



Independent observer  
of the Global Fund

## Global Fund and SEAH

The Global Fund came out with its Sexual Exploitation, Abuse and Harassment (SEAH) Reporting Protocols and the Ethics and Governance Committee in its report to the Board, presented its budget that includes SEAH as a component. And recently, there was an audit of its internal justice mechanism. Using as an illustrative example a case of SEAH within the Global Fund that came up in the ILO Tribunal, which is the final court of appeal/resolution of employee disputes at the Global Fund under its Internal Justice mechanism, this article uses other sources and reports to examine the issue.

### ILO Administrative Tribunal Judgement No. 4579

A male manager who had been working with the Global Fund on a permanent contract since 2018 appealed to the ILO Tribunal to close the sexual harassment complaint against him by a female manager of the same organization. The incident took place on a flight.

Figure 2: Timeline of the SEAH case as per ILO Tribunal Judgement No. 4579

Date	Global Fund	Date	ILO Tribunal
3 December 2018	Survivor reported the incident of sexual harassment to the Global Fund Administration	18 May 2020	The accused filed a complaint against the Global Fund

13 December 2018	HR Department informed the accused of the reported allegations of inappropriate behaviour against him.	25 August 2020	The accused corrected his plea application
15 January 2019	First draft of the investigative report was submitted to the accused	29 October 2020	The Global Fund filed its reply
25 January 2019	The accused provided his comments	10 May 2021	The accused filed his rejoinder
6 February 2019	Final report was submitted	6 August 2021	The Global Fund filed its counter rejoinder
12 April 2019	Disciplinary Panel had its sitting	21 October 2022	The ILO Tribunal made its judgement
8 May 2019	The Executive Director wrote to the accused informing about the panel's findings and his decision	28 November 2022	The ILO Tribunal delivered its judgement through a video recording posted on the Tribunal's website
8 August 2019	Date of discharge		
18 June 2019	The accused requested for mediation		
25 June 2019	The mediation request rejected as inappropriate in his case		
13 February 2020	The Appeal Board dismissed the appeal of the accused in its report		
18 February 2020	The Executive Director endorsed the dismissal of the appeal		

The ruling by the Tribunal ([Judgment No. 4579](#) dated 28 November 2022) asked the Global Fund to re-examine the case (contrary to his plea for the Tribunal to rule on it in finality declaring that he had done nothing wrong among other pleas), and also pay damages to the accused to the sum of €2000. This, despite the Tribunal noting that “the complainant and the accuser agreed on the essential facts, that is the content of their conversation. The complainant admitted, on multiple occasions, the inappropriateness of his behaviour. The submission that the accuser was in bad faith and exaggerated the gravity of the incident is completely devoid of merit.” Moreover, the accused even sought to meet the survivor to express his apologies and his regret for the “emotional distress” he’d caused.

So, what happened that led then to an adverse ruling against the Global Fund? The term “gross misconduct” had gone missing from the Letter of Charges. Instead, the charges stated that “the sexual nature of your inappropriate conduct is a grave violation of the Code of Conduct and warrants a serious sanction.” Why was “inappropriate conduct” not adequate? As per the main document of the Global Fund’s Internal Justice Mechanism, namely, its Employee Handbook, discharge is appropriate vis-à-vis gross misconduct alone, and yet, these two crucial words found no mention in the charges: “no express charge of gross misconduct constituted by harassment” pointed out the Tribunal.

### The Curious Case for Discharge & Reinstatement

According to the Tribunal’s case law, reinstatement is inadvisable when an employer has valid reasons for losing confidence in an employee (see Judgment 4310, consideration 13). Yet, on the grounds of the complainant’s permanent appointment and since they had annulled his discharge, the order of reinstatement was deemed “possible and appropriate”. How did the Tribunal conclude a valid sexual harassment charge to be insufficient ground for losing confidence in an employee?! It beggars belief! That was not all.

The Global Fund’s Disciplinary Panel had called for summary dismissal of the accused. But using his powers, the Executive Director chose to overturn this decision and instead determined that the accused would be discharged. This meant that the accused was allowed to serve out a notice period. The reason cited by the Executive Director was cooperation of the accused during the investigation, which is defined as a “duty” in the Employee Handbook.

It is to be noted that in two instances in 2011 and 2012 where the reported instances of sexual harassment were confirmed by the Global Fund, it led to summary dismissal of the harasser in both cases. So, there was also a precedent. Seth Faison, the Communications Director had then declared that “The Global Fund is committed to taking similar action in any cases that arise” as reported in an [Aidspace](#) article. Peter Sands had undertaken the Executive Directorship in early 2018 and the incident got reported by the survivor in December 2018. Was he updated about the precedent is moot. It also leads to the larger issue of what happens were this decision to be contested by the survivor. Then as now, the complaints against the Executive Director remain a grey area as pointed out by an audit of the Office of the Inspector-General [OIG Report 2024](#) of the Global Fund’s internal justice mechanism.

In this particular case, the investigation found “unsubstantiated” the other two allegations the survivor had made, namely, about the physical contact by the accused with her in the airport and what was said by him when he addressed the passenger originally seated between the accused and survivor. What are the avenues for the survivor to contest and reinvestigate the decision of “unsubstantiated”, for instance? While the Global Fund’s [Operational Framework on the Protection from Sexual Exploitation and Abuse, Sexual Harassment, and related Abuse](#) mentions that “victims may pursue applicable accountability measures, including legal redress where desired, through appropriate referrals”, it’s not clear who will bear the costs.

## United Nations IASC

Now, let's examine both of the above decisions in light of the [Six Core Principles Relating to Sexual Exploitation and Abuse, 2019 of the United Nations IASC \(Inter Agency Standing Committee\)](#) of which the Global Fund is a member. The very first of these is "sexual exploitation and abuse by humanitarian workers constitute acts of gross misconduct and are therefore grounds for termination of employment." This proviso was present in the Core Principles' [earlier version in 2016](#) that would have been applicable at the time as well. So, it's surprising that given how long the case took to wend its way through the internal process from 2018-2020 and thence the ILO Tribunal from 2020-2022, was the lapse of omitting gross misconduct in the Letter of Charges not detected at any level from the management to the Board? Were there legal avenues to rectify the lapse before the ILO Tribunal gave its ruling given that the accused was given time to correct his own plea?

## Importance of a victim-survivor-centric approach

An IASC [Technical Workshop- on PSEAH](#) held in January 2023 in Nairobi, Kenya found that while the UN Victims' Rights Advocate "organized briefings for the UN Disciplinary Tribunal and UN Administrative Tribunals on a victim-centered approach, judges of administrative tribunals are not systematically trained in this approach." The ILO is a specialized agency of the UN and this applies to it, too, given the reasoning of its Administrative Tribunal's ruling. Tellingly, the same presentation pointed out that "the focus needs to shift from the accountability of perpetrators to that of the victims" and the skewed focus was clearly seen in the decisions of the Executive Director and the ILO Tribunal.

## What about criminal action?

Under Swiss law, "severe verbal sexual harassment is also punishable by law (Art. 198 of the Swiss Criminal Code)", which it was in this case. Shouldn't the Global Fund also be pursuing criminal charges against an accused? As per the Global Fund's PSEAH framework, "appropriate information is shared with law enforcement so that perpetrators of human rights abuses and SEA may be held criminally accountable, while respecting the principle of informed consent." Yet, it is left to the survivor "to file a criminal complaint in accordance with articles 193 and 198 of the Swiss Criminal Code."

The IASC in its July 2024 press statement clearly articulated the need to:

"Bolster individual and collective accountability. This includes taking swift and appropriate administrative sanctions, developing and sharing best practices on enforcing the Code of Conduct and referring cases that may rise to criminal conduct to competent authorities with the victim/survivor's consent where it is safe to do so. This also requires concerted efforts to prevent the re-recruitment of individuals found to have engaged in SEA and sexual harassment, including by using Clear Check and the Misconduct Disclosure Scheme and to enforce PSEA contractual clauses with partners." [Source: [UNFPA press statement IASC](#)]

## Need for Transparency

The Global Fund routinely publishes reports and cites instances of SEAH violations vis-à-vis countries on its website such as in the [2023-05-19 Message from the Executive Director- Misconduct affecting Global Fund grants in South Africa](#) so it should follow the same for its own office as well. There is no information on what happened to the 2018 case after it was returned to the Global Fund for a final decision nor does it appear in any of the reports of the Global Fund nor are ILO Tribunal cases listed on its website.

The 2018 report of the Ethics Officer provided information on the typology of cases that came to the EGC, but SEAH cases were not specified. In the [41<sup>st</sup> Global Fund Board Meeting Report](#), May 2019 the only appearance of SEAH is regarding the Ethics Officer's update on its efforts and a human rights review. The Ethics and Governance Committee's report to the Board in November 2019 made no mention of SEAH nor did the EGC report of 2023 though the ILO Tribunal ruling came out in the previous year.

The [OIG Report 2024](#) on the Global Fund Internal Justice Mechanism (IJM), pointed out quite correctly that "HR, however, does not currently provide any internal reporting on IJM cases — meaning that the number of cases HR is addressing, their types, status, and outcomes are not known to Global Fund staff. Such reporting is feasible while preserving confidentiality: for example, CERN includes a chapter in its annual report on the "settlement of disputes and discipline". Moreover, this OIG audit itself relied on "a desk review of the Global Fund's IJM policies, processes, and roles and responsibilities. It did not benefit from access to case data (apart from a few high-level, summary figures) nor interviews with staff that have experienced the IJM system."

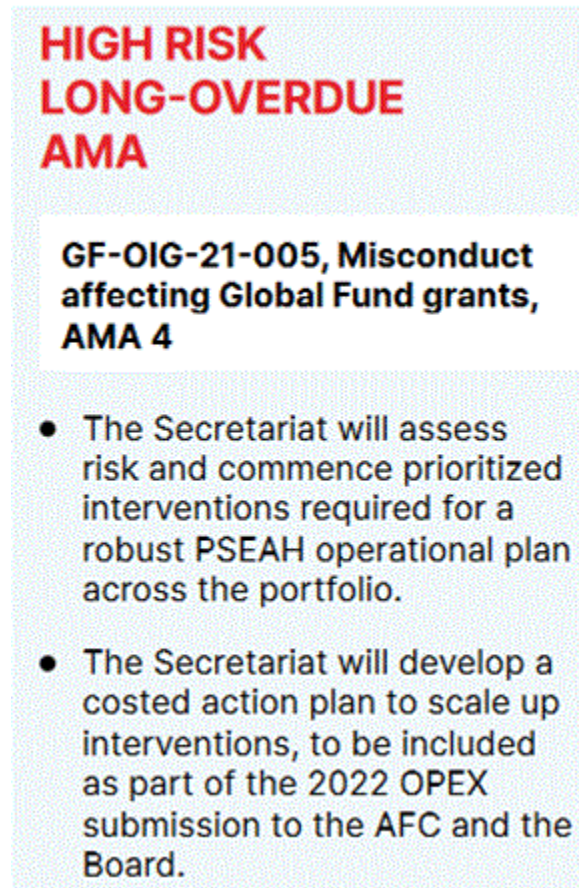
A truly equitable and fair process requires transparency, good faith, and the consistent application of principles. Employees must be assured that their concerns will be handled impartially, with access to information about how decisions are reached. The involvement of independent bodies like the ILO remains essential to ensure these principles are upheld, given that internal procedures alone may not always meet the standards of transparency and fairness.

## Need to fast-track SEAH-related cases

The [OIG Report 2024](#) on the Global Fund Internal Justice Mechanism (IJM) noted that the ILO Tribunal took an average of nearly 1000 days to give their rulings in Global Fund cases. A "joint Secretariat-Staff Council working group was set up to review three concrete options: remaining with the ILO Administrative Tribunal; establishing a dedicated administrative tribunal; and creating a system of arbitration." However, the two parties could not arrive at an agreement. The Management Executive Committee decided to continue with the ILO Tribunal and this was reviewed in 2019 but was put on ice due to the pandemic and other priorities. The timeline (Figure 1) revealed that it took two years for its ruling in the SEAH case of 2018. Imagine the survivor awaiting full and final closure only to hear that the Tribunal, four years after her complaint and after upholding its veracity had gone on to order reinstatement and award of damages and returned the case to the Global Fund for a final decision! It underlines the need for fast-tracking hearings of SEAH. They cannot be routinely clubbed with other cases and subject to caseload-pressure delays.

## Conclusion

And it is not clear whether the lesson of not using the term gross misconduct has been learned. The OIG Agreed Management Actions Progress (AMA) Report was presented to the 48<sup>th</sup> Global Fund Board meeting in November 2022. Under the PSEAH Risk Assessment and Response this is the image that appears.



**HIGH RISK  
LONG-OVERDUE  
AMA**

**GF-OIG-21-005, Misconduct  
affecting Global Fund grants,  
AMA 4**

- The Secretariat will assess risk and commence prioritized interventions required for a robust PSEAH operational plan across the portfolio.
- The Secretariat will develop a costed action plan to scale up interventions, to be included as part of the 2022 OPEX submission to the AFC and the Board.

It should read gross misconduct, not misconduct. SEAH is a gross act, why the coyness? Can the term not be uniformly applied as per the Global Fund's own SEAH-related documents?

As pointed out by the [Aidspace](#) article years ago, "having the right policies is essential but not always enough to ensure a culture of safety." While the Global Fund does have mandatory SEAH courses, manager trainings, and updates on it during Town Halls as well as prominent signage regarding its Code of Conduct, it is in the minutiae of detail where protection against SEAH falters as the ILO Tribunal ruling, and the audits of the HR processes and its Internal Justice Mechanism point out. It's time for the Global Fund to hold itself up to the same standards and levels of transparency and accountability it expects from its partners and countries. Its requirements from recipients of its grants is to immediately notify the Global Fund "as soon as they have knowledge" of SEAH allegations. Contrast this with the Global Fund's recent



updated Reporting Protocol on SEAH, which repeatedly uses the word “may” rather than making it mandatory to report to the Board the allegations of SEAH or further information on the same.

It is to be noted that in 2021, the same year as the formulation of the SEAH Framework, the Protection from Sexual Exploitation, Abuse and Harassment (PSEAH) Coordination Unit (PCU) was set up under the Ethics and Governance Committee (EGC). In 2022, the PCU was expanded and team roles adjusted “demonstrating the commitment of the organization to dedicate appropriate resources to this important area.” However, the 2023 EGC Report mentioned that the PSEAH budget had a kitty of \$2,615,135 of which only \$1,820,258 had been spent. This was explained as follows in a footnote but the footnote numbering is missing in the text:

“1 The US\$1.1M delta between budgeted and actuals reflects changes in Ethics Office management, the “experimental” nature of a first-year budget (PSEAH), and unspent money reserved for eventualities such as case management, victim/survivor support, and Integrity Due Diligence needs”.

As per a Global Fund Board meeting report, May 2023 the EGC has dedicated resources for a Victims’ Support Advocate on the lines of the IASC guidelines and also funds to compensate for losses in SEAH-related cases.

At the recent EGC meeting of the Board in October 2024 a constituency of the Global Fund queried the Ethics Office as to why it felt “comfortable” about the fact that the PSEAH budget declined from \$2,628,482 in 2024 to \$2,513,795 in 2025. With the Board meet slated in Malawi it is hoped that there will be discussions on not just the budget but the grey areas around SEAH reporting and investigation processes and the aspect of reparation that finds no mention in the Global Fund’s Operational Framework on SEAH.

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