

European Stability Mechanism



Whistleblowing Policy

1 May 2025

Version 2.0

Version Control

Author	Date Issued	Version No.	Reason for Issue
Compliance Officer, Legal Institutional	February 2021	1.0	The policy replaces the whistleblower procedures and now comprehensively sets out the framework of protection of whistleblowers and witnesses pursuant to Art. 16 of the ESM Code of Conduct
Compliance and Data Protection Office	1 May 2025	2.0	Considering the experience with the application of the policy in practice, various sections were updated and the previous 'Operating Procedure A - Handling reports of alleged serious misconduct', was integrated into the policy while the treatment of Behavioural and other Serious Misconduct is now addressed in a separate Dignity at Work Policy.

Contents

1) Purpose and scope.....	4
2) Whistleblowing procedure	4
3) Retaliation	9
4) Conflicts of interest in the context of the whistleblowing procedure	10
5) Duty to cooperate	10
6) Support.....	10
7) Confidentiality.....	10
8) Interim precautionary measures	11
9) Reporting to the Internal Risk Committee	11
10) Records and records retention.....	11
11) Entry into force and review.....	11

1) Purpose and scope

- a) The ESM is committed to a culture of integrity, respect, accountability, and non-discrimination, and to fostering and maintaining a work environment characterised by these values. It is committed to and actively supports the right of members of staff to work in an environment free from Misconduct, including Integrity Violations and Behavioural Misconduct, which constitute Serious Misconduct.
- b) For this purpose, the ESM raises the awareness and understanding of Misconduct, provides trainings, and the ESM Code of Conduct details the reporting requirements for members of staff who become aware of or suspect Serious Misconduct.
- c) This Policy applies to any person for the reporting of suspected Integrity Violations at the ESM, which are not linked to Behavioural Misconduct or other Serious Misconduct and where the person reporting has no personal interest in the outcome of the reporting and the victim is not a natural person (**Integrity Violation under this Policy**). It applies, in particular, but is not limited to reporting by:
 - i) Members of staff and former members of staff
 - ii) Secondees, trainees and interim workers
 - iii) Service providers and suppliers contracted by the ESM
 - iv) Visitors to the ESM
 (each, a **Whistleblower**).
- d) According to the Code of Conduct, Integrity Violations include corrupt, fraudulent, coercive, and collusive practice, abuse, obstructive practice and conflict of interest.
- e) The reporting of suspected Behavioural Misconduct and other Serious Misconduct at the ESM, including Integrity Violations which are linked to such misconduct, and the reporting of any Serious Misconduct where the person reporting has a personal interest in the outcome of the reporting or where the victim is a natural person, is treated in accordance with the ESM's Dignity at Work Policy.
- f) For any questions related to this Policy, any persons involved may approach the Compliance and Data Protection Office (**CDPO**)¹ to seek guidance and support.
- g) Unless otherwise provided in this Policy, capitalised terms have the meaning as assigned to them in the Annex to the [Code of Conduct](#).

2) Whistleblowing procedure

- a) Reporting of suspected Integrity Violations under this Policy
 - i) General

(1) To address and investigate suspected Integrity Violations under this Policy, the ESM has established a procedure, which provides the means to report such concerns, and, if so requested and to the extent reasonably possible, to protect with appropriate measures

¹ Whenever a reference is made to the CDPO, this includes any member of staff of the CDPO, acting individually.

the Whistleblower or Witness against disclosure of their identity.

- (2) Pursuant to the ESM's Code of Conduct, members of staff are required to report any information concerning suspected Integrity Violations.
- (3) Persons who are not members of staff are only encouraged to report suspected Integrity Violations under this Policy, unless they are contractually obliged to report such violations.
- (4) Any reporting should take place as soon as reasonably possible.

ii) Unwarranted Whistleblower reports

- (1) Pursuant to the Code of Conduct, reporting of Integrity Violations, other than in good faith, constitutes Misconduct. The Whistleblower or the Witnesses² supporting such reporting may therefore be the subject of a disciplinary procedure in line with the Staff Rules.
- (2) Examples of reporting other than in good faith are abusive reporting (such as repeated whistleblowing reporting of alleged facts aimed merely at paralysing the institution or parts of the institution) or malicious, frivolous, or potentially defamatory reporting (e.g., false or unverifiable accusations harming another person's integrity or reputation).

iii) External reporting by members of staff

- (1) External reporting of suspected Integrity Violations under this Policy by a member of staff (i.e., reporting outside the reporting channels foreseen in this Policy) is only permitted if it concerns a criminal offense and is made to the competent police authorities.
- (2) Any external reporting under this Policy does not constitute or can be construed as a waiver, renunciation, or other modification, either express or implied, of any of the privileges, immunities and exemptions granted to the ESM.

b) Content of Whistleblower reports

A Whistleblower report should include the following items:

- i) The description of the suspected Integrity Violation under this Policy;
- ii) The person(s) involved, including any potential Witnesses;
- iii) The records potentially affected;
- iv) The time and location of the incident(s); and
- v) Any other information or document that could help an investigation.

c) Recipient of Whistleblower reports

- i) Reports are communicated to the CDPO³. In case any other person within the ESM receives a report, they must forward the report immediately to the CDPO while keeping the existence and

² A Witness is any person who is not the subject of an investigation, but who is named in a whistleblower report as a witness and/or requested by the ESM to provide information regarding a matter under investigation.

³ Please see Section 4 a) (*Conflicts of Interest*) in case there is any Conflict of Interest within the CDPO.

content of the report strictly confidential, and permanently destroy any electronic or paper copy of the report.

d) Form of Whistleblower reports

i) Reports must be addressed to the CDPO in one of the following forms:

- (1) Via the [online reporting system \(ORS\)](#), which is accessible on the ESM public website and due to its security features is the preferred option for reporting Integrity Violations under this Policy; it also includes the option to create a secure post box allowing for confidential and/or anonymous reporting and communication;
- (2) By e-mail to compliance@esm.europa.eu;
- (3) By letter to the following address: European Stability Mechanism, Compliance and Data Protection Office, 6a, Circuit de la Foire Internationale, L-1347 Luxembourg; or
- (4) Orally, in person or over the phone (+352 260 962 0) by asking for a member of staff in the CDPO; unless the reporting is anonymous, this will then be followed-up in writing.

ii) The Annex to this Policy contains a template that can optionally be used when reporting by e-mail or letter.

iii) If the Whistleblower does not open a secure post box within the ORS, it is preferred that the Whistleblower provides contact details, as in many cases additional information or clarification may be needed. It is understood, however, that all reports, including anonymous ones, will be accepted.

e) Whistleblower reports assessment and communication

i) Registration and acknowledgement

- (1) Reports successfully filed in the ORS are automatically acknowledged in a message to the Whistleblower (including a case number) and the Whistleblower report is immediately logged by the system.
- (2) The CDPO registers manually all reports received through any other channel in the ORS and acknowledges the receipt to the Whistleblower without undue delay unless the report was made anonymously.

ii) Initial assessment

- (1) The CDPO first assesses the Whistleblower report and depending on its content takes one of the following steps:
 - (a) Unless any of the reasons set out in Section 2 e) ii) (1) (b) (*Initial assessment*) apply, requests the Head of Internal Audit⁴ to investigate the suspected Integrity Violation under this Policy, or

⁴ Whenever a reference is made to the Head of Internal Audit, this also includes any member of staff or external expert designated by the Head of Internal Audit or the Managing Director to take actions in the context of this Policy (e.g., if the Head of Internal Audit is absent).

- (b) After consultation with the Head of Internal Audit, fully or partially dismisses the report, if:
 - (i) It does not contain prima facie⁵ evidence that the alleged or any Integrity Violation under this Policy took place or is related to the ESM, and despite further communication with the reporter, if possible, no sufficient information is offered⁶;
 - (ii) It constitutes a manifest abuse of procedure, i.e., the reporting was not done in good faith as set out in Section 2) a) ii) (*Unwarranted Whistleblower reports*);
 - (iii) It relates to a direct challenge of an ESM policy, procedure, or other internal law;
 - (iv) Another internal procedure is considered more appropriate to deal with the issues raised in the report, in which case the decision will indicate the appropriate procedure or will be referred to the responsible function; or
 - (v) The facts described in the report and the parties involved are the same as in previously introduced and assessed cases, either in a previous whistleblowing or dignity at work procedure, in disciplinary proceedings, or a procedure pursuant to Article 24 of the Staff Rules, or by a competent tribunal or court.
 - (c) If the report is dismissed, the CDPO will record the reasons for the dismissal in the ORS. In addition, the CDPO informs the Whistleblower of the decision not to investigate the reported matter and the reason(s) for such decision, unless the report was made anonymously and without creating a secure post box in the ORS.
 - (d) The CDPO will inform the Managing Director, if the Head of Internal Audit is requested to investigate a suspected Integrity Violation under this Policy and if a report is dismissed.
- f) Assessment of personal data and communication
- i) If, based on the initial assessment, the report is not fully dismissed, the CDPO completes the following steps:
 - (1) The CDPO reviews the content of the report from a personal data point of view and ensures that personal data contained in the report that are not necessary to conduct the investigation are not processed further. Requests for information about personal data processed under this procedure and the related investigation will be handled in accordance with the ESM's Personal Data Protection Policy and the Procedure to Handle Data Subject Requests.
 - (2) Unless the report was made anonymously and without creating a secure post box in the ORS, the CDPO informs the Whistleblower that an investigation is initiated.
 - (3) The CDPO shares the allegations without undue delay with any individual who is subject to allegations in the report. Even if no individual is named but specific information is included that allows the clear identification of the subject of the allegations, the same procedure applies. However, in case there is a risk that such notification would jeopardise

⁵ Prima facie evidence means evidence of a fact that is of sufficient weight to justify a reasonable inference of its existence but does not amount to conclusive evidence of that fact.

⁶ In case of doubt whether prima facie evidence exists based on the report, the CDPO should request the Head of Internal Audit to take any appropriate measure to the extent necessary to determine the existence of prima facie evidence.

the ESM's or another authority's ability to effectively investigate the allegations or gather the necessary evidence, the CDPO, after consultation with the Head of Internal Audit, may delay such notification. The CDPO documents in writing such a decision to defer the notification.

g) Investigation

- i) The Head of Internal Audit will then perform the investigation of the alleged Integrity Violation under this Policy in accordance with the ESM's Operating Procedure on Investigations.
- ii) For this purpose, the Head of Internal Audit, if considered appropriate, can be assisted by external experts.
- iii) At the end of the investigation, the Head of Internal Audit will issue an investigation report.
- iv) The report will provide the detailed findings and conclusions of the Head of Internal Audit (and the external experts, if any), after setting out the relevant facts and circumstances of the situation, provide an assessment of the facts and evidence obtained and reviewed, and indicate whether such evidence, according to the Head of Internal Audit, constitutes clear and convincing evidence of the Integrity Violation under this Policy. The report will also include testimonial and other relevant evidence (redacted or summarised, if necessary to preserve the required confidentiality and anonymity or protect personal data). The list of the Witnesses requested and not heard should be clearly reflected in the investigation report, as well as the decision of the Head of Internal Audit not to hear them and the reasons therefor.
- v) The Head of Internal Audit, after consultation with the CDPO, will circulate a draft of the investigation report to anyone who is a subject of allegations in the Whistleblower report, for written comments on the draft investigation report.
- vi) These comments must be provided to the Head of Internal Audit within 15 Working Days⁷ from the receipt of the draft investigation report. This time limit may only be extended by the Head of Internal Audit in exceptional circumstances in response to a reasoned written request of the subject of the allegations to the Head of Internal Audit.
- vii) Following the receipt of these comments, if any, the Head of Internal Audit, after consultation with the CDPO, will take follow-up actions, if necessary, and address the comments in the final report.
- viii) The final report, together with these comments in an annex, will then be submitted by the Head of Internal Audit to the Managing Director, copying the CDPO.

The aim is to complete the investigation report and send it to the Managing Director within 180 calendar days after the investigation has been requested by the CDPO, save that the Head of Internal Audit, after consultation with the CDPO, may extend this period for substantiated reasons, which will be notified to the subject of the allegations, the Whistleblower (unless the initial report was made anonymously and without creating a secure post box in the ORS), and the Managing Director.

h) Decision of the Managing Director and feedback

- i) Upon receipt of the final investigation report, the Managing Director will take a decision on

⁷ Working Days means any day except any Saturday, any Sunday, and any public holiday of the ESM adopted by the Managing Director pursuant to Article 10 of the Supplemental Rules to the Staff Rules of the ESM.

whether there is clear and convincing evidence of an Integrity Violation under this Policy; or, if needed, will request additional information or investigative measures.

- ii) Prior to taking the decision on whether there is clear and convincing evidence of an Integrity Violation under this Policy, the Managing Director, through the CDPO, within 30 Working Days of receipt of the final investigation report, will circulate a letter of intent, together with the final investigation report, to anyone who is a subject of allegations in the Whistleblower report, for written comments.
 - iii) These comments must be provided to the Managing Director, through the CDPO, within 15 Working Days from the receipt of the letter of intent. This time limit may only be extended by the Managing Director, in exceptional circumstances in response to a reasoned written request of the subject of the allegations to the Managing Director, through the CDPO.
 - iv) The Managing Director, through the CDPO, will notify his or her decision to the subject of the allegations within 30 Working Days of receipt of the comments referred to in the previous paragraph. The Managing Director can, however, extend such deadline, if s/he considers that further information to take a decision is needed.
 - v) Unless the initial report was made anonymously and without creating a secure post box in the ORS, the CDPO provides to the Whistleblower information as to whether the investigation was completed and, if so, general statements on its outcome (i.e., if the allegations were substantiated or not).
 - vi) If the decision of the Managing Director concludes that there is no clear and convincing evidence of an Integrity Violation under this Policy, the ESM may decide to provide assistance in relation to any reasonable legal fees the subject of the allegations may have incurred in the context of the whistleblowing procedure.
 - vii) The subject of the allegations may request that the outcome be made known, through the CDPO, to members of staff of the ESM and/or any designated external party involved in the investigation.
- i) Status update
 - i) The CDPO will provide an update on the status of the investigation to the subject of the allegations, at least every 90 calendar days after receipt of the Whistleblower report.

3) Retaliation

The Code of Conduct sets out that the ESM and members of staff must refrain from any Retaliation or reprisal against any member of staff who reports Misconduct. Pursuant to the Annex of the Code of Conduct, Retaliation is Behavioural Misconduct, which constitutes Serious Misconduct. Therefore, the provisions on Serious Misconduct also apply in the case of Retaliation, the reporting of which is treated in accordance with the Dignity at Work Policy.

In particular, where a Whistleblower or any of the other persons mentioned in Section 8 (*Interim precautionary measures*) claims that s/he is threatened with retaliation or retaliated against because s/he initiated or is or was otherwise involved in the procedures under this Policy, the Managing Director may take interim precautionary measures for their protection in line with Section 8 (*Interim precautionary measures*).

4) Conflicts of interest in the context of the whistleblowing procedure

- a) If there is a Conflict of Interest within the CDPO another member of the CDPO will, in principle, take over the relevant responsibilities, if the conflict of interest is not due to being the subject of allegations. If the conflict of interest is due to a member of the CDPO being a subject of allegations, the Head of Internal Audit will, in principle, take over the relevant responsibilities.
- b) If the Conflict of Interest is with the Head of Internal Audit, in principle, the CDPO will take over the relevant responsibilities.
- c) If the Conflict of Interest is with the Managing Director, without the Managing Director being the subject of the allegations, in principle, the Deputy Managing Director and Chief Risk Officer will take over the relevant responsibilities.
- d) In case of any other Conflict of Interest pursuant to the Code of Conduct within the context of the whistleblowing procedure, the CDPO takes any necessary action to resolve the Conflict of Interest, if considered appropriate, involving the Deputy Managing Director and Chief Risk Officer.

5) Duty to cooperate

Any person who works for the ESM, and who becomes involved in the procedures under this Policy, has the duty to cooperate fully, timely and in good faith to ensure the smooth running of the procedures and to communicate to the competent persons, without concealment or alteration, all relevant information available to them, without prejudice to Section 7 (*Confidentiality*).

Any other person is strongly encouraged to cooperate.

6) Support

The subject of the allegations may enlist at their own cost the aid of a legal counsel of their own choosing or may be supported by a trusted current or former ESM colleague⁸ during the whistleblowing procedure (who may be present during the investigative interview as an observer).

7) Confidentiality

- a) Unless otherwise stated in this Policy or any applicable internal law of the ESM, any person working for the ESM who, in any manner whatsoever, becomes aware of, or involved in the procedures under this Policy, is obliged to observe the strictest confidentiality regarding all aspects of the procedure, including the fact of its existence, the identity of the Whistleblower and Witnesses, any other persons involved, and the grounds on which the procedure was initiated and its outcome.
- b) The subject of the allegations may, however, disclose the existence and outcome of the procedure, to their own line manager. Furthermore, the confidentiality requirement does not apply to the relations between the subject of the allegations and their Witnesses or potential Witnesses, their legal counsels, or trusted current or former ESM colleague, if any.

⁸ If the subject of the allegations is not a current or former ESM member of staff, they can be accompanied by a trusted person subject to prior approval by the Head of Internal Audit, and provided that anyone who is not a current ESM member of staff signs a non-disclosure form.

- c) Furthermore, the relevant information may also be disclosed by the persons involved on a strict need-to-know basis, if this is required in the context of the investigation, disciplinary proceedings, a procedure pursuant to Article 24 of the Staff Rules or before the Administrative Tribunal of the ESM or another competent court.
- d) In addition, the CDPO, the Head of Internal Audit, and the Managing Director may, on a strict need-to-know basis, exchange relevant information with different functions at the ESM (e.g., the Legal or HR functions) or external experts whose input may be required in the context of the whistleblowing procedure or who may need to be aware of an ongoing whistleblowing procedure.
- e) The identity of the Whistleblower and/or Witnesses may also be disclosed, if the Whistleblower and/or Witnesses authorise the disclosure of their respective identity.

8) Interim precautionary measures

- a) The Managing Director may adopt the interim precautionary measures that s/he considers justified, proportionate and necessary to protect the Whistleblower, the subject of the allegations and/or the Witnesses and/or other persons as appropriate, and/or to ensure the smooth running of the institution.
- b) Interim precautionary measures may be adopted after hearing the person directly concerned by the precautionary measure unless the seriousness of the situation justifies otherwise. Interim precautionary measures may be adopted even if the person concerned is opposed to the adoption of such measures, if it is considered necessary for his or her effective protection or for the effective protection of others or to ensure the smooth running of the institution.

9) Reporting to the Internal Risk Committee

The CDPO reports on a quarterly basis to the Internal Risk Committee on the number and nature of Whistleblower reports and on the aggregated and anonymised results of investigations undertaken, preserving any personal data of concerned persons.

10) Records and records retention

The CDPO keeps the cases in the ORS up to date, including the allegations, the actions performed, the status of investigations and any corrective actions, and will delete them, five years after the date of the decision of the Managing Director pursuant to Section 2 h) (*Decision of the Managing Director and feedback*), or the decision of the CDPO pursuant to Section 2 e) ii) 1) b) (*Initial assessment*).

11) Entry into force and review

- a) This Policy has been adopted by the Managing Director with effect from 1 May 2025⁹. Together with the new Dignity at Work Policy, it replaces the Whistleblower and Witness Protection Policy of 4 February 2021 which has been split into two separate policies.

⁹ Any reports of an Integrity Violation under this Policy which have been submitted before 1 May 2025 will continue to be treated in accordance with the Whistleblower and Witness Protection Policy of 4 February 2021.

- b) The Policy will be reviewed by the CDPO as appropriate, but at least every five years, to take into account the experience with the Policy, and to reflect best practice.

Annex 1

Report of Integrity Violations under this Policy

What is the suspected Integrity Violation? Please tick at least one box below:

INTEGRITY VIOLATIONS
<input type="checkbox"/> Corrupt practice <input type="checkbox"/> Fraudulent practice <input type="checkbox"/> Coercive practice <input type="checkbox"/> Collusive practice <input type="checkbox"/> Abuse <input type="checkbox"/> Obstructive practice <input type="checkbox"/> Conflict of interest

Please describe the events and circumstances of the suspected Integrity Violation under this Policy. Please provide as much details as possible.

If you have supporting documentation, please attach.

CONTACT INFORMATION

The ESM will accept your report even if you choose to remain anonymous. Ideally, please provide us, however, with at least a contact number or an e-mail address so that we can contact you in case additional information or clarification may be required.

First name: _____

Last name: _____

Contact number: _____

E-mail address: _____

Reports can be submitted to compliance@esm.europa.eu or sent to the attention of the Compliance and Data Protection Office at the European Stability Mechanism, 6a, Circuit de la Foire Internationale, L-1347 Luxembourg.