

Reporting, investigating and communicating suspected misconduct in development cooperation

Ministry for Foreign Affairs, Department for Development Policy

Internal regulation, norm 5/2023, VN/8285/2023

- **Validity:** Immediately when signed
- **Repeals:** Repeals norm 5/2015, HEL7M0067-34, 22.6.2015
- **Amends:** -
- **Target group:** Officials, units, departments and missions managing development cooperation funds

1 Purpose of norm

This norm describes the meaning of misconduct in development cooperation and the procedure to be observed in the Ministry for Foreign Affairs in the event of suspected misconduct in development cooperation. The Norm is based on the development cooperation risk management policy (PF11LUAF-21/8.6.2021) and its implementation.

As stated in the risk management policy, misconduct is prevented through careful planning, comprehensive monitoring and control, and effective risk management. However, even the best possible foresight cannot fully prevent misconduct.

Any misconduct suspected in development cooperation funded by Finland must be met with a prompt and consistent response. Every case of suspected misconduct must be taken seriously and all cases must be thoroughly investigated in accordance with the systematic approach described in this norm. Besides this norm, also the internal recovery guideline (PCORNVX3-32) applies in cases of misconduct.

This norm is complementary to the financial rules of the Ministry for Foreign Affairs in force that guide the Ministry's general use of funds and control of such use. The norm is a binding regulation that applies to the entire Foreign Service. All units, departments and missions which manage development cooperation funds shall comply with it.





Handling cases of suspected misconduct is governed by the legislation on administrative activities.¹

2 Misconduct relating to development cooperation

For the purposes of this norm, misconduct means unlawful acts, non-compliance with or breaches of terms and conditions, restrictions and rules, and breaches of ethical guidelines. Examples of misconduct in development cooperation include:

- embezzlement, theft or fraud,
- bribery, corruption
- money laundering,
- trading in influence, exertion of pressure, discrimination, harassment or other inappropriate exertion of influence
- sexual exploitation, abuse and/or harassment,
- lack of impartiality, participation in decisions despite disqualification/conflict of interest,
- recurring significant accounting errors or irregularities in accounting records,
- recurring serious mistakes in the performance of duties,
- unduly paid daily allowances and fees,

¹ The statutes to be taken into account are the Administrative Procedure Act (434/2003), the Public Servants Act (750/1994), the Act on Discretionary Government Grants (688/2001), the Act on Public Procurement and Concession Contracts (1397/2016) and the Criminal Code (39/1889). Due to the provisions on openness, data security and data protection, the following shall also be examined: the Act on the Openness of Government Activities (621/1999), the General Data Protection Regulation (EU) 2016/679 of the European Parliament and of the Council, the Act on Information Management in Public Administration (906/2019), the Government Decree on Security Classification of Documents in Central Government (1101/2019), the Act on International Information Security Obligations (588/2004), norm 3/2021 on the handling of non-disclosable documents and data sets in the Foreign Service, and the rules of procedure of the Ministry (550/2008).



- improper procurement procedures,
- conduct that violates essential contractual provisions or the terms and conditions of the use of the grant,
- manifest shortcomings in reporting,
- significant delay in the performance of duties,
- failure to provide essential information,
- refusing or hampering inspections,
- other unlawful acts, other action contrary to terms and conditions and other misconduct.

Misconduct in development cooperation can occur anywhere development cooperation funds are handled or development cooperation is carried out. Consequently, misconduct may occur, for example, in the actions of Ministry for Foreign Affairs officials or local authorities, grant recipients and their partners, consulting companies or their subcontractors, or in the actions of stakeholders.

There are differing degrees of misconduct: actions and omissions may arise from carelessness or lack of competence, they may be intentional, or they may even be criminal in nature. Regardless of degree of seriousness and extent, suspected misconduct must always be addressed. The measures taken in the event of misconduct differ depending on the nature of the misconduct. Not all suspicions necessarily lead to actual measures to address misconduct. Whenever a criminal offence is suspected, the matter is referred to the police for investigation.

Development cooperation takes place in countries and regions that are poor and often also fragile in terms of governance, which increases the risk of misuse of funds. The rules and practices to be followed in the cooperation shall be defined not only in the decisions of the Ministry for Foreign Affairs but also in any cooperation agreements and the terms and conditions as well as instructions of government grant decisions. It should be ensured, already at the planning stage, that all parties concerned clearly understand that any kind of misconduct as defined in this guideline is absolutely unacceptable in Finland's development cooperation. Partners that receive funds are required to report any suspected misconduct in activities funded by Finland to the Ministry for Foreign Affairs without delay. The units and missions which manage appropriations shall ensure that the obligation to report is incorporated into agreements and government grant decisions as well as into terms and conditions and instructions



(the legal team/KEO-80 is responsible for drafting model agreements and standard terms and conditions).

2.1 Fairness and impartiality of official activities

Fairness and the impartiality of officials provide the foundation for official activities. The authorities shall therefore take particular care to ensure that all of their official activities are carried out impartially and that the activities are also perceived as impartial by stakeholders and the general public.

Public officials shall not participate in the consideration of a matter or be present during such consideration if they are disqualified. The requirement of non-disqualification of public officials is a key principle of legal protection in administration. Disqualification means that the official and either the matter under consideration or a party in such a matter have a relationship that may call the official's impartiality into question (Administrative Procedure Act, section 28). It is not enough for the official to personally believe their actions to be impartial; the appearance of impartiality must also be maintained.

The Ministry of Finance has issued a guideline on hospitality, benefits and gifts (VN/12079/2021-VM-3). It provides guidance as to the issues central government personnel should consider if they are offered benefits, gifts or hospitality in connection with stakeholder cooperation or other official business and attempts to define the boundaries between acceptable and forbidden behaviour, as far as is possible within the scope of general guidelines. The Ministry of Finance has also issued a guideline concerning the outside employment of public officials (VM/561/00.00.00/2017). In addition, on 9 December 2022 the Ministry of Finance issued a central government guideline on the detection, identification and prevention of corruption.

The aforementioned guidelines apply to all central government employees in a public-service employment relationship and, to the extent applicable, also to central government employees in a contractual employment relationship. They must moreover be provided for the information of private-sector partners so as to make them aware of the procedures to be complied with in central government.



2.2 Sexual exploitation, abuse and harassment

Sexual exploitation, abuse and harassment are exceptionally serious forms of misconduct. However, they are often complicated to investigate. The rights and needs of the victim of sexual exploitation, abuse or harassment must be the focus of attention in any investigation. Particular attention must be paid to protecting the victims' right to privacy and their right to due process. Any report of this kind of misconduct must be kept confidential and measures must be taken in absolute confidence in order to ensure the protection and safety of the victim.

The Ministry for Foreign Affairs takes sexual exploitation, abuse and harassment extremely seriously. The actions of Ministry staff are guided by the sexual exploitation, abuse and harassment policy document which is posted on both internal and external websites (SEAH policy, VN/5397/2023). The policy applies in the implementation of development cooperation and units/missions shall ensure that the obligations of the grant recipient are taken into account in agreements and government grant decisions.

3 Detecting, reporting and investigating suspected misconduct and deciding on remedial /other measures

3.1 Detecting suspected misconduct

There are a number of ways that Ministry for Foreign Affairs staff may become aware of suspected misconduct. Suspicions of misconduct may arise in the context of in-house control by the Ministry. Shortcomings that may be interpreted as misconduct may come to light in the context of activities such as performance and financial reporting, follow-up visits and external financial or performance audits.

Units and missions shall ensure the appropriate and adequate monitoring and control of development cooperation funding for which they are responsible. Monitoring is carried out by following the progress, application of funds, risks and reporting of the project/programme or the funded partner. In addition to regular annual reporting, control is also carried out with the help of steering groups, project visits, board work and other report-based monitoring as well as regular communication. Audits may be commissioned as necessary.



Suspected misconduct may also be reported to the Ministry for Foreign Affairs by partners and third parties by means of a specific online whistleblowing channel established for this purpose: online system for reporting suspected misconduct in development cooperation (<https://vaarinkayttoilmoitus.fi/>).

Staff may also learn of suspected misconduct from communication by phone, email or letter as well as through public discussion or traditional or social media. All external reporting persons shall primarily be instructed to submit their report through the external reporting channel. In the case of anonymous reports, or when an external reporting person does not use the reporting channel, Ministry for Foreign Affairs employees shall themselves submit a report through the internal reporting channel in the development cooperation case management system (AHA).

Reports or requests to investigate may also be obtained on the basis of investigation by the partner country or an international organisation or through Finland's investigative authorities.

3.2 Reporting suspected misconduct

Any Ministry for Foreign Affairs employee who detects, suspects or becomes aware of actual or suspected misconduct is obliged to report it without delay. All suspicions regardless of seriousness must always be reported through the internal reporting channel in the development cooperation case management system (AHA). The report must be submitted immediately upon becoming aware of the suspected misconduct, even if the details as to the seriousness of the suspicion are as yet lacking or incomplete in some respect.

Units that manage development cooperation funds are responsible for having their agreements and decisions mention the obligation of the funding recipient to report suspected misconduct to the Ministry for Foreign Affairs (the KEO-80 legal team is responsible for drafting model agreements and standard terms and conditions).

Reports concerning development cooperation submitted both externally and internally are received by the designated team of report handlers in the Unit for Administrative and Legal Development Cooperation Matters (KEO-80). The person who receives the report shall forward it to the head of the unit or mission that has decision-making power in the administration of the project, programme or other funding. All reports shall also be forwarded for the information of the Unit for Internal Audit which reports them to the National Audit Office.



Acknowledgement of receipt on messages received through the external reporting channel is given via the email box “KEO riskienhallinta”.

Where misconduct is suspected on the part of a Ministry for Foreign Affairs employee, the report is forwarded to the Unit for Internal Audit which then takes the measures warranted. If the report does not provide sufficient information to specify the operating unit whose appropriations the report concerns, the party responsible for investigating is the Director of the Unit for Administrative and Legal Development Cooperation Matters.

Where the reported matter does not fall within the ambit of the Ministry for Foreign Affairs, the report is transferred to the authority responsible in accordance with section 21 of the Administrative Procedure Act (434/2003). Cases of this kind for which another authority is responsible may involve, for example, development cooperation appropriations managed by other administrative branches or matters within the ambit of other authorities.

The Office of the Chancellor of Justice is the centralised external reporting channel to which reporting persons may report misconduct in the situations referred to in the Act on the Protection of Reporting Persons (1171/2022). Misconduct may be reported to the centralised external reporting channel of the Office of the Chancellor of Justice when the general conditions for qualifying for whistleblower protection are met, it is not possible for the reporting person to report through an internal reporting channel, the reporting person has reasonable grounds to believe that that an internal report has not resulted in measures within the time limits or that the breaches cannot be effectively addressed on the basis of an internal report, or the reporting person has reasonable grounds to believe that they are at risk of suffering retaliation due to reporting.

3.3 Investigating suspected misconduct

Handling cases of suspected misconduct is the responsibility of the head of the unit/mission in charge of the matter and the persons who report to them. The unit/mission shall prepare a memorandum on the suspected misconduct in the development cooperation case management system. The memorandum shall include the following information:

- a concise description of the suspected misconduct



- the name or other identification information of the project/programme/other form of funding
- the partner(s) that may be involved in the suspected misconduct
- an estimate of the degree of seriousness of the misconduct
- an estimate of the value of the suspected misconduct (in the case of financial irregularity)
- an estimate as to when the misconduct took place
- a preliminary opinion as to follow-up measures.

In the early stages, the memorandum may be kept brief if the information at the time remains unclear or unverified. At this point, the most important thing is to record what is known about the case and how evidence is to be obtained in the case, and to determine any follow-up measures and other parties responsible.

The memorandum shall be updated throughout the investigation into the suspected misconduct by chronologically recording key information and measures taken.

As a rule, the Ministry for Foreign Affairs requires partners or grant recipients to investigate suspected misconduct and to immediately report on this to the Ministry. However, should the situation so require, the Ministry has the option of investigating suspected misconduct within the boundaries of the terms and conditions laid down in the government grant decision or the agreement. This may be warranted when, for example, the suspicion concerns the management of the grant recipient or the investigatory process of the grant recipient is lacking in quality or impartiality.

The unit/mission responsible shall consider whether to suspend payment for the duration of the investigation. The funding recipient shall be informed in writing of the suspension of payment. The decision to suspend payment shall be made in writing in respect of private grant recipients.

In serious cases, such as ones involving matters of considerable societal and financial significance or sexual exploitation, abuse or harassment, the suspicion of misconduct shall be communicated internally by email to the Offices of the Minister(s), the management of the Department of Development Policy (KEO-01), the Under-Secretary of State (Development Policy) (AVS-KEO), the Unit for Administrative and Legal Development Cooperation Matters (KEO riskienhallinta), the Unit for Communications



on Sustainable Development and Trade (VIE-30) and the Unit for Internal Audit (STY-00). The emails and background memorandums relating to internal communications shall be stored in the misconduct case established in AHA.

3.4 Provisions on publicity, data security and data protection relating to the reporting and handling of suspected misconduct

As a rule, development cooperation documents are public. This includes the memorandums prepared on cases of misconduct. Documents are subject to non-disclosure only when provisions to this effect are laid down in the Act on the Openness of Government Activities or another Act. Section 24 of the Act on the Openness of Government Activities provides an exhaustive list of the grounds for non-disclosure of official documents. When handling documents of this kind, the norm issued by Information Management at the Ministry for Foreign Affairs (HAL-40) regarding the handling of non-disclosable documents and data sets in the Foreign Service.²

The official shall consider, separately for each document, whether the document is public or non-disclosable (in part or in full) or whether it should be classified, and also assess the grounds for non-disclosure. Where a document contains non-disclosable information, the official shall follow the instructions in Appendix 2. Any suspected misconduct shall be handled and the handling documented in the case management system inasmuch as possible within the confines of the provisions on data security and data protection. This means that all stages of handling the case and any notifications, memorandums, requests for statement and statements as well as other materials shall be prepared, stored and archived in the development cooperation case management system (AHA) unless the documents contain non-disclosable information at security classification level I, II or III³.

² The norm on the handling of non-disclosable documents and data sets in the Foreign Service (3/2021, PCoUCoXZ-17) is being updated in 2023. The norm in force is available in Kampus at <https://kampus.vnv.fi/tyon-tueksi/Sivut/Normit-UM.aspx>

³ These are documents which, under the Act on Information Management in Public Administration (906/2019), the Government Decree on Security Classification of Documents in Central Government (1101/2019) and the norm on the handling of non-disclosable documents and data sets in the Foreign Service issued by the Ministry's Information Management (3/2021, PCoUCoXZ-17) should be classified at security classification level I, II or III.



In general, it is advisable not to use the names of persons to refer to them, yet the processing of personal data is allowed when this is necessary in order to investigate the suspected misconduct.

Any processing of personal data shall comply with the requirements and data protection principles of the General Data Protection Regulation. Personal data covers all data that relate to an identified or identifiable person. Any data that can be used to identify a person directly or indirectly, such as by combining an individual data item with some other piece of data that enables identification, are personal data.

Personal data may not be collected or processed to a wider extent than necessary for the investigation of the case of misconduct.

Only the officials handling the case, a limited number of KEO-80 and VIE-30 officials, the Unit for Internal Audit and the administrators and system vendors of the case management system have limited access to the data and documents of the case of misconduct.

3.5 Support for investigating cases of misconduct

Support in assessing the degree of seriousness of the suspicion and the measures to be taken is provided by the persons designated by the unit or mission to be responsible for risk management, if any, and by the members of the risk management group (an internal group of the Ministry for Foreign Affairs established in accordance with the risk management policy) and by the Unit for Administrative and Legal Development Cooperation Matters (email box KEO riskienhallinta). KEO-80 monitors the cases of misconduct that have come to light and, when necessary, provides general recommendations for improving procedures and also organises training. The unit/mission handling an individual case of misconduct shall document the measures taken as well as any communications regarding these and archive all other accumulated material in connection with the handling of the case. The recommendations and guidelines issued by KEO-80 are advisory by nature. The head of the unit/mission is responsible for the further investigation of the case.

The Unit for Internal Audit (STY) has tendered a framework agreement which the units and missions may utilise to conduct financial audits, special purpose audits and forensic audits. The difference between a forensic audit and a special purpose audit is that the former requires strong indications of misconduct or even criminal conduct. A forensic audit also seeks to obtain evidence for use in any eventual legal proceedings. It is therefore the more onerous choice and unlikely to be the best option at the



early stages. The audit assignments for forensic audits and special purpose audits should determine in detail the objects to be audited. In addition to verifying the correctness of accounting records and vouchers, the audit may comprise elements such as interviews and various technical investigative tools. The service provider under the framework agreement can provide assistance in determining the type of audit best suited to the situation and the components to be included in the audit assignment.

3.6 Measures when suspicion of misconduct is proven correct

Any remedial or other measures warranted in the case are considered on the basis of internal and external evidence obtained. Such measures may include the following, for example:

- Complaint
- request for contractual amendments (e.g. tighter, broader, deeper or more frequent reporting requirements)
- administrative decisions relating to the handling of the case and the terms and conditions imposed therein on the government grant recipient (concerning, for example, special audits or investigations, tighter reporting requirements or other remedial measures)
- suspension of payment
- recovery of funds
- filing of other contractual claims (including in a court of law)
- termination of agreement
- claim for damages
- reporting a criminal offence to the police
- demand for immediate repayment of loan subject to no notice
- order of repayment of loan in part or in full
- repeal or modification of decision to approve an interest subsidy loan, agreeing with the credit institution that granted the interest subsidy loan on termination of the loan



- forced sale of assets held as security
- accelerated termination of fund

The decision on remedial measures or measures by way of sanction are taken by the party competent in each situation at hand (mainly the head of unit or mission, Director General or Minister responsible for development cooperation). Advice is provided as necessary by the KEO-80 legal team and the financial management team as well as the risk management advisor. Where an audit has been conducted, support in decision-making may be obtained from consultation with the auditor.

Where the project concerned is co-funded by several aid providers, information should be shared with the other aid providers from the outset.

When considering the rights of the Ministry for Foreign Affairs in the situation at hand (right of recovery, right of access to information and right to audit), a key role is played by the legislation concerning the relevant form of cooperation as well as by the terms and conditions incorporated into the agreement or government grant decision involved. These terms and conditions also cover topics such as the manner of describing the tasks and responsibilities of the parties in the project document.

The recovery guidelines (PCORNVX3-32) of the Ministry for Foreign Affairs describe in more detail the process for recovering claims under the Act on Discretionary Government Grants (688/2001) and comparable claims. As a rule, a recovery decision shall be prepared in all cases of misconduct. Under the Act on Discretionary Government Grants, the authority is obliged to recover the government grant in the case of materially wrongful or fraudulent conduct.⁴ This involves situations, for example, where the grant recipient has used the government grant for a purpose essentially different than the one for which it was awarded or the grant recipient is in material breach of the terms and conditions applicable to the use of the grant. In accordance with the principle of proportionality, the recovery of any government grant paid shall be limited to the amount equivalent to the mistake or misuse.

⁴ Act on Discretionary Government Grants, section 21.



Where the actions of the government grant recipient are not essentially in error, the authority may recover the grant at its discretion. Even in cases where there is room for discretion, as a rule the authority should recover the government grant that was awarded on the basis of incorrect information or was wrongfully used.⁵ Government grant authorities are guided by the aim of safeguarding the public interest and by the principle of proportionality. In the case of minor errors, however, recovery of the government grant would be an excessively harsh measure relative to the public interest involved. In accordance with the principle of proportionality, any sanctions shall be reasonable and proportionate to the error.⁶

The amount subject to recovery or the interest on it may be adjusted when recovery in full would be unreasonable. This would be the case in situations, for example, where the grant recipient has observed due care and the project has incurred no financial loss (for example, a situations where misused funds have been restored to the project). The basic premise in adjustment is to consider the unreasonable harshness and unfairness of payment obligations in the circumstances prevailing in the case at hand. When deciding on adjustment, account shall be taken of whether recovery in full is unreasonable in light of the financial status and circumstances of the grant recipient or the nature of the assets acquired with the grant, or the procedure or change in circumstances on which the recovery is based. Payment obligation shall be eased only in part and only insofar as the obligation is unreasonable. For very compelling reasons, the authority may decide that the amount to be recovered and/or the interest due on it shall be adjusted in full. Since adjustment de facto constitutes derogation, at the discretion of the Ministry for Foreign Affairs, from the obligations under the Act on Discretionary Government Grants, a very high threshold applies to removing the payment obligation in full.

⁵ Act on Discretionary Government Grants, section 22.

⁶ Government proposal HE 63/2001, p. 57-58.



3.7 Contact with the National Bureau of Investigation and reporting criminal offences to the police

It should be noted that many types of misconduct that may arise in development cooperation are also criminal offences under the Criminal Code (39/1889) of Finland, such as embezzlement, fraud, bribery, subsidy misuse, and sexual exploitation, abuse and harassment.

If the possibility of the misconduct also entailing a criminal offence cannot be ruled out, the legal team of the Unit for Administrative and Legal Development Cooperation Matters (KEO-80) shall be contacted without delay so that the team may contact its liaisons at the National Bureau of Investigation.

Contact with the legal team and the National Bureau of Investigation shall be made at an early a stage as possible of the investigation of the case of misconduct, before any recovery or other administrative measures are taken in the case. This allows the manner of proceeding most appropriate in the case in hand to be chosen, taking into account aspects such as the following:

- Whether the case should proceed by continuing the administrative investigation by the Ministry, for example by conducting a forensic audit or special purpose audit, these possibly resulting in a decision to suspend payment of / recover government grant, or should the line of inquiry take a criminal law orientation? The decision to file a police report is ultimately made by the party with competence under the Ministry's rules of procedure (Director General of the Department of Development Policy or Director General, Administrative Services).
- Where there is cause to file a police report, shall this be filed in Finland or another country, and shall it be filed by the Ministry for Foreign Affairs, the grant recipient or another party concerned? In this consideration, aspects of appropriateness shall be taken into account alongside aspects of law.
- When the criminal offence is reported in a developing country, what are the capabilities and opportunities of the local police/judiciary to deal with the case?
- Security aspects relating to the case
- Impact of reporting a criminal offence to the police on any pending administrative processes (suspension and recovery of government grant).



- Division of communications responsibility between the Ministry and the police and cooperation in communications at the various stages of investigating the suspected misconduct.

3.8 Security aspects relating to the reporting and investigation of suspected misconduct

At worst, misconduct may involve criminal activity. It is possible that in some cases, the investigation of misconduct entails security risks. Therefore the supervisor responsible for investigating misconduct shall assess also any security risks associated with the case.

The investigation of cases of misconduct shall not be entrusted to inexperienced officials or interns. The realisation of security risks is reduced by the exercise of general caution, familiarity with local conditions, and compliance with statutes concerning matters such as data security and data protection.

Compliance with data protection provisions also means that information on the case of suspected misconduct is shared with only a limited number of persons. Persons outside the Ministry who report suspected misconduct (e.g. officials in a developing country or representatives of an international organisation) may also be subject to potentially even very serious security risks. Consequently, anonymous reporting has been enabled for external reporting persons.

Whistleblower protection allows reporting persons to submit their reports on suspected misconduct safely and in a manner that protects their identity from disclosure. The identity of the reporting person constitutes non-disclosable information also in any further handling of the report. The reporting person may not be retaliated against for having reported.

As a rule, the identity of the reporting person shall not be disclosed to anyone outside the Ministry (with the exception of the police and other authorities who, under law, have the right to access the information relating to the case, as well as auditors, who are under a contractual obligation of non-disclosure and with whom information may be shared as necessary). Within the Ministry, the personal data of the reporting person are disclosed only to those who need the information in order to investigate the case.

In the event of pressure, threats or other inappropriate conduct during the investigation of the case, the supervisor responsible shall be contacted without delay.



3.9 Closing fully investigated cases

When the Ministry for Foreign Affairs has fully investigated the case of misconduct, the head of the unit/mission or a person designated by them shall update the memorandum prepared on the case with the measures and decisions taken during the handling of the case.

The memorandum shall indicate the following:

- A concise account of the matter.
- The measures taken and evidence obtained to investigate the case.
- The conclusions drawn on the basis of the evidence obtained and information on any remedial measures and/or measures having the nature of a sanction.
- The police report filed or the reasons for not filing one even if the case involves a criminal offence.
- Information on the recovery decision.

Where handling of the case has shown the suspicion to be unfounded, this shall be clearly noted in the memorandum. Where the handling of the case by the Ministry has resulted in the filing of a police report, this shall also be documented.

After this, the head of the unit/mission responsible or a person designated by them shall ensure that all material documents relating to the handling of the case have been recorded in the case of misconduct established in the AHA system and then close the case.

Once the investigation is complete, the unit responsible shall communicate the outcome of the case to the reporting person (whether leading to further action or case closed).

3.10 Core funding to multilateral organisation and other co-funded non-earmarked funding

In the cases of non-earmarked core funding, capital contribution or loan to development fund, development finance institution or an intergovernmental organisation, or fund investment, the Ministry's official liability does not extend to monitoring individual cases and instead, the responsibility for this



rests with the recipient of the funding. The Ministry's official liability does include assessing the risk management capacity and operating models of the funding recipient in accordance with the risk management policy before the funding decision is made.

The Ministry shall ensure that information, on a general level, of any cases of suspected misconduct and their investigation as well as the measures taken is made available at the regular meetings of boards, steering groups and other similar bodies. However, in the event of individual cases that are significant in nature (in terms of finances or ethics), or if the funding recipient fails to duly investigate suspected misconduct, a separate report of misconduct on the matter shall be submitted in the manner described above. Where suspicions are concerned, it must also be noted that even though the Ministry was not responsible for the investigation and follow-up of the misconduct, active communications on its part may sometimes be warranted.

4 Communications issues

4.1 General points regarding communications in relation to suspected misconduct

Transparency is one of the most important ways to boost trust in the actions of the authorities and prevent misconduct and also to address any misunderstandings relating to ways of working or individual cases of suspected misconduct. The publicity of documents and the information contained therein is governed by the Act on the Openness of Government Activities. The disclosure of personal data is governed not only by that Act but also by the General Data Protection Regulation and the Data Protection Act.

The financial accounts of the Ministry for Foreign Affairs provide numerical data on the cases of suspected misconduct coming to light and the recovery decisions made in the year under review. Suspected misconduct and the resultant recovery decisions are monitored annually as part of the annual risk management reporting compiled by KEO-80.

Suspected misconduct tends to generate a great deal of public interest. Preparations for communicating the matter should be undertaken immediately upon learning of the suspected misconduct. Whether it is possible or necessary to communicate the suspicion already at the investigation stage



shall be determined on a case by case basis. When necessary, VIE-30 provides support in communications already at the early stages of investigating the suspected misconduct.

4.2 Responsibility for communications in cases of suspected misconduct

In cases of misconduct, primary responsibility for communications lies with the partner that receives the funding and carries out the work.

At the Ministry for Foreign Affairs, communications are handled by the head of the unit/mission responsible in cooperation with the Unit for Communications on Sustainable Development and Trade (VIE-30) and the Unit for Administrative and Legal Development Cooperation Matters (KEO-80).

In cases where misconduct of considerable societal or financial significance is suspected, communications are handled in cooperation with the Director General of the Department of Development Policy and the Office of the Minister responsible for development cooperation.

Where the suspicion of misconduct has resulted in a criminal offence being reported to the police, subsequent to the filing of the request to investigate, communications as a rule are handled by the National Bureau of Investigation, unless otherwise agreed (securing the integrity of the investigation).

4.3 Execution, timing and contents of communications

The unit/mission responsible in cooperation with VIE-30 and KEO-80 shall assess whether and at what stage the suspected misconduct should be communicated. The determination of whether the Ministry will undertake communications depends on matters including the extent or financial value of the misconduct and its potential societal significance. Aspects that support risk management and help prevent future cases of misconduct are also taken into account when considering the communications policy.

A case of suspected misconduct may be communicated when this is deemed necessary and the communications do not jeopardise any possible criminal investigation, and the information involved is not subject to non-disclosure for any other reason. Especially where there is strong evidence of misconduct or misconduct has already been established, the unit/mission responsible shall consider communicating the matter on its own initiative. The substance of the information communicated shall comply with the guidelines in chapter 4.4.



VIE-30 provides those responsible for investigating the suspected misconduct with advice on preparing for communications and published a news item or release on the Ministry website as necessary.

Statutory and ethical obligations, including but not limited to data protection, victim protection and the presumption of innocence, shall be taken into account in all official communications. The communications shall be kept neutral and factual. Any assumptions as to the course of events or the consequences of the suspicion or the misconduct shall be avoided.

4.4 Responding to requests for information regarding misconduct

Information Management (HAL-40) has issued a guideline on responding to requests for information in the Foreign Service.⁷ The guideline pulls together instructions based on the Act on the Openness of Government Activities and the Ministry's rules of procedure as to how to respond to requests for information. The guideline shall be complied with whenever responding to requests for information concerning misconduct. The response to a request for information concerning suspected and confirmed misconduct shall be prepared in cooperation with Information Management (HAL-40). Under the rules of procedure, matters involving requests for information are decided by the Chief Information Officer.

As a rule, documents prepared and received by the Ministry for Foreign Affairs are public, unless a document is non-disclosable either in part or in full under the Act on the Openness of Government Activities. Each document shall be assessed separately in light of the Act. There may be cases where only some of the information contained in a document is non-disclosable. Anyone who requests the document shall be provided with the document's public elements or information where this is possible without disclosing the non-disclosable elements. Documents are subject to non-disclosure only when provisions to this effect are laid down in the Act on the Openness of Government Activities or another Act. Section 24 of the Act on the Openness of Government Activities provides an exhaustive list of the grounds for non-disclosure of official documents.

⁷ The guideline on responding to requests for information in the Foreign Service (PCoUCoXZ-25) is being updated.



The stage of handling of the case shall also be taken into account when considering disclosure. Under the Act on the Openness of Government Activities, a *pending* document that is still being updated (such as a memorandum on misconduct) is not yet public. The provisions governing when a document becomes public are laid down in the Act on the Openness of Government Activities.⁸ Under the Act on the Openness of Government Activities, a memorandum on misconduct prepared by the Foreign Service, for example, becomes public only once the case of misconduct has been fully investigated (i.e. the case has been closed). Even then, the memorandum may remain non-disclosable in part or in full. Under the Act on the Openness of Government Activities, access to a document prepared by an authority which is not yet in the public domain shall be granted at the discretion of the authority.⁹ See also chapter 3.4 and Appendix 2.

Any further questions on this topic should be addressed to the Unit for Administrative and Legal Development Cooperation Matters (KEO-80), which also organises training on the topic.

Permanent State Secretary

Jukka Salovaara

Director General

Titta Maja-Luoto

⁸ Act on the Openness of Government Activities, sections 6 and 7.

⁹ Act on the Openness of Government Activities, section 9. In this consideration, account shall be taken of section 17 of the Act on the Openness of Government Activities, under which an authority, when making decisions under the Act and also otherwise when performing its duties, shall see to it that access to information on the activities of the authority is not unduly or unlawfully restricted, nor more restricted than what is necessary for the protection of the interests of the person protected, and that persons requesting access are treated on an equal basis.



APPENDIX 1: PROCESS FOR HANDLING CASES OF SUSPECTED MISCONDUCT

The measures at each stage and the parties responsible for carrying out the measures are described in the below table:

| | Measure | Parties responsible |
|----|---|---|
| 1. | <p>Report of suspected misconduct with the suspected misconduct reporting form in the case management system, from which it will be referred to the head of the unit/mission responsible for the appropriations.</p> <p>A report may also be obtained through the external reporting channel, from where it is similarly referred to the head of the unit/mission responsible for the appropriations.</p> | <p>Any Foreign Service employee who detects, suspects or becomes aware of actual or suspected misconduct is obliged to report it without delay.</p> |
| 2. | <p>Memorandum on suspected misconduct coming to light, including a concise description of the events, an assessment of the seriousness of the suspicion and a preliminary opinion on the follow-up measures needed.</p> <p>In serious cases, the suspected misconduct is communicated internally to the Office of the Minister(s), AVS-KEO. VIE-30, KEO-01, KEO riskienhallinta</p> | <p>The head of the unit/mission that has decision-making power in the administration of the project, programme or other funding (KEO-80 in unspecified cases) and the persons who report to the head of the unit responsible as instructed by the head.</p> |
| 3. | <p>Investigating suspected misconduct</p> | <p>Head of unit/mission and persons reporting to them as instructed by the head. When necessary, support from the person responsible for risk management, the legal team of</p> |



| | Measure | Parties responsible |
|----|--|--|
| | | KEO-80, the financial administration team or the risk management advisor (email box KEO riskienhallinta). |
| 4. | Deciding on remedial measures and/or measures by way of sanction | Party with competence in the case at hand under the rules of procedure. Support from the legal team of KEO-80 when necessary. |
| 5. | Contact with the National Bureau of Investigation regarding suspicion that may also involve a criminal offence. | KEO-80/legal team |
| 6. | Reporting a criminal offence to the police | KEO Director General / Director General, Administrative Services (party with competence under the rules of procedure). |
| 7. | Keeping the Minister responsible, AVS-KEO, KEO-01, ViE-30 and STY up to date on the progress of the investigation and measures. | Head of unit/mission and persons reporting to them as instructed by the head. |
| 8. | When the Ministry for Foreign Affairs has fully investigated the case of misconduct, the memorandum prepared on the case is updated with the measures and decisions taken during the handling of the case. | Head of unit/mission and persons reporting to them as instructed by the head. |



| | Measure | Parties responsible |
|----|---|--|
| | <p>The memorandum shall include the following:</p> <ol style="list-style-type: none"> 1. A concise account of the matter 2. The measures taken and evidence obtained to investigate the case 3. The conclusions drawn on the basis of the evidence obtained and information on any remedial measures and/or measures by way of sanctions 4. The police report filed or the reasons for not filing one even if the case involves a criminal offence 5. Information on the recovery decision | |
| 9. | <p>Communications regarding suspected misconduct</p> | <p>Where the suspected misconduct results in the filing of a police report, all communications regarding the matter are handled by the National Board of Investigation. Where no police report has been filed, by the head of the operating unit together with VIE-30 and KEO-80.</p> <p>In cases of suspected misconduct of considerable societal and financial significance communications are handled in cooperation with the Director General of the Department for Development Policy and the Office of the Minister responsible for development cooperation.</p> |



APPENDIX 2: Provisions on publicity, data security and data protection relating to the handling of cases of suspected misconduct

When handling non-disclosable documents, the norm issued by Information Management at the Ministry for Foreign Affairs (HAL-40) regarding the handling of non-disclosable documents and data sets in the Foreign Service.¹⁰ Central government typically uses the stamped marking SALASSA PIDETTÄVÄ [non-disclosable] to indicate non-disclosable documents. The marking is used for documents that have to do with, for example, personal privacy or a suspected criminal offence (including cases of suspected misconduct when there is reason to suspect crime). The marking is equal to security classification level TL IV and the same data security procedures may be observed in the handling of documents with this marking. The Foreign Service also uses many security classification tools instead of the stamped marking SALASSA PIDETTÄVÄ. This is based on section 18 of the Act on Information Management in Public Administration, under which some of the documents defined as non-disclosable by the Act on the Openness of Government Activities shall be security classified. Such documents are documents, the disclosure of which can cause prejudice to, for example, Finland's international relations and international cooperation, public safety or the security arrangements of persons, buildings, installations, constructions, and data and communications systems, or which otherwise relate to Finland's international activities.

When marking a document with the stamp SALASSA PIDETTÄVÄ or a security classification level marking, the legislative provision on which the non-disclosure of the document is based shall also be indicated. The provision is entered in the relevant portions of the stamp. Documents pertaining to cases of suspected misconduct are most commonly marked SALASSA PIDETTÄVÄ or TL IV KÄYTTÖ RAJOITETTU [restricted]. However, it shall be considered separately for each document, on a case by case basis, whether the document is public or non-disclosable (in part or in full) or whether it should be classified,

¹⁰ The norm on the handling of non-disclosable documents and data sets in the Foreign Service (3/2021, PCoUCoXZ-17) is being updated in 2023. The norm in force is available in Kampus at <https://kampus.vnv.fi/tyon-tueksi/Sivut/Normit-UM.aspx>



and the grounds for non-disclosure shall also be assessed. In cases of misconduct, non-disclosure is often based on one of the following provisions:

Act on the Openness of Government Activities, section 24, subsection 3, which concerns the criminal investigative materials of the police and the report of the criminal offence to the Foreign Service (e.g. details of those suspected of crime relating to a case of misconduct and the documents pertaining to the suspected offence), until the case has been heard in court or the prosecutor has decided to waive prosecution or the case has been withdrawn.

Act on the Openness of Government Activities, section 24, subsection 26, which concerns documents containing sensitive information on the private life of the suspect of an offence, an injured party or another person involved in a criminal matter, as well as documents containing information on the victim of an offence, if access would violate the rights or the memory of the victim or cause distress to those close to the victim. (NB! Unlike under section 24, subsection 3 above, the sensitive information on private life included in criminal investigative documents remain non-disclosable even after the criminal investigation has been completed. This also applies to documents that contain information on the victim of an offence if access would violate the rights or the memory of the victim or cause distress to those close to the victim.)

Act on the Openness of Government Activities, section 24, subsection 32, which concerns information on the political convictions or the privately expressed views of a person, or a person's lifestyle, leisure-time activities, family life or other comparable personal circumstances of the person.

Documents and information marked SALASSA PIDETTÄVÄ and TL IV KÄYTTÖ RAJOITETTU may be handled in the case management system and by email within the Foreign Service. Where documents and information marked SALASSA PIDETTÄVÄ or TL IV KÄYTTÖ RAJOITETTU must be emailed outside the Foreign Service, they may be sent by secure email from Outlook by entering the ending .sec after the recipient's email address, for example firstname.lastname@organisation.fi.sec