previous decision made on the complaint/evaluation based on well-founded grounds?
- Was the appellant (and, in the case of a complaint, all parties involved) given the right and opportunity to be heard?
- Were the deadlines to deal with complaints respected?
- Was there any subsequent relevant argument that justifies reversing or reviewing the decision/evaluation?
- Was the previous decision adequate and proportionate?
- Do the facts as proven to have been committed amount to a breach to the CoC?

**Conclusion and Decision:**

Signature

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*Annex 7 of the Ethical Guidelines: Template for FPI review on appeals*

**Letterhead of FPI**

Date:

**Subject: Review of the Head of Unit on the appeal submitted by \_\_\_\_\_**

**Name of the appellant:**

**Subject and Reasons for the appeal:**

**FPI Response:**

Was the appellant (and, in the case of a complaint, all parties involved) given the right and opportunity to respond?

Were the deadlines to deal with complaints respected?

Was the previous decision based on well-founded grounds?

Was the decision taken by the DCO adequate and proportionate?

Based on the above, is there a justifiable cause to appeal the decision?

**Conclusion and result of the review:**

Signature

\_\_\_\_\_

***Annex 8 of the Ethical Guidelines: Template for DCO/TL declaring that SP members/experts participating to EU election mission has followed the CoC/EG***

***Letterhead of the EU mission***

Date:

**Subject: Declaration on the respect of the Code of Ethics and Ethical Guidelines**

**Name of the staff member:**

I, (DCO/Team Leader), hereby declare that (Mr/Ms.....). has followed the Code of conduct and Ethical Guidelines all along the mission duration (dates).

Signature

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