

European Stability Mechanism



Dignity at Work 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 Whistleblower and Witness Protection Policy in practice, a separate Dignity at Work Policy for the reporting of suspected Behavioural Misconduct and other Serious Misconduct at the ESM, including Integrity Violations which are linked to such misconduct, or where the member of staff has a personal interest in the outcome of the reporting, or where the victim is a natural person, has been created.

Contents

1) Purpose and scope.....	4
2) Dignity at work procedure	4
3) Retaliation	10
4) Conflicts of interest in the context of the dignity at work procedure	10
5) Duty to cooperate	10
6) Support.....	11
7) Confidentiality.....	11
8) Interim precautionary measures	11
9) Reporting to the Internal Risk Committee	12
10) Records and records retention.....	12
11) Entry into force and review.....	12

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 Behavioural Misconduct and other Serious Misconduct at the ESM, including Integrity Violations which are linked to such misconduct. In addition, it applies to 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 (**Misconduct under this Policy**). It applies, in particular, but is not limited to reporting by:
 - i) Members of staff and former members of staff
 - ii) Seconded, trainees and interim workers
 - iii) Service providers and suppliers contracted by the ESM
 - iv) Visitors to the ESM.
- d) According to the Code of Conduct, Behavioural Misconduct constitutes Serious Misconduct and includes any form of direct or indirect discrimination, physical violence, psychological harassment (also referred to as bullying or mobbing), sexual harassment and retaliation. Integrity Violations include corrupt, fraudulent, coercive, and collusive practice, abuse, obstructive practice and conflict of interest. Whether other Misconduct is serious depends on the facts and circumstances, including but not limited to the extent to which the misconduct could adversely affect the integrity, reputation or interests of the ESM, the extent to which the misconduct involves intentional actions or negligence and the duties and responsibilities of the member of staff.
- e) The reporting of Integrity Violations (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) is treated in accordance with the ESM's Whistleblowing Policy.
- f) Unless otherwise provided in this Policy, capitalised terms have the meaning as assigned to them in the Annex to the [Code of Conduct](#).

2) Dignity at work procedure

- a) Reporting of suspected Misconduct under this Policy
 - i) General
 - (1) To address and investigate suspected Misconduct under this Policy, the ESM has established a procedure, which provides the means to report such Misconduct, and, if so requested and to the extent reasonably possible, to protect with appropriate measures

the reporter or Witness¹ 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. Any member of staff who becomes aware of or suspects Serious Misconduct, other than an Integrity Violation, including Behavioural Misconduct, is encouraged to report the matter, in good faith, to the Compliance Officer as soon as reasonably possible. Any member of staff in a supervisory position is required to do the same in the same circumstances.
- (3) Persons who are not members of staff are only encouraged to report suspected Misconduct under this Policy, unless they are contractually obliged to report such violations.
- (4) In cases of alleged Behavioural Misconduct, if appropriate and notwithstanding any reporting requirements under the Code of Conduct, the alleged victim is encouraged to initially address the Behavioural Misconduct, informally and bilaterally, with the subject of the allegations. In doing so, the alleged victim may be supported by a trusted current or former ESM colleague. The alleged victim may also ask their line management, members of the Human Resources and Organisation (HR) division, or the Staff Representatives for advice.
- (5) The ESM has in place an [Employee Assistance Programme](#) which staff, secondees and trainees can also use and which provides free and confidential access to professional counselling and emergency support.
- (6) Furthermore, on the conditions set out in the [Mediation Rules](#), the ESM offers a voluntary mediation procedure with a fully independent mediator to reach mutually acceptable and amicable solutions to workplace disputes between members of staff or between one or more members of staff and the ESM.

ii) Unwarranted reports of Misconduct under this Policy

- (1) Pursuant to the Code of Conduct, reporting of Serious Misconduct other than in good faith constitutes Misconduct. The reporter or the Witness 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 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 Misconduct 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 (e.g., in cases of sexual harassment or physical violence) 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

¹ A Witness is any person who is not the subject of an investigation, but who is named in a report as a witness and/or requested by the ESM to provide information regarding a matter under investigation.

privileges, immunities and exemptions granted to the ESM.

b) Content of reports of Misconduct under this Policy

A report should include the following items:

- i) The description of the suspected Misconduct 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 reports of Misconduct under this Policy

- i) Reports are communicated to the Compliance and Data Protection Office (**CDPO**)². 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 content of the report strictly confidential, and permanently destroy any electronic or paper copy of the report.

d) Form of reports of Misconduct under this Policy

- 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 Misconduct 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 reporter does not open a secure post box within the ORS, it is preferred that the reporter 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) Reports assessment and communication

- i) Registration and acknowledgement

² Whenever a reference is made to the CDPO, this includes any member of staff of the CDPO, acting individually. Please see Section 4 a) (Conflicts of Interest) in case there is any Conflict of Interest within the CDPO.

- (1) Reports successfully filed in the ORS are automatically acknowledged in a message to the reporter (including a case number) and the 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 reporter without undue delay unless the report was made anonymously.

ii) Initial assessment

- (1) The CDPO first assesses the 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 Audit³ to investigate the suspected Misconduct under this Policy, or
 - (b) After consultation with the Head of Internal Audit, fully or partially dismisses the report, if:
 - (i) It does not contain prima facie evidence⁴ that the alleged or any Misconduct under this Policy took place or is related to the ESM, and despite further communication with the reporter, if possible, no sufficient information is offered⁵;
 - (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 reports of Misconduct under this Policy*);
 - (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 was submitted by the alleged victim, the decision under Section 2 e) ii) (1) (b) (*Initial assessment*) to dismiss the report will be taken by the Managing Director.
 - (d) If the report is dismissed, the CDPO will record the reasons for the dismissal in the ORS. In addition, the CDPO informs the reporter of the decision not to investigate the reported matter and the reason(s) for such decision, unless the report was made anonymously and

³ 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).

⁴ 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.

⁵ 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.

without creating a secure post box in the ORS.

- (e) The CDPO will inform the Managing Director, if the Head of Internal Audit is requested to investigate a suspected Misconduct under this Policy and if a report is dismissed which was not submitted by the alleged victim.

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 reporter 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, and with the alleged victim, if s/he is not the reporter. Even if no individual is named but specific information is included that allows the clear identification of the subject of the allegations and/or the alleged victim, the same procedure applies. However, in case there is a risk that such notification would jeopardise 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 Misconduct 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 Misconduct under this Policy. The report will also include testimonial and relevant other 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 report of Misconduct under this Policy and the alleged victim, if any (**Concerned Persons**), for written comments on the draft investigation report.

- vi) These comments must be provided to the Head of Internal Audit within 15 Working Days⁶ 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 a Concerned Person 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 reporter (unless the initial report was made anonymously and without creating a secure post box in the ORS) and the alleged victim, if s/he is not the reporter, 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 whether there is clear and convincing evidence of Misconduct 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 Misconduct 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 the Concerned Persons, 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 a Concerned Person to the Managing Director, through the CDPO.
- iv) The Managing Director, through the CDPO, will notify his or her decision to the Concerned Persons 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) If the reporter was not an alleged victim, and unless the initial report was made anonymously and without creating a secure post box in the ORS, the CDPO provides to the reporter 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 clear and convincing evidence of

⁶ 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.

Misconduct under this Policy and such a decision has become final and definitive, the ESM may also decide to provide assistance in relation to any reasonable legal fees the victim may have incurred in the context of the dignity at work procedure.

vii) If the decision of the Managing Director concludes that there is no clear and convincing evidence of Misconduct under this Policy and such a decision has become final and definitive, 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 dignity at work procedure.

viii) Any person who was the subject of 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 Concerned Persons, at least every 90 calendar days after receipt of the report of Misconduct under this Policy.

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.

In particular, where a reporter 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 dignity at work 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 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 dignity at work 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 Concerned Persons 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 colleague during this procedure (who may be present during the investigative interview as an observer⁷).

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 reporter and Witnesses, any other persons involved, and the grounds on which the procedure was initiated and its outcome.
- b) The Concerned Persons 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 alleged victim and the subject of the allegations and their Witnesses or potential Witnesses, their legal counsels or trusted current or former ESM colleague.
- 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 this procedure or who may need to be aware of an on-going dignity at work procedure.
- e) The identity of the reporter and/or Witnesses may also be disclosed, if the reporter 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 reporter, the alleged victim, 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.

⁷ If the interviewee is not a current or former ESM member of staff, the interviewee 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.

- 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 reports of Misconduct under this Policy 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 or Managing Director pursuant to Section 2 e) ii) 1) b) or c) (*Initial assessment*).

11) Entry into force and review

- a) This Policy has been adopted by the Managing Director with effect from 1 May 2025⁸. Together with the new Whistleblowing Policy, it replaces the Whistleblower and Witness Protection Policy of 4 February 2021 which has been split into two separate policies.
- 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.

⁸ Any reports of Misconduct 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.

Annex 1

Report of Misconduct under this Policy

What is the suspected Misconduct under this Policy? Please tick at least one box below:

BEHAVIOURAL MISCONDUCT	INTEGRITY VIOLATIONS, IF LINKED TO BEHAVIOURAL OR OTHER SERIOUS MISCONDUCT OR WHERE THE MEMBER OF STAFF HAS A PERSONAL INTEREST IN THE OUTCOME OF THE REPORTING
<input type="checkbox"/> Discrimination (direct or indirect) <input type="checkbox"/> Physical violence <input type="checkbox"/> Psychological harassment (also referred to as bullying or mobbing) <input type="checkbox"/> Sexual harassment <input type="checkbox"/> Retaliation	<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
OTHER SERIOUS MISCONDUCT (please specify):	

Please describe the events and circumstances of the suspected Misconduct 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.