

Guidance to Europol staff Whistle-blowing arrangements

1 Context

This Guidance describes what you need to do when, in connection with your performance of duties, you become aware of facts which give rise to the presumption of the existence of a possible illegal activity or a serious failure regarding the conduct of a staff member.

2 Applicability: Who does the Guidance apply to?

This Guidance applies to all Europol staff members who are subject to an employment contract awarded under the respective staff rules applicable to Europol, including the:

- Executive Director and Deputy Executive Directors;
- Management Board Secretariat (MBS);
- Internal Audit Capability (IAC);
- Accountancy Unit (ACCU);
- Data Protection Function (DPF).

Seconded National Experts (SNEs), interns and trainees are also expected to follow this Guidance.

3 How does this Guidance affect me?

Europol's interest is to give clear guidance on how an illegal activity or a serious misconduct should be reported, in order to ensure an effective response of the organisation. Such reporting is a duty enshrined in the staff rules applicable to Europol.

This Guidance aims to uphold and support the implementation of the Europol Values, and in particular the aspects of 'Integrity' and 'Accountability'. This requires that all persons who are subject to this Guidance are obliged to follow the provisions set out therein.

4 Definitions: What does this Guidance cover?

Whistle-blowing means that an individual who is subject to this Guidance reports facts discovered in the course of, or in connection with his or her duties, which point to the existence of:

Possible illegal activity – including fraud or corruption, detrimental to the interests of Europol or the EU; or a

Conduct of a staff member – subject to this Guidance or from another EU agency or body, which may constitute a serious failure to comply with professional obligations.

The individual reporting an instance under this Guidance is referred to as a whistle-blower.

Depending on the merits of the case, Europol treats the reporting in confidence, i.e. by protecting the identity of a whistle-blower (see Section 6.1).

5 Exclusions: What is not covered by this Guidance?

This Guidance does not apply to the reporting of the following aspects:

- Information which is already available (e.g. in the public domain);
- Unsubstantiated rumours and hearsay (including matters of a trivial nature);
- Disagreement over legitimate management decisions or corporate policy direction;
- Information not linked to the performance of duties;
- A complaint against (administrative) decisions affecting the concerned individual (or subsequent legal proceedings or litigation).

This Guidance also does not apply to information concerning which specific reporting processes are already in place (e.g. internal reporting of suspected financial irregularities under the applicable financial framework, suspected [sexual and psychological harassment](#) concerning which the Human Resources Unit provides a central contact point within Europol for related incident-handling and prevention activities, including a list of [confidential counsellors](#)), or matters which are related to a complaint against (administrative) decision(s) affecting the concerned individual (or subsequent legal proceedings or litigation).

SNEs have to observe any additional requirement by the respective sending authority in relation to the scope of this Guidance.

6 Whistle-blowing: What does reporting under this Guidance entail?

6.1 Main principles

The Head of the Human Resources Unit, with the Head of the Administration as backup, is the central contact point across Europol to deal with any instance reported under this Guidance. The whistle-blower should therefore immediately contact the aforementioned central contact point, either directly or through his/her line manager, but may also choose to report the matter to the Internal Investigations Service (IIS) of Europol.

If a line manager or the IIS are the first receivers of information being reported under this Guidance, they will always notify the central contact point for whistle-blowing, unless the reported allegation concerns the Head of the Human Resources Unit or the Head of the Administration Department, in which case the Deputy Executive Director in charge of the Capabilities Directorate will be informed.

The reporting should be made in good faith¹, without delay and in writing. Prior to reporting in writing, the whistle-blower may seek guidance from the central contact point or the respective line manager in person.

Depending on the merits of the case and, following consultation with the staff member, where the reporting is intended to be made in confidence, Europol protects the identity of the whistle-blower which is treated in a confidential manner² and as classified information in line with the Europol Security Rules.

Following an initial assessment of the relevancy regarding the reported information by the central contact point referred to above, the regular processes are triggered by the Internal Investigations Service (IIS) of Europol under the lead of the Deputy Executive Director in charge of the Governance Directorate, as per the applicable framework in place (in particular, an assessment of the suspected breach of professional obligations, which is followed by either an internal investigation carried out by OLAF or an administrative inquiry by the IIS where applicable).

It should be noted that a whistle-blower can also report an instance under this Guidance externally, i.e. directly to OLAF, which operates an anonymous Fraud Notification System (FNS) to protect public EU funds³.

Regardless of the channel of reporting (internally or to OLAF), the whistle-blower needs to take into account that:

The right of defence of any person implicated by the reported information will be respected.

Malicious, frivolous or defamatory information disclosures (in particular false or unverifiable accusations, with the aim of harming another person's integrity or reputation) will not be tolerated and will lead to action against the originator of such information.

6.2 Protection of the whistle-blower

6.2.1 Redress

A genuine whistle-blower must be protected against any direct or indirect action or threat of action which is detrimental to the whistle-blower. Against this background, e.g. should the identity of the whistle-blower become subject to unauthorised disclosure, if the whistle-blower would like to lodge a complaint concerning the way in which he or she was treated after, or in consequence of the reporting under this Guidance, the 'whistle-blower' may directly address him- or herself to the Executive Director in writing.

Europol will assess the matter and commission immediate action based on the individual merits of the case, in consultation with relevant function holders across the organisation.

6.2.2 Last resort

The central contact point at Europol, or OLAF if the matter was reported externally, shall give the whistle-blower feedback on the indication of the time needed to take appropriate action. The whistle-blower is entitled, within 60 days of the receipt of the written report from the whistle-blower, to be informed about the time needed to take appropriate action, however it is up to the organisation (or OLAF as relevant) to determine the appropriate course of action.

If no action is taken within the aforementioned period of 60 days, or if the whistle-blower can demonstrate that the period of time needed to take appropriate action (as communicated to the whistle-

¹ Good faith is understood to mean the belief in the veracity of the reported facts, i.e. the fact one could reasonably believe the reported information to be true. Good faith is presumed unless and until proven otherwise.

² Confidential manner means that the identity of the whistleblower is known to the recipient of the information (central contact point for whistle-blowing across Europol, and/or the line manager and the Internal Investigations Service (IIS) of Europol depending on the channel used for reporting an allegation under this Guidance), but is kept confidential vis-à-vis the person(s) potentially implicated.

³ The reporting arrangements are available through the website of OLAF:
https://ec.europa.eu/anti-fraud/olaf-and-you/report-fraud_en

blower) is unreasonable in light of all circumstances of the case and the information previously disclosed remains to be in good faith based on facts, then the whistle-blower may address the matter to the President either of the European Commission, the European Parliament, the Council, the European Court of Auditors (ECA), or to the European Ombudsman for resolution.

It must be borne in mind that the option of last resort, as set out in this section, is a right under the EU staff rules applicable to Europol, and may therefore formally invoked only by temporary and contract agent staff.

6.3 Instances relating to a criminal offence

In the event of factual indications that a criminal offence has been committed, persons subject to this Guidance are required to immediately report the matter to the competent national law enforcement or judicial authority, as it is the sovereignty prerogative of the concerned Member State to deal with criminal offences. The Internal Investigations Service (IIS) of Europol is available to facilitate such reporting.

The identity of and the information reported by a whistle-blower, which is found to constitute a criminal offence under national law, can only be protected by an individual decision of the respective law enforcement, prosecution or court authority and not by Europol or any other actor at the EU level, given that it is for the competent national authority to decide on the formal status and disclosure of the identity of a whistle-blower in a criminal judicial investigation. In light of the right of defence in a criminal judicial investigation, the whistle-blower must therefore take into account that his or her identity may be disclosed if a criminal judicial investigation is launched on the basis of the information provided by the whistle-blower.

7 Questions: Where can I receive further information?

The handling of information under this Guidance requires a sensitive and careful approach. Against this background, individual questions can be addressed to the contact point for whistle-blowing at Europol (Head of the Human Resources Unit, with the Head of the Administration as backup), for specific case-by-case related interpretation of this Guidance. The Internal Investigations Service (IIS) in the Security Department can be contacted for instances relating to the suspicion of a criminal offence (see Section 6.3 above).

8 Implementation: Who supervises this Guidance?

The Deputy Executive Directors, Heads of Departments, Units, Teams and Offices have a key role in the supervision of this Guidance and adherence thereto. They take part in explaining the Guidance to the persons reporting to them (unless specific case interpretation is required, thus the matter is dealt with by the contact point for whistle-blowing at Europol).

The implementation of this Guidance is subject to oversight by the Deputy Executive Director in charge of the Governance Directorate as the responsible Directorate member for the Internal Investigations Service (IIS) and for coordinating and implementing anti-fraud actions across Europol.

9 Data protection: What happens to personal data?

Personal data processed in connection with the implementation of this Guidance is handled in accordance with the applicable regulatory framework on protecting personal data and the respective data processing notification.

Respective records become part of the files of an administrative inquiry handled by the IIS (or the internal investigation in case OLAF is involved), or the personnel file of the respective staff member (concerning the records relating to Section 6.2.1 of this Guidance) which are centrally handled for all staff in the Administration Department. The respective data processing notifications apply.

10 Breaches: What should I do if I suspect a violation of this Guidance?

In line with Europol's professional standards principles, staff should, if they have knowledge of, or suspect a breach against this Guidance (i.e. an identified failure of a staff member, who is subject to this Guidance, to report an incident as defined in Section 4 above), follow the same reporting lines as outlined in Section 6.1 above.

Intentional misconduct in relation to the provisions set out in this Guidance will lead to an administrative inquiry or an internal investigation with subsequent disciplinary action where applicable, in line with the respective regulatory framework.

11 Ownership of Guidance: Who keeps this Guidance up-to-date?

This Guidance is owned by the Executive Director who oversees that this Guidance is up-to-date and reviewed at regular intervals, in coordination with relevant function holders across Europol.

12 Entry into force: When does the Guidance enter into force?

This Guidance shall be published in the Europol Vademecum and shall enter into force on the date after its publication.