



**World Health
Organization**

**PROGRAMME, BUDGET AND ADMINISTRATION
COMMITTEE OF THE EXECUTIVE BOARD
Thirty-eighth meeting
Provisional agenda item 2.1**

**EBPBAC38/2
3 May 2023**

Independent Expert Oversight Advisory Committee: annual report

The Director-General has the honour to transmit herewith to the Programme, Budget and Administration Committee of the Executive Board, for the Committee's consideration at its thirty-eighth meeting, the report submitted by the Chair of the Independent Expert Oversight Advisory Committee (see Annex).

ANNEX

REPORT OF THE INDEPENDENT EXPERT OVERSIGHT ADVISORY COMMITTEE (IEOAC) TO THE PROGRAMME, BUDGET AND ADMINISTRATION COMMITTEE, MAY 2023

BACKGROUND

1. This report covers the fortieth meeting of the IEOAC, held in March 2023. The main recommendations from this in-presence meeting are indicated below.
2. The members of IEOAC who participated in this meeting were: Mr Darshak Shah (Chair), Mr Rob Becker, Mr Greg Johnson, Mr Bert Keuppens and Ms Beatriz Sanz Redrado.
3. The Committee received the required support from management. It highlighted the need to (and strongly recommended the Secretariat to), receive and circulate the background information on all topics on the Committee's agenda well in advance, to ensure the efficiency of the meetings.
4. Ahead of the opening of each meeting, all members of the Committee submitted their Declaration of Interest to the WHO Office of Compliance and Risk Management and Ethics and confirmed that no conflict existed with their current mandate.

FINANCIAL STATEMENTS FOR 2022, FINANCIAL HIGHLIGHTS AND STAFF HEALTH INSURANCE UNFUNDED LIABILITY STATUS

5. As required by its terms of reference, the Committee reviewed the draft Financial Statements for the year 2022 and welcomed their completeness. It further expressed appreciation for the improvement in transparency and useful information contained in the updated document, which includes the adjustments requested by the External Auditor as well as those requested by the Committee.
6. The Committee commended the team for its work, the early circulation of the document to the Committee's members, allowing preliminary comments from the Committee to be taken into account, and the use of infographics to provide the Committee with a clear overview of the main financial highlights.
7. In presenting the Financial Statements, the Secretariat highlighted the record performance in terms of revenues (US\$ 4.3 billion), albeit noting the decreasing quality of the voluntary contributions received compared to 2021, given the higher proportion of earmarking. Expenses also reached the highest level ever (US\$ 3.8 billion).
8. In reviewing the financial statements for the Staff Health Insurance (SHI), the Committee further discussed the volatility of the After-Service Health Insurance (ASHI) liability, whose funded percentage improved from 46% in 2021 to 75% in 2022 (or US\$ 1.4 billion), mainly due to the increase of the discount rate used (justified by the global inflationary pressure) and favourable actuarial adjustments resulting from demographic changes, following a census update.

9. In this regard, the Committee supported the Secretariat's suggestion to explore the possibility of using longer-term discount rates for management information and decision-making and continuing to maintain its longer-term view on managing ASHI liabilities in accordance with International Public-Sector Accounting Standards (IPSAS).

10. Finally, **the Committee requested the Secretariat to provide more information at future meetings on the status of internal controls and the proposed changes to the statement of internal control on financial reporting.**

PREVENTION OF AND RESPONSE TO SEXUAL EXPLOITATION AND ABUSE, AND HARASSMENT (PRSEAH)

11. The Committee continued to receive regular updates on the status of implementation of the Management Response Plan for preventing and responding to sexual exploitation and abuse, and sexual harassment, and the investigations currently ongoing in this area.

12. In addition, the Committee commended WHO for the good work done in this area and was very impressed with the progress made thus far and the transition towards a more strategic approach to addressing this issue, also taking into account the relevant indicators in the Multilateral Organisation Performance Assessment Network (MOPAN) assessment.

13. Further, the IEOAC agreed with the Secretariat that work was still in progress and not yet institutionalized, hence both acknowledged the importance for the Organization to enhance its communication strategy in this area and continue its effort towards true cultural change. In this regard, the Committee further noted that having more women in leadership positions (and more geographical representation) would help drive this change and that the practice of publishing the list of perpetrators should continue.

14. At the same time, the Committee stressed the fact that the Member States' collaboration in managing the cases of sexual misconduct was of paramount importance for the success in preventing and responding to such cases.

15. In following up with the ongoing investigations emanating from the report of the Independent Commission,¹ the Committee was concerned to hear that issuance of the reports of the United Nations Office of Internal Oversight Services (UNOIOS) had been delayed and invited the WHO senior management to escalate the issue further within the United Nations Secretariat.

16. The Committee also benefited from closed-door discussions with the Head of Investigation and Senior Advisor on open PRSEAH cases.

17. Given the prominence of the topic, **the IEOAC recommended that the Secretariat provide the Committee with a full update on actions taken on PRSEAH at each IEOAC meeting but with greater focus on status of implementation of recommendations as well as investigation cases.**

¹ The Commission was appointed to Investigate Allegations of Sexual Abuse and Exploitation during the response to the tenth Ebola virus disease epidemic in the provinces of North Kivu and Ituri in the Democratic Republic of the Congo.

APPOINTMENT OF THE EXTERNAL AUDITOR

18. In line with its revised terms of reference, as adopted by the Executive Board at its 150th session,¹ and upon request by the Director-General, the Independent Expert Oversight Advisory Committee reviewed the four candidatures² received within the established deadline (24 November 2022) and provided its input in the report of the Director-General to the Seventy-sixth World Health Assembly on the appointment of the External Auditor.³

19. In order to optimize future appointment processes for the WHO External Auditor, the Committee will work with the Secretariat on proposals to be submitted, after consultation with Member States, at future sessions of the World Health Assembly, through the Programme, Budget and Administration Committee and the Executive Board.

20. In this regard, **the Committee invited the Secretariat to carry out a comparative analysis of the selection processes for External Auditors across United Nations system agencies, to identify best practices leading to increased efficiency.**

INTERNAL AUDIT: UPDATE

21. In line with its terms of reference, the Committee invited the Director, Office of Internal Oversight Services (IOS) to present the Office's workplan for 2023 and the main findings from 2022, including the outcome of the root cause analysis of the recurring recommendations, as well as the status of investigations and the ongoing IOS reform.

22. The Committee cleared the internal audit plan as presented, on the understanding that it was consistent with the risk-based analysis used.

23. In addition, the IEOAC noted the slight decrease in the implementation rate of internal audit recommendations in 2022 and acknowledged that all three levels of the Organization (and all lines of defence),⁴ shared responsibility for this, not headquarters alone.

24. On the root cause analysis, the Committee was surprised to hear that the most common justification for non-compliance was the lack of knowledge among staff of the WHO regulatory framework. While advocating for more training in this area, the IEOAC requested senior management to work on a corporate framework that linked unsatisfactory audit findings with performance management. This should be implemented across the Organization. In addition, this framework would benefit from establishing stronger ties between the already existing self-assessment process and audit.

25. The Committee further recommended that headquarters central administrative functions provide guidance to the regional and country offices as to how to deal with cases of non-compliance with the

¹ Decision EB150(16) (2022).

² Egypt, India, Kenya and United Republic of Tanzania.

³ Document A76/25.

⁴ See the Institute of Internal Auditors' document: the IIA's Three Lines Model – an update on the Three Lines of Defence (<https://www.theiia.org/globalassets/site/about-us/advocacy/three-lines-model-updated.pdf>, accessed 14 April 2023).

WHO regulatory framework and hold them accountable for unsatisfactory audit reports and their follow up.

26. It was noted that the ongoing Business Management System project should help improve the WHO internal controls by embedding automatic key controls in the various features of the system. However, not all controls could be embedded in the system. Hence the need for the Secretariat to keep working towards strengthening the compliance functions of the Organization, including at the supervisory level.

27. **The Committee asked the Secretariat to present how the outcome of the root cause analysis will be addressed, at future meetings.**

28. With regard to investigations, the Committee noted the continued existence of a certain backlog of cases for abusive conduct and fraud (outside PRSEAH cases), and that the number of cases was constantly increasing, in line with the expectations and the experience in other United Nations system agencies.

29. Finally the IEOAC, noting the delay in the consolidation of investigative functions, reiterated its support for consolidation within the IOS.

30. A private session was also held with the Director, Internal Oversight Services.

EXTERNAL AUDIT: UPDATE

31. The IEOAC welcomed the comprehensive presentation of the findings of the audit by the External Auditor in line with the Auditor's workplan for 2022. This covered the performance audit of the Business Management System, the performance audit of the Global Service Centre (GSC), and the audits of the Regional Office for Europe and the Country Office for Moldova, as well as the financial and compliance audit.

32. As far as the Business Management System implementation was concerned, some potential control issues were detected in the draft External Auditor report that would require addressing by management, as appropriate. These would be further discussed at the next meeting of the Committee.

33. The IEOAC further noted the anticipated audit opinion without any major issues on the 2022 Consolidated Financial Statements, and thanked the External Auditors for the observations and recommendations made, which were also being considered by WHO management.

34. Noting that at the time of the meeting of the Committee, the final annual report of the External Auditor to the Assembly was not yet published, **the IEOAC asked that further details on the report of the External Auditor be provided at its upcoming meeting in June 2023, including the Secretariat's views on the recommendations contained in the report.**

35. The Committee expressed its appreciation for the full access to required information provided to the External Auditor by the Secretariat and the good working relations that pertained. It was also pleased to note the coordination between the internal and external audit functions as far as their respective workplans were concerned.

36. A private session with the External Auditor was also held.

PROCESS OF HANDLING AND INVESTIGATING POTENTIAL ALLEGATIONS AGAINST THE DIRECTOR, OFFICE OF INTERNAL OVERSIGHT SERVICES.

37. In its report to the 152nd session of the Executive Board, the thirty-seventh meeting of the Programme, Budget and Administration Committee requested the Independent Expert Oversight Advisory Committee to "... initiate work to develop the process for handling potential allegations against the Director, Office of Internal Oversight Services, drawing as appropriate from existing processes in other relevant United Nations fora and Member State input, with an initial draft to be delivered to the thirty-eighth meeting of the Programme, Budget and Administration Committee in 2023."¹

38. Noting that a similar recommendation was also contained in the 2020 Joint Inspection Unit (JIU) report on the investigative function in the United Nations organizations,² the Committee conducted a review of United Nations practices carried out to date in this regard, further to the JIU recommendation. Moreover, the majority of United Nations agencies that had accepted the JIU recommendation (15 out of 17) had implemented it.

39. The review revealed that there was significant consistency, and thus best practice, across the United Nations system agencies that had implemented the JIU recommendation. In particular, each agency's Charter of its oversight office contained provisions under which all the procedures for cases of allegations against the head of oversight services include: (a) the referral to the Head of the agency for action; (b) the referral of all investigations, and conduct thereof, to another United Nations agency or external party; and (c) the involvement of the audit and oversight advisory committee in an advisory role in nearly all agencies. The Committee noted that the Director, IOS, was a WHO staff member and was thus subject to all of the WHO Staff Rules and Staff Regulations, Financial Rules and Regulations, Codes of Conduct, internal justice system, along with relevant policies, such as the Policy Against Retaliation.

40. Consequently, based on its review and analysis, the Committee concluded and was satisfied that the provision of the existing WHO Charter for IOS was consistent with United Nations agencies' best practice and sufficient to protect against possible conflicts of interest. The operative part of the IOS Charter (paragraph 22) states that "allegations of misconduct against IOS staff or its Director shall not be investigated by IOS. Any such allegations requiring an investigation shall be referred to the Director-General, who may seek advice from the IEOAC."³

41. However, the Committee discussed further elaboration of the existing provision within the Charter to provide more detail on the actual process to be followed.

42. The Committee further noted that should the Secretariat make adjustments to the current IOS Charter, as approved by the Director-General, this would be made in consultation with the IEOAC, and would subsequently be brought to the attention of the Executive Board.

¹ Document EB152/4.

² Document JIU/REP/2020/1 (https://www.unjiu.org/sites/www.unjiu.org/files/jiu_rep_2020_1_english_0.pdf, accessed 14 April 2023).

³ IOS Charter (<https://www.who.int/publications/m/item/ios-charter>, accessed 14 April 2023).

EVALUATIONS: OFFICE STATUS AND PLANS

43. The Committee had the pleasure to receive a presentation by the Director of the Evaluation Office, providing an overview of the status of implementation of the Evaluation workplan for the biennium 2022–23 and the evaluation policy.

44. The Committee was pleased to hear the overall appreciation by Member States of the work done in this area and, in particular, of the efforts to enhance the decentralized approach to evaluations, noting that approach's potential and its importance to results-based management.

45. **The Committee suggested that to obtain a broader perspective on an appropriate budget for this function, it might be helpful to make a comparison with equivalent functions in other United Nations agencies.**

46. The Committee further noted that, when decentralized evaluations were sufficiently conducted, their findings could be used to draw lessons for the Organization as a whole through meta-analyses.

47. Consequently, this approach should be further explored to identify potential challenges faced in implementation.

48. In this regard, **the Committee asked the Evaluation Office to conduct an analysis of the decentralized evaluations and report back to the IEOAC at future meetings.**

PROCESS OF HANDLING AND INVESTIGATING POTENTIAL ALLEGATIONS AGAINST THE DIRECTOR-GENERAL

49. Through its revised terms of reference,¹ the Committee was tasked by Member States to propose a process and provide advice to the Executive Board, through the Programme, Budget and Administration Committee, on handling and investigating significant allegations, including potential allegations against the Director-General. Accordingly, as noted in its previous reports to the Programme, Budget and Administration Committee,² the IEOAC had prepared an initial proposed draft approach and flow-chart and engaged in a consultation process with Member States, including two informal sessions on 15 December 2022 and 17 March 2023. In addition, it conducted an analysis of best practices across other United Nations agencies, funds and programmes to ensure that the process proposed for WHO was aligned with that in other United Nations system agencies.

50. In relation to the practice in other United Nations agencies, the Committee's analysis revealed that all agencies that reported having a process, used an external investigation entity or entities.

51. Further to this process and feedback received, the Committee now presents a revised proposal and flowchart, incorporating a number of amendments requested by Member States. These documents are included in the Annex to the present report.

¹ Decision EB150(16).

² Documents EBPBAC36/2 and EBPBAC37/2.

52. The Committee noted points of convergence and divergence from Member States' comments and positions throughout the process. Member States largely agreed on several key points:

- (a) the need to ensure full independence of the investigation process, without introducing politicization or interference in the conduct and findings of the investigation;
- (b) any investigation, should be conducted by an independent entity external to the Secretariat to avoid any actual or perceived conflicts of interest;
- (c) the need to ensure full due process for the Director-General, and the maintaining of confidentiality as well as the protection of all parties concerned;
- (d) ensuring Governing Bodies' decision-making authority, particularly on acting on substantiated findings of an investigation, whilst needing to maintain a balance between confidentiality of the process with transparency;
- (e) recognizing that the IEOAC has important oversight and advisory responsibilities throughout the entire process but it has no decision-making authority;
- (f) noting there are various channels that are open for anyone to communicate an allegation; and
- (g) any role for the WHO Office of Internal Oversight Services should be limited to the intake (prima facie) stage.

53. At the same time, the Committee noted several points of divergence requiring further Member States' discussion and decision:

- (a) Defining the balance between confidentiality of the process with transparency, guiding when, whom and how to inform the governing bodies and Director-General;
- (b) Governing bodies' decision-making roles (World Health Assembly, Executive Board, their Chairs and Bureaus); the scope of their decision-making and their ability to overrule the investigators' substantiated findings/recommendations;
- (c) Scope relating to the decisions to:
 - (i) close a case;
 - (ii) the need for a preliminary review;
 - (iii) conducting a full investigation;
 - (iv) applying interim measures for the head of the agency, as warranted; and
 - (v) acting upon the findings and conclusions of investigators/investigation entity.

(d) Selection of investigation entities for conducting preliminary review and/or full investigation, with possibilities including:

- (i) pre-developed rosters of external investigative entities (which could include UNOIOS or the investigation unit of another UN agency); or
- (ii) ad-hoc panel of national investigative authorities.

54. Based on Member States' comments received and the IEOAC's reflections and analysis, the Committee presents its final proposed draft process in Annex A to this report, for Member States' review, consideration and decision.

RISK MANAGEMENT STRATEGY

55. The Secretariat presented progress made to finalize the risk management strategy and its road map, including the work done to formulate a risk appetite statement for WHO. It was explained that depending on how these processes and tools matured, some adjustments might be required. At the same time, consideration should be given to how the framework would be interpreted and applied, as different understandings might exist.

56. The Committee was pleased with the progress in this area and recognized that it would benefit the Organization across its three levels with all three levels of defence cooperating. To ensure an adequate level of funding and co-ownership, the central funding for these activities must be complemented by funding from all major offices. The Committee further welcomed the analysis of the principal risks through the heatmap tool, facilitating senior management decision-making.

57. In addition, the IEOAC concurred with the Secretariat's proposal to establish a multi-faceted risk appetite statement, as this would better reflect the complexity of the operations carried out by the Organization and its key success factors.

58. At the same time, the Committee observed that "operationalizing" the risk management strategy, such that risk management became an integral part of the first line of defence management decision-making, supported by risk acceptance reporting, was a major challenge.

59. The Committee agreed to continue monitoring the progress in this area in future meetings.

OTHER MATTERS REVIEWED BY THE COMMITTEE

60. The Chair of the IEOAC was invited to participate in a session of the statutory meeting of the Independent Oversight and Advisory Committee for the WHO Health Emergencies Programme (IOAC) in March 2023. The purpose of the invitation was to allow an exchange of views on aspects related to PRSEAH issues, so as to improve WHO's systems and processes.

61. The meeting was very positive and created the basis for a continued collaboration between the two Committees on this and other topics of relevance to their respective mandates. In this regard, it was clarified that while the IOAC has a technical function in the context of the WHO Health Emergencies Programme, the IEOAC plays an audit, oversight and management advisory role for the entire Organization to manage risk.

62. The Committee received the status update of the implementation of its previous recommendations through the newly launched consolidated platform to track recommendations and its online dashboard.

63. The Committee took note of the fact that, excluding 2023 recommendations, the Secretariat's implementation rate stood at 65%. In this regard, the Committee further noted the issue of closing "open-ended" recommendations, that were formulated without a clear milestone or agreed action. The Secretariat informed the Committee that none of the open recommendations represented a high risk to the Organization.

64. The Committee has spent a considerable amount of time on various sensitive personnel matters at the request of the Programme Budget and Administration Committee or senior management.

65. Consequently, **the IEAOC asked the Secretariat to provide the Committee with a list of "open-ended" recommendations, together with old recommendations still pending, to determine their continued relevance or the need for further clarification or closure.**

66. Finally, the IEOAC would like to thank the Director-General for the opportunity to meet in a dedicated session, during which the Director-General confirmed the Organization's engagement to continue strengthening its country presence, to complete the reform of the accountability function, to address PRSEAH and enhance its risk management strategy and the functioning of the organizational internal control system.

SUMMARY OF HIGHLIGHTED RECOMMENDATIONS FROM THE FORTIETH MEETING OF THE COMMITTEE

67. **The Committee requested the Secretariat to provide more information at future meetings on the status of internal controls and the proposed changes to the statement of internal controls on financial reporting.**

68. **The IEOAC recommended that the Secretariat provide the Committee with a full update on actions taken on PRSEAH at each IEOAC meeting but with greater focus on status of implementation of recommendations as well as investigation cases.**

69. **The Committee invited the Secretariat to carry out a comparative analysis of the selection processes for the External Auditor across United Nations system agencies, to identify best practices leading to increased efficiency.**

70. **The Secretariat to present how the outcome of the root-cause analysis from internal audits will be addressed, at future meetings.**

71. **The IEOAC asked that further details on the 2023 report of the External Auditor be provided at its upcoming meeting in June 2023, including the Secretariat's views on the recommendations contained in the report.**

72. **The Committee suggested that to obtain a broader perspective on an appropriate budget for the Evaluations function, it might be helpful to make a comparison with equivalent functions in other United Nations agencies.**

73. The Committee asked the Evaluation Office to conduct an analysis of the decentralized evaluations and report back to the IEOAC at future meetings.

74. The Secretariat to provide the Committee with a list of “open-ended” recommendations, together with the old recommendations still pending to determine their continued relevance or the need for further clarification or closure.

Mr Darshak Shah (Chair), Mr Rob Becker, Mr Greg Johnson,
Mr Bert Keuppens, Ms Beatriz Sanz Redrado.

ANNEX A

PROCESS OF HANDLING AND INVESTIGATING POTENTIAL ALLEGATIONS AGAINST THE DIRECTOR-GENERAL

A. Current WHO legal framework

1. The current WHO process for handling allegations against its Director-General relies mainly on the conditions and provisions set out in the Director-General's contract. Paragraph 7 of the contract provides that "The Health Assembly shall have the right, on the proposal of the Board and after hearing the Director-General and subject to at least six months' notice in writing, to terminate this Contract for reasons of exceptional gravity likely to prejudice the interests of the Organization."
2. Thus, the World Health Assembly (WHA) has the authority to terminate the Director-General's contract based on the single criterion set out in the contract, i.e., for reasons of exceptional gravity likely to prejudice the interests of the Organization.
3. While the contract does not set out a process for arriving at such a decision, the Director-General is the chief administrative and technical officer of WHO and also a staff member. S/he is subject to the Staff Regulations insofar as they may be applicable to him/her. In this regard, relevant jurisprudence (Administrative Tribunal of the International Labour Organization (ILOAT)) establishes that the right to due process extends to executive heads of organizations "following a procedure enabling the individual concerned to defend his or her case effectively before an independent and impartial body" (ILOAT Judgment 2232). In practice this means that in accordance with the WHO staff rules the executive head has a right to be informed of the charges against him/her and be provided with the opportunity to reply to the charges; it also means that any decision to terminate the contract must be taken on valid grounds.
4. The Secretariat will take best measures to ensure that it manages possible conflicts of interest involving the roles of any involved office or person that supports the process, including as concerns the Director-General. Moreover, pursuant to the Independent Expert Oversight and Advisory Committee (IEOAC) Terms of Reference (ToRs), its role is to provide independent advice and oversight.

B. Proposed process

STEP 1: Receipt of allegations, intake

5. Allegations of potential misconduct concerning the Director-General can be reported by anyone through a number of channels, including but not limited to those internal to WHO (e.g., integrity hotline, IOS, Ethics Office, etc.) or directly to the Chairs of the IEOAC/Executive Board. All allegations will be communicated to the WHO Office of Internal Oversight Services (IOS) for their initial intake review. Similarly, IOS will immediately communicate all allegations it receives to the IEOAC Chair.
6. Intake phase: IOS will conduct a prima facie review of all allegations to determine whether, if substantiated, they would constitute a violation of any WHO Staff Regulations and Staff Rules and Code of Conduct, and whether there was sufficient information to consider the allegation credible. IOS will communicate all results of the initial intake to the IEOAC Chair including a description of the rationale.

STEP 2: Review and determination of preliminary review, if needed

7. The IEOAC Chair will consult with the Committee to determine whether:
 - (a) to close the case (e.g., due to the frivolous nature of an allegation); or,
 - (b) to forward the case to the Executive Board Bureau (Chair, Vice-Chairs and the Rapporteur) for consideration, where, based on the intake *prima facie* review, initial evidence of an allegation was credible and a serious concern, and if substantiated¹ would potentially violate WHO Staff Regulations and Staff Rules/Code of Conduct. The Executive Board Bureau would determine, taking into account the advice of the IEOAC, whether to conduct a preliminary review if more work is required to fully assess the significance and completeness of information and appropriateness to WHO.
8. For all allegations closed, the IEOAC Chair will provide an informal periodic summary report to the Executive Board Chair, which will be included in IEOAC reports to the PBAC.
9. Should the Executive Board Bureau determine a preliminary review is needed, the Executive Board Chair will request the IEOAC to draw upon an external roster of independent investigators/investigation entities (henceforth referred to as the “investigators”) (with basic support provided by the Secretariat for use by the IEOAC) and request the Secretariat to process the procurement contract. The investigators will collect information and recommend whether an investigation is warranted. Investigators will report their findings directly to the IEOAC Chair for quality control, and the IEOAC Chair will transmit the report of the preliminary review to the Executive Board Bureau.
10. Investigators that conduct preliminary reviews will not be allowed to conduct any subsequent formal full investigation.

STEP 3: Proceed to full independent investigation.²

11. The IEOAC Chair will present the findings of the intake and his/her advice to the Executive Board Bureau regarding whether (i) to proceed directly to an independent investigation (per paragraph 7),³ or (ii) any advice on the results of a preliminary review, if conducted as requested by the Bureau (paragraph 9).
 - (a) Step 3A. Should the Executive Board Bureau determine not to proceed to an investigation (e.g., politically motivated allegations lacking substance, allegations that, if substantiated, would not constitute reasons of exceptional gravity likely to prejudice the interests of the Organization, not enough elements for investigation, allegations outside the mandate of the Organization), the case would be closed, and the IEOAC would thereupon be informed.

¹ ILOAT standard of proof is used (“beyond reasonable doubt”).

² Strict confidentiality provisions would need to apply for this process in order to avoid compromising the investigation.

³ Throughout the process, a small team (HRT/HPJ, Legal Office, Ethics), on call and seconded as needed to the IEOAC, who will synthesize any advice and provide it to the EB, would provide procedural support.

(b) Step 3B. Should the Executive Board Bureau determine an investigation is warranted,¹ they would present relevant information to the full Executive Board for their decision. The full Executive Board may equally determine not to proceed with an investigation, whereupon the case would be closed.

12. The Executive Board Bureau, in consultation with the full Executive Board, will decide whether or not to apply interim measures, including placing the Director-General on administrative leave with or without pay or other actions, as considered relevant (using decision criteria for assessing risks should the Director-General continue to exercise his/her functions, such as:

- (a) to preserve the integrity of the investigation;
- (b) to protect staff, including the complainant or potential witnesses; or
- (c) if the continued exercise of functions would have a significant negative impact or pose a serious reputational risk to the Organization).

If such a decision is taken, the Executive Board Chair informs the President of the World Health Assembly. Where the Executive Board decides to place the Director-General on administrative leave, the Executive Board Chair would notify the Director-General of the pending investigation and action. Otherwise, the Director-General would be notified under the next step.

STEP 4: Requesting/commissioning an investigation

13. In cases where the Executive Board has decided that an investigation is warranted, on behalf of the Executive Board, the Executive Board Chair will inform the IEOAC, the WHO Secretariat, and the Director-General and request the IEOAC Chair to oversee the preparation of terms of reference for the investigation,² commissioning of independent external investigators and to exercise oversight of the investigation. The Executive Board Bureau will have an opportunity to review the ToRs for the investigation, and the Secretariat would be requested to solely conduct the bidding, execution and administrative oversight of any contract for external investigators, with IEOAC input and oversight.³ The Executive Board Chair would notify the Director-General of the pending investigation.

14. The investigators will report their findings and conclusions directly to the IEOAC Chair to ensure independence and reflect the IEOAC's oversight responsibility.

¹ Based on the IEOAC Chair's advice, reflecting either the intake review and/or any preliminary review, if conducted.

² Terms of Reference would be based on accepted professional practice for investigation, and generally include responsibility to gather evidence, analyse it and present findings and conclusions as to whether the allegations are substantiated or not (i.e., evidence to the required standard of proof), which are prepared in an investigation report.

³ Examples of tasks the Secretariat can conduct (with IEOAC input), include writing ToRs, circulating RFPs, conducting contract selection, negotiating fees, managing/overseeing implementation (including any required extensions), processing payment. The IEOAC will review and accept draft/final reports to satisfy final payment. The Secretariat can also support the IEOAC in creating a roster of pre-selected investigators/investigation entities.

STEP 5: Investigation report, Executive Board decisions, notification of charges

15. The IEOAC Chair informs the Executive Board Bureau of the investigation findings and transmits the investigation report, along with their comments and advice. Upon receipt of the investigation report, the Executive Board Chair, in consultation with the Executive Board Bureau, shall review the findings.

16. In cases where the investigation report determines that the evidence does not substantiate any of the allegations or that they may not constitute misconduct,¹ the Executive Board Chair, following consultation with the Executive Board Bureau, closes the case and informs the full Executive Board, the IEOAC, and the Director-General.

17. If the Executive Board Bureau agrees with the investigation findings that the allegations are substantiated, at least in part, the Executive Board Chair will initiate the disciplinary process (i.e., development of a charge letter) under Staff Rule 1130.² The Executive Board Chair (with support of the special WHO team, as needed) shall notify the Director-General of the charges and provide eight (8) calendar days for a written reply.

18. Following receipt of the reply to the charges when applicable, the Executive Board Chair will share the findings and the reply with the full Executive Board in a private session of the Board (either in ordinary session or in extra-ordinary session), no later than 30 days after receipt of the Director-General's reply to the charges. The IEOAC can provide advice to the Executive Board regarding the findings when requested. The Executive Board may also request the advice of other independent offices.

STEP 6: Health Assembly decision

19. The Executive Board, following receipt of the investigation report and Director-General's reply to the charges shall recommend to the WHA to either:

- (a) close the case with or without action, or
- (b) to consider applying disciplinary measures,³ which could include termination of contract.

20. At an ordinary or special session of the WHA, the Assembly will provide an opportunity for the Director-General to reply to the charges in person in a private session (in addition to any written reply previously provided), as early as possible.

21. Where the WHA decides to close the case, it will formally inform the Executive Board Chair, the IEOAC, and the Director-General, including if any specific actions/measures are needed. In cases of specific disciplinary measures, including termination of contract, the WHA will formally notify the Executive Board Chair, the IEOAC, the WHO Secretariat, and the Director-General.

¹ To the extent of constituting reasons of exceptional gravity likely to prejudice the interests of the Organization.

² Note: in cases involving the Director-General there is no review through the internal WHO Global Advisory Committee (GAC) (normal process within WHO), as it reports to the Director-General.

³ Pursuant to WHO Staff Regulations and Staff Rules.

22. Specific Provisions:

(a) **Reporting to Governing Bodies.** Two types of reporting are envisioned:

A. At the intake stage, IOS reports on all received allegations immediately to the IEOAC Chair.

B. The IEOAC, through each PBAC (twice a year), shall report summary statistics on the number of allegations received and actions taken.

(b) **Governing Bodies access to the investigation report¹**

Upon request, an appropriately redacted (to protect the confidentiality of all parties mentioned) report, in the English original only, will be available through confidential and secure means.

(c) **Executive Board and World Health Assembly voting or consensus procedures**

These procedures would follow existing Executive Board and WHA rules.

(d) **Protection of parties, including against retaliation**

Safeguards will be applied to protect the confidentiality of parties throughout the process (and according anonymity in the investigation process itself where possible and required), inclusive of use of relevant WHO regulatory and policy frameworks. The latter includes the revised policy on protecting against retaliation.²

(e) **General time frame for the conduct of an investigation**

The IEOAC will provide status updates on the process, as requested. It is recognized that the process should be efficient whilst ensuring it is thorough and careful to respect the due process rights of those involved, and to arrive at a conclusion, and provide sufficient information for subsequent consideration and decisions by the Governing Bodies.

(f) **General dispositions**

All documents provided to the Executive Board and to the WHA to support their determinations are shared on a strictly confidential basis and shall be made available only in electronic form and in the English original only.

C. Standard operating procedures (implementation) (SOPs)

23. Following Member State endorsement of the process, it is expected that the Secretariat, working with the IEOAC, would develop more granular SOPs in accordance with WHO Staff Regulations and

¹ Note: the Director-General would only receive the report through the disciplinary process.

² Further clarification in applying the policy will be developed to avoid conflicts of interest and to define decision-making authority in cases involving the Director-General, given his/her role as a decision-maker.

Staff Rules, Financial Rules and Regulations and relevant policies/procedures. These would include, inter alia:

- (a) Criteria for IOS prima facie/intake review and reasoned assessment; and the IEOAC considering preliminary advice (for the Executive Board Bureau) on whether there is a need for a preliminary review, as well as to determine what would constitute a frivolous allegation. i.e., SOPs/criteria for what would constitute a credible allegation and a “serious concern” in terms of potential violation(s) of WHO Staff Regulations and Staff Rules, and the Code of Conduct.
- (b) Basic templates for ToRs for a preliminary review and for a full investigation.
- (c) Indicative timeline ranges for conducting each phase.
- (d) Confidentiality provisions.
- (e) Processes and mechanisms for supporting the implementation of an investigation, for example, developing ToRs, creating a roster of independent external investigation entities and expert consultants to support the IEOAC (apart from conducting an investigation), and contracting investigation entities (per WHO’s regulations and rules).
- (f) Administrative leave provisions.

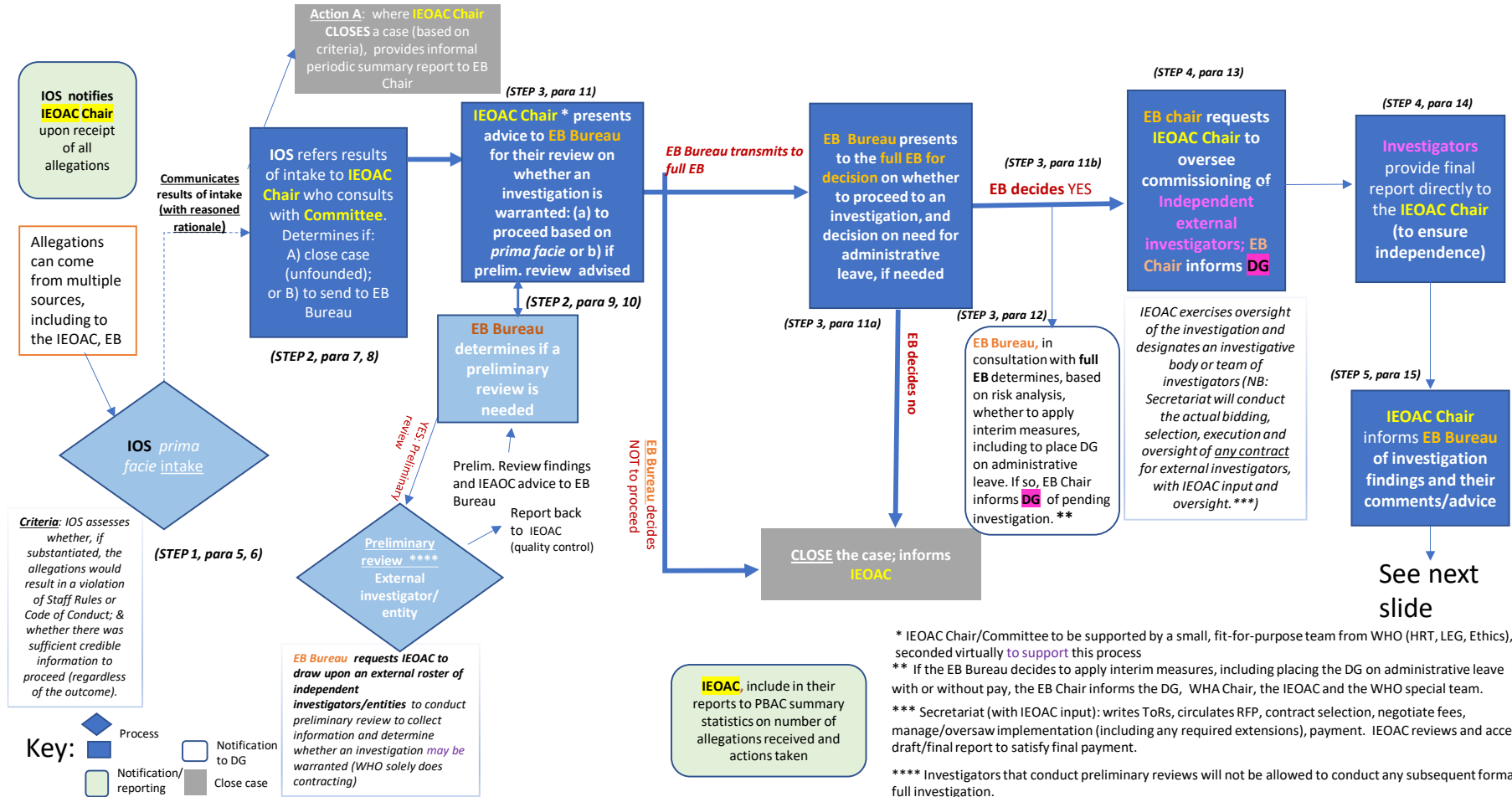
D. Flowchart

The following flowchart illustrates the key steps outlined in this Annex.

Process for handling and investigating significant potential allegations against the Head of the Organization

Part 1. From receipt of allegations to submission of an investigation report

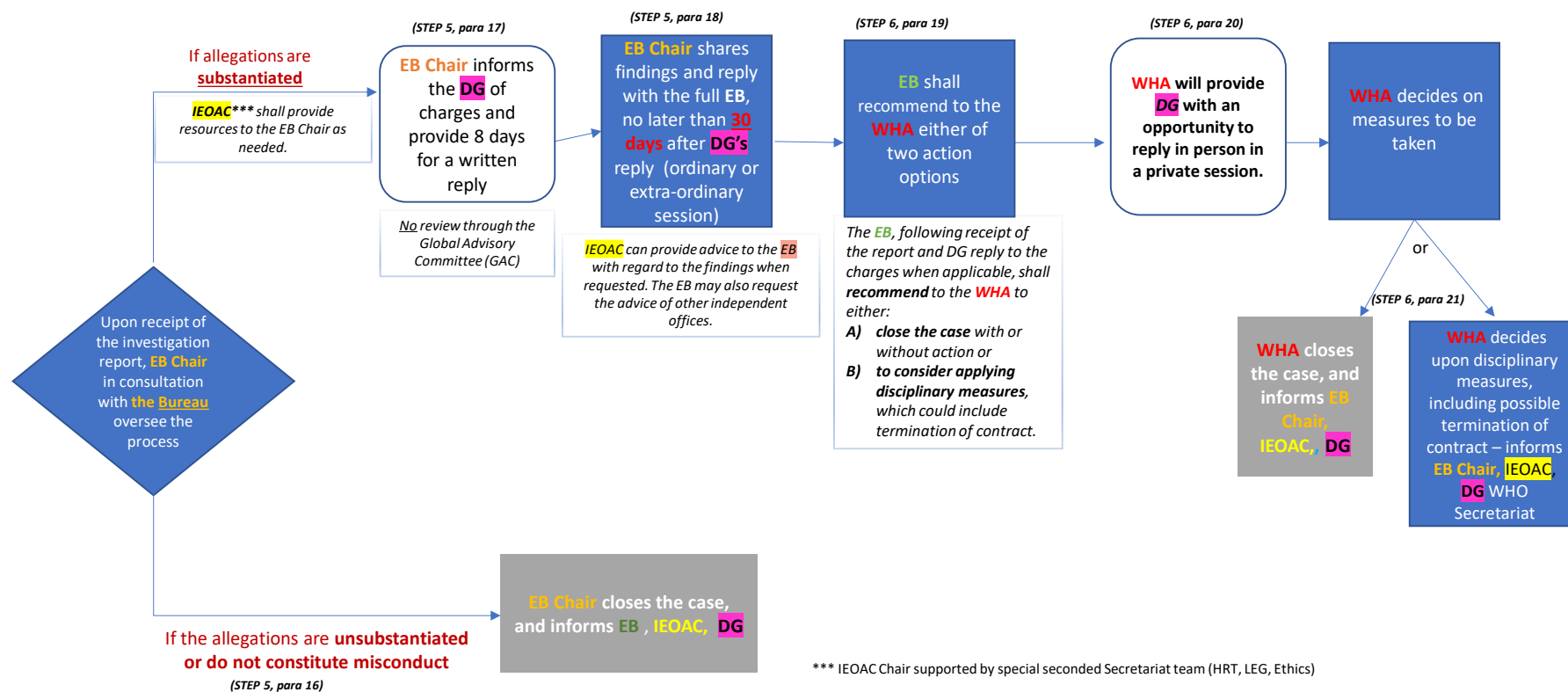
31 March 2023



Process for handling and investigating significant potential allegations against the Head of the Organization

Part 2. From receipt of an investigation report to WHA decision

31 March 2023



*** IEOAC Chair supported by special seconded Secretariat team (HRT, LEG, Ethics)