
REGULATIONS ON CORRUPTION, FRAUD AND CONFLICTS OF INTEREST

1. Introduction

Corruption, fraud and conflicts of interest impede an efficient use of funds, inhibit sustainable development and hinder the impact of the work of HELNETAS Swiss Intercooperation (hereinafter: HELNETAS). HELNETAS understands its engagement against corruption, fraud and conflicts of interest as a contribution to an effective and a purposeful, contractually and legally correct employment of the entrusted means.

2. Purpose

The Regulations on Corruption, Fraud and Conflicts of Interest explicitly formulate the stance of HELNETAS regarding corruption, fraud and conflicts of interest and define the main principles, roles and responsibilities, prevention measures and sanctions, as well as the complaint mechanism including the case management.

These regulations are supposed to contribute to:

- tackle corruption, fraud and conflicts of interest proactively and through effective preventive efforts
- further sensitize the employees and partners of HELNETAS about corruption, fraud and conflicts of interest,
- assist employees and partners in difficult situations and assure others of our commitment and thereby prevent corruption, fraud and conflicts of interest,
- define the roles and responsibilities regarding corruption, fraud and conflicts of interest.

3. Principles

3.1. Protection against Corruption and Fraud

HELNETAS affirms and respects the right of people to be protected against the practice and consequences of corruption and fraud. This protection applies regardless of gender, skin colour, religion, culture, sexual orientation, education, social status or nationality.

3.2. Zero Tolerance

HELNETAS prohibits all forms of corruption and fraud.

3.3. Confidentiality

Individuals who express a suspicion are protected (cf. Whistleblower Policy). Confidential and sensitive data and information are to be treated in a confidential manner.

3.4. Abiding by the Law

HELVETAS statutes as well as internal rules and regulations are binding and above all policies. All activities of HELVETAS and its contractual partners and suppliers must respect the national civil and penal codes.

3.5. Principles Conflicts of Interest

HELVETAS and its employees are required to take all necessary measures to avoid any actual, apparent or perceived conflict of interest that would adversely affect the interests of associated institutions, donors, beneficiaries or HELVETAS.

4. Definitions

4.1. Corruption

Corruption is the abuse of power¹ for private gain². More specifically, corruption describes the offering, giving, soliciting or acceptance of an award which may improperly influence the action of any person³. In the understanding of HELVETAS, corruption covers all forms of use of resources and competences which are contrary to duty and/or illegal and which aim at the illicit preferential treatment of persons or groups.

Corruption can adopt different forms. Particularly, there are distinctions between *coercion*, *active* and *passive bribery*, as well as *granting* and *accepting advantages*.

- **Coercion:** A person is guilty of coercion when he/she forces somebody to (not to) do or condone something by means of violence or threat of severe disadvantages.
- **Active bribery:** A person is guilty of active bribery when he/she offers, promises or allows an undue advantage to representatives of authorities, companies, partner organizations, etc. for a certain (official/contracted) act.
- **Passive bribery:** A person is guilty of passive bribery when he/she demands or accepts an undue advantage for an act.
- **Granting an advantage:** A person is guilty of granting an advantage when he/she offers, promises or allows an undue advantage to representatives of authorities, companies, partner organizations, employees, etc. regarding their future conduct as office holders.
- **Accepting an advantage:** A person is guilty of accepting an advantage when he/she demands or accepts an undue advantage regarding his/her own future conduct as a direct or indirect representative (e.g. partner) of HELVETAS. Undue advantages include all material and immaterial advantages which surpass what is socially accepted and which are more than insignificant.

Inappropriate gifts include advantage of any nature, such as tangibles, services, invitations, favours, and discounts. The notion of “gift” has to be interpreted according to the context or the acceptable usage and is defined by each country (cf. National Personnel Regulations) and at Head Office (cf. Personnel Regulations, Chap. 2 Duties of Employees). It is inappropriate to accept a gift if it appears to involve an obligatory dependency.

¹ An Abuse of power includes any abusive behaviour in physical (incl. sexual) or psychological way by a person in a position of authority and trust against someone in a position of vulnerability and/or dependency.

² Transparency International Website. <https://www.transparency.org/what-is-corruption>. Retrieved 14 August 2018

³ Complaints Handling and Investigation Guidelines, Act Alliance, 2010

4.2. Fraud

Fraud is an intentional distortion, deceit, trickery, and perversion of truth or breach of confidence, relating to an organization's financial, material, or human resources, assets, services and/or transactions, generally for the purpose of personal gain or benefit⁴.

Examples of fraud are:

- **Falsification of documents** involves altering, changing, modifying or creating a document for the purpose of deceiving another person and for gaining a personal advantage.
- **Misappropriation of assets or funds** implies their diversion to a purpose other than originally planned by an employee of the organization.
- **Mismanagement** is the process of managing something badly or wrongly on purpose to gain a private advantage.
- **Nepotism/Favouritism** is a form of breach of trust by giving someone preferential treatment based on family, friendship, ethnic or other ties with the person without the person fulfilling the criteria for this treatment. It is used in preference to personal interest to the detriment of general interest and abuse of authority against the principle of equal treatment.

4.3. Conflicts of Interest

There are many types of conflicts of interest. Typically, a conflict of interest arises when a person has an interest that could compromise or bias his or her professional judgement and objectivity or otherwise improperly influence the performance of his or her official duties or responsibilities. Personal interests include direct interests as well as those of family, friends, or other organizations a person may be involved with or have an interest in (for example, as a shareholder). It also includes a conflict between employee's duty to HELVETAS and another duty for example, to another organization or institution.

A conflict of interest may be actual, potential or perceived and may be financial or non-financial.

Conflicts of interest commonly arise, and do not need to present a problem if they are openly and effectively managed.

Failure to recognise and appropriately manage conflicts of interest could result in inappropriate or adverse consequences for HELVETAS, donor institutions, beneficiaries or partners institutions.

A non-exhaustive list of different types of conflicts of interest is set out below.

A conflict of interest may arise when:

- An employee has a financial or other incentive to favour the selection of a subcontractor not in the best interest of HELVETAS;
- An employee's interest in the outcome of a particular activity or endeavour differs from the interest of HELVETAS;
- An employee (or, where applicable, a family member or close personal relationship) receives a financial or other significant benefit (presents, gifts) as a result of the employee's position at HELVETAS that is inappropriate in nature;
- An employee has the opportunity to influence administrative or material decisions in a manner that leads to personal gain or advantage for the employee or a family member or close personal relationship;
- An employee's existing financial or other interest or previous engagement in an endeavour or activity or relationship with another person, impairs or could impair his or her judgment or objectivity in carrying out his or her duties and responsibilities within the organization;

⁴ Complaints Handling and Investigation Guidelines, Act Alliance, 2010

- A conflict of interest may arise where an employee receives or offers a gift or entertainment that constitutes an inappropriate incentive for the employee, third party representative, a donor to act in a certain way.

For the purposes of these regulations, conflicts of interest include situations which may not be concrete conflicts of interest but give rise to a perception of a conflict of interest. If there is doubt whether a conflict of interest exists, the employee concerned shall refer to the line manager or the notification officer (cf. Guidelines on dealing with Corruption, Fraud and Conflicts of Interest).

5. Responsibilities

5.1. Individual Responsibilities

In order to avoid corruption, fraud and conflicts of interest and to strengthen the proper, responsible, transparent, and unprejudiced management in accordance with the mission of HELVETAS, the following duties and responsibilities in addition to compliance with the Code of Conduct apply:

5.1.1. Individual Responsibilities Regarding Corruption and Fraud

Employees, partners, service providers and assisted organizations are responsible:

- to act with integrity and exercise good judgment and discretion in line with the values of HELVETAS
- to apply the entrusted resources and competences dutifully and to fulfil the assignment in a legal, reliable, credible, effective, target-oriented and efficient way;
- to abstain from engaging in any forms of corruption and/or fraud;
- to comply with the law and the internal regulations of HELVETAS;
- to report incidents of corruption and fraud through the complaint mechanism.

5.1.2. Individual Responsibilities Regarding Conflict of Interest

Employees, partners, service providers and assisted organizations of HELVETAS are responsible:

- to avoid situations giving rise to conflicts of interest or the perception of a conflict of interest wherever possible
- to report promptly about the existence of an actual or potential conflict of interest;

In addition, line managers

- actively seek to identify, document and mitigate conflicts of interest in their area of responsibility including in connection with any current or planned activities;
- aim to ensure that employees are aware of their obligations to disclose any conflicts of interest that they may have, and to comply with this policy to ensure they effectively manage those conflicts of interest as representatives of HELVETAS
- report any conflicts of interest stated to them to the notification officer (cf. Guidelines on Corruption, Fraud and conflicts of interest)

5.2. Administration and Ethics Committee

The Administration and Ethics Committee confirms a zero-tolerance principle towards corruption and fraud that establishes a culture of and a commitment to legal compliance and integrity. The Administration and Ethics Committee ensures and oversees the establishment of an appropriately and adequately resourced compliance mechanism.

5.3. Management Board

The Management Board assesses the compliance of HELVETAS with the code of conduct and the regulations on corruption, fraud and conflicts of interest. The Board implements an appropriately and adequately resourced compliance mechanism that includes periodic risk assessments, targeted training, and effective monitoring. In order to ensure the dissemination and implementation of the Code of Conduct and the regulations, the Management Board takes appropriate measures.

5.4. Country Directors

Country Directors ensure the effective fight against corruption, fraud and conflicts of interest. They have the obligation to disseminate information on the regulations in their respective country programs. Country directors undertake regular local risk assessments on corruption, fraud and conflicts of interest and plan and implement preventive measures based on the assessment. They regularly report back to the Sensitization and Accountability Officer at Head Office about plans, progress and challenges and receive assistance from Head Office where needed.

5.5. Case Management Unit

The unit decides, on recommendation of the Notification Officer, whether investigations are adequate or not. The unit has the task of heading investigations upon receiving reports of violations from the notification officer. The unit draws matters within its mandate to the attention of the Management Board as occasion requires. The Case Management Unit is composed of members with altering composition according to the Guidelines on dealing with Corruption, Fraud and Conflicts of Interest).

5.6. Notification Officer

Through the complaint mechanism the Notification Officer receives notice and establishes a report with recommendations to the Case Management Unit, which decides whether investigations are adequate or not. In case investigations are not initiated the officer informs all involved parties as well as the indicating party.

5.7. Sensitisation and Accountability Officer

The officer is responsible to raise awareness and to ensure concrete guidance and training on different levels and through different channels (providing standard information material, updates through newsletter, etc.). The Officer is the main contact regarding this topic and gives technical support at head office and to the country programs.

6. Prevention

6.1. Prevention on Management Level

6.1.1. Leadership Responsibility

Superiors attach importance to the prevention of corruption, fraud and conflicts of interest and communicate their support. They promote sensitization of employees, partners, service provider and assisted organizations regarding corruption, fraud and conflicts of interest and guarantee that they know the rules of the regulations on corruption, fraud and conflicts of interest. Superiors ensure that regular risk assessments take place in each area, based on which control and prevention tools and

processes are developed. The superiors ensure that these are complied with, are mitigating the risks and that measures are regularly adapted based on the risk assessments.

6.1.2. Training

Superiors ensure that widespread sensitization on corruption, fraud and conflicts of interest and the measures taken by HELVETAS takes place on a regular basis within the frame of the internal competence building for employees.

6.1.3. Safe Atmosphere for Reporting

Superiors provide a working atmosphere which allows employees to report any cases of corruption, fraud and conflicts of interest. By means of adequate measures, they ensure that employees can report suspicions without fear of reprisal and they protect employees from pressure of third parties (cf. Whistleblower Policy).

6.1.4. Disclosure of Functions

Members of the Board of Directors, Management Board members and all HELVETAS staff members must avoid activities that could lead to conflicts of interest. In order to avoid conflicts of interest a list of the official functions and roles of members of the Board of Directors and the Management Board apart from the position at HELVETAS is disclosed in the Financial Report on an annual basis. Further functions and roles that may reflect unfavourably upon HELVETAS or which may be in actual or perceived conflict with his/her duties, or circumstances leading to conflicts of interest between their own personal interests, interests of family members or close personal relationships or companies they are associated with, and the interests of HELVETAS have to be submitted to the Notification Officer. This list is kept confidential.

6.2. Prevention in Staff Recruitment and Employment

6.2.1. Reference information

In the recruitment of new employees, special attention must be given to minimize the risk of nepotism, corruption, fraud and conflicts of interest. In particular, it has to be assured that future employees have an impeccable reputation regarding these issues and are assessed on ethics and their values. References of former employers have to be taken into account and systematically documented.

6.2.2. Information of employees

Superiors must ensure that new employees are informed about the regulations on corruption, fraud and conflicts of interest during their induction which is integral part of their work contract. Information about the regulations on corruption, fraud and conflicts of interest is reiterated during the end of probation appraisal and in future appraisal meetings.

6.3. Prevention in Program Management

6.3.1. Selection of organizations with whom we collaborate and have financial transactions

HELVETAS screens possible partners, service providers and assisted organizations systematically before starting or renewing a cooperation. The issue of corruption, fraud and conflicts of interest, and the corresponding rules are broached. Contracts with partners, service providers and assisted organizations include a specific clause on corruption, fraud and conflicts of interest (cf. Annex I). Organizations who do not have any mechanism in place to prevent corruption, fraud and conflicts of interests have to develop adequate institutional mechanisms within a clearly defined time frame.

HELVETAS offers support to its collaborative organizations in their efforts to fight corruption and fraud and to deal with conflicts of interest.

6.3.2. Risk Analysis

Partners are systematically assessed through a partnership appraisal lead by the project manager (cf. Partnership Guidelines). The selection process of service providers is regulated in the procurement guidelines. The cooperation with assisted organizations is based on specific funding schemes, which are defined at project level. In cases where conflicts of interest may arise with liaised organizations or funding partners, the respective risks are also analyzed.

6.3.3. Focal points

In each Programme office, an anti-corruption, fraud and conflicts of interest focal point is locally appointed. This function is the contact point to the head office regarding these matters and oversees the implementation of local measures of prevention.

6.3.4. Cooperation and exchange

Regular exchanges with collaborative organizations take place to ensure that measures are in place to prevent corruption, fraud and conflicts of interest and that collaborative organizations comply with the requirements.

6.4. Prevention tasks of the Sensitization and Accountability Officer

The sensitization and accountability officer is responsible to raise awareness and to ensure concrete guidance and training on different levels and through different channels (providing standard information material, updates through newsletter, etc.). The officer is moreover responsible to analyze cases and to draw lessons learnt which again flow into the prevention (cf. chapter 6 Complaint Mechanism and Case Management).

6.5. Internal Audit

The Internal Auditor shall, in accordance with its own mandate, provide support to the organizational prevention of corruption and fraud risks by identifying weaknesses, room for improvement, issuing recommendations and giving technical support.

6.6. Internal Control System⁵ (ICS)

To prevent corruption, it is important to clearly define of authority of individuals and analyze the risks. Organizational measures within the framework of an internal control system ICS (e.g. collective signature) reduce the risk of abuse of power and pressure on employees. The ICS shall, based on a risk analysis, identify and evaluate fraud risks and define implementation and mitigation measures. At head office the internal controls are integrated in the finance system. At country level, the Financial Manual for International Programs (chapter 6 internal controls) gives instructions on minimal standards of the ICS.

⁵ https://transparency.ch/wp-content/uploads/2017/08/Korruption_in_der_Schweiz_Einfuehrung_in_die_Rechtsgrundlagen_2015.pdf, consulted 10.08.2018

7. Complaint Mechanism and Case Management

7.1. General Principles

7.1.1. Reporting of Suspicions

Reporting of suspicions through a formalized complaint mechanism is decisive for an efficient fight against corruption and fraud. If employees have reason to suspect or are informed about corruption, fraud or conflicts of interest within the activities of HELVETAS, they have the right and the obligation to report it immediately. Employees should address to the line superior, if not preferred directly to the notification officer. While anonymous complaints are accepted, whistleblowers are encouraged to provide their names to facilitate the case management. All reports of suspicion and complaints must be forwarded to the notification officer with immediate effect and without exception.

7.1.2. Commitment to Investigate

HELVETAS is committed to investigate any suspicion about any form of corruption, fraud and conflicts of interest fairly, promptly and efficiently.

7.1.3. Confidentiality

The complaint and the process involving allegations of misconduct must be kept confidential whenever possible (cf. Whistleblower Policy).

7.1.4. Protection against Malicious Complaints and False Allegations

HELVETAS does not tolerate malicious complaints and false allegations. Any staff member who makes knowingly false allegations against an employee shall be subject to disciplinary procedures and sanctions (cf. Guidelines on dealing with Corruption, Fraud and Conflicts of Interest).

7.2. Analysis

7.2.1. Analysis of Cases

The sensitization and accountability officer documents and analyses cases systematically together with project coordinators and internal auditors. This way, patterns can be discovered and strategies developed to adapt policies and procedures to prevent the future occurrence of cases.

7.2.2. Analysis of the Complaint Mechanism

The complaint mechanism and its functioning is analysed annually by the sensitization and accountability Officer together with the Case Management Unit to identify malfunctions and to propose ways to improve it.

7.3. Communication and Reporting

7.3.1. Internal

Lessons learnt are shared regularly with the employees and the entire organisation.

The sensitization and accountability officer establishes the *Annual Anti-Corruption, Fraud and Conflicts of Interest Report* for the attention of the Management Board. The report describes

- the commitment of the organization to fighting corruption, fraud and conflicts of interest
- the prevention measures taken during the year
- the cases that occurred, how they were handled and the sanctions which were applied

7.3.2. External

If a corruption, fraud or conflicts of interest case occurs, other involved organizations (e.g. contracting authorities, donors) are contacted to inform them about what has happened and the measures that will be implemented (cf. Guidelines on dealing with Corruption, Fraud and Conflicts of Interest).

8. Sanctions

8.1. Mandatory sanctions

If the case management confirms that the employee is culpable, adequate sanctions are imposed and legal measures are taken if appropriate.

In case of minor infringements, a written warning is pronounced and noted in the personnel dossier. Recurrence is sanctioned with dismissal.

In case of serious infringements, the employee is released immediately and dismissal is pronounced.

8.2. Exemption of sanctions

In case of infringements, sanctions will not be applied if the two following conditions are both met:

- The objective of the action was to protect a greater good (e.g. saving lives)
- The superior has been consulted in advance or informed immediately

9. Area of Applicability and Date of Enforcement

These regulations apply to all employees worldwide in any contractual relationship with HELVETAS (including interns & volunteers, Board of Directors and its Advisory Council as well as service providers) at all times during their assignment with HELVETAS. The regulations are an integral part of the employment contract.

All organizations with whom we collaborate and have financial transactions are made aware of our relevant policies and regulations during partnership negotiations.

The present Regulations on Corruption, Fraud and Conflicts of Interest has been approved by the Board of Directors on December 1st, 2018. It comes into force on January 1st, 2019.

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Annex I: Anti-Corruption, Fraud and Conflict of Interest Clauses for Project Partners, Service Providers and Assisted Organizations

Contracts with project partners and assisted organizations: The following anti-corruption, fraud and conflicts of interest clause is included in all future cooperation agreements with project partners or assisted organizations:

“The contracting parties shall neither offer nor give any kind of advantage to a third party either directly or indirectly, nor directly or indirectly receive, accept or let themselves promise any gifts, payments or other advantages which are or could be considered as an illegal or corrupt practice. HELVETAS reserves the right to cancel the contractual relationship in case of infringement, suspend payments, reclaim former payments and report the offense. HELVETAS reserves the right to control the entire project income and expenditure of project partners or assisted organizations and, if necessary, demands an extraordinary external audit.”

Contracts with consultants and service providers: The following anti-corruption, fraud and conflicts of interest clause is included in all future contracts with service providers:

“The contracting parties shall neither offer or give any kind of advantage to a third party either directly or indirectly, nor directly or indirectly receive, accept or let themselves promise any gifts, payments or other advantages which are or could be considered as an illegal or corrupt practice. HELVETAS reserves the right to cancel the contractual relationship in case of infringement, suspend payments, reclaim former payments and report the offense.”