

Report of the

INDEPENDENT ETHICS PANEL

Panellists:

Hartmut Bäumer

Peter Conze

Berlin 20 May 2020

EXECUTIVE SUMMARY

The Panel considers that the different staff and organisational developments over the past six years constitute an important cause for internal problems at Transparency International. The Panel does not expect any new complaints and takes the view that there is no need for further investigations of the period between 2017 and today. Instead, sights should now be set on the future following important staff and organisational changes introduced in 2020.

In detail:

1. In order to understand the developments at Transparency International Secretariat (TI-S) since October 2017, a look at the preceding period is necessary. Discussions about the right organisational form have been underway since 2014, which ultimately led to a decision in favour of a holocratic, practically non-hierarchical model in 2017. This was, however, only partly implemented. There have been several changes at the management level of TI-S since February 2016, sometimes resulting in a vacuum. This was one of the reasons for a lack of delimitation of the roles between the Chair of the Board and the Managing Director (MD). The new MD and the Board faced a difficult situation in October 2017.
2. The MD was entrusted with the conception and implementation of a new organisational structure. Together with the Works Council, the MD developed the main tenets of the aim and the method of this reform in a Balance of Interests in April 2018. However, by mid-2018 tensions became apparent between parts of the workforce and the Works Council on the one hand, and ██████ on the other hand. The task faced by the new MD was made more difficult by a lack of trust between ██████ and the Works Council, criticism of ██████ ████████████████████ had installed and ████████████████████ style perceived by the majority of staff as authoritarian and lacking in transparency.
3. The Board supported the MD's implementation of reforms, but the relationship between the Board and the MD deteriorated in 2019. The Board decided to establish a Task Force comprising Board members, later the Safeguarding and Wellbeing Support Group, in order to support the MD and accompany the change management process. The proposal by TI Ireland, first made as early as October 2018, to conduct an independent investigation was repeatedly discussed by the Board, but was only taken up after the publication of the article in the Guardian on 21 August 2019. With hindsight, it might have been better to conduct this earlier and without limitation to legal aspects.
4. The law firm Taylor Wessing (TW) was instructed with the conduct of the independent investigation. It submitted its report on 22 November 2019. The results of the report were criticised for different reasons. The Board had decided in favour of an independent

investigation and received the final rep. For this reason, the Panel saw no need for further investigations of the matters which formed part of the TW report.

5. The TW report, although submitted in November, has not yet been forwarded to interested donors or the Chapters. In the knowledge of the legal difficulties, the Panel proposes that all participants should be informed of the results as soon as possible, either through the forwarding of the report or a summary.

6. TI Staff, the Chapters and the Works Council were informed about the existence and the tasks of the Panel by the Chair of the Board, and therefore had the opportunity to approach the Panel. After the establishment of the Panel, the Works Council contacted the former staff who had approached it in 2018 and 2019 with complaints or information. In total, the Panel has talked to 13 staff members. They reported on their own experience, the experience of other staff or provided information which they considered potentially important for the Panel. Official complaints from these staff are not expected. A list from TW with staff who had approached the firm but who could not be questioned did not reveal any new aspects.

7. The Panel proposes a swift, complete introduction of the new integrity system with clear responsibilities for different types of complaints, and appeals to all participants to adhere to the procedures provided for there. Disputes between staff, or between staff and their superiors, must be resolved within TI-S and normally do not constitute ethical conflicts. Labour law disputes, whether between staff and the management of TI-S or conflicts with the Works Council, must be clarified in the labour law processes provided for this.

8. A new Interim MD has started work. The Senior Management Team has been dissolved. A new structure proposal is currently being discussed with the Works Council. New complaints are not anticipated. TI must look to the future. All participants should emphatically support the new beginning.

REPORT OF THE INDEPENDENT ETHICS PANEL

1. Assignment

Following discussions and a resolution at the Annual Membership Meeting (hereinafter AMM) of Transparency International (hereinafter TI) on 15 – 17 November 2019 in Berlin, the Board decided to nominate an Independent Ethics Panel (hereinafter “Panel”), the tasks of which are to:

- a. Assist and advise the Board on all matters required to fulfil the Board’s resolution of 22 August 2019;
- b. Receive and assess any complaints not received or dealt with by TaylorWessing, or any unresolved issues in the existing cases, and recommend appropriate action;
- c. Receive, assess and where it deems necessary, investigate or recommend other action on any complaints against the Board of Directors or its members regarding their response or handling of any matter related to these investigations.

The Board asked Hartmut Bäumer, Chair of TI Germany, to head the Panel and took note of his proposal to invite Peter Conze, Founding Member of TI, to work with him. The letter of the Chair and the Vice Chair of 20 February 2020 was signed by Hartmut Bäumer and Peter Conze on 5 March 2020.

The text of the Board’s resolution of 22 August 2019 can be found in Attachment 1 of this report.

2. Practical Steps and Scope of the Investigation

After formal acceptance of the appointment by Hartmut Bäumer and Peter Conze, the Chair of the Board informed the TI Chapters, TI-Secretariat (hereinafter TI-S) staff and the Works Council (hereinafter WoCo) about the formation of the Panel and its tasks on 10 March 2020.

The same week, the Panel met with the Interim Managing Director (hereinafter MD), the WoCo, the Integrity Officer, the Chair of the Board and the Chair of the Board Ethics Committee (hereinafter BEC). On 18 March 2020, the Panel members participated in the weekly TI-S staff meeting (due to Corona, the first video staff meeting ever). They presented their tasks and asked everybody to contact them if desired.

After signing a non-disclosure agreement, the Panel received the relevant material from the BEC on 20 March 2020.

TaylorWessing (hereinafter TW) was requested by the BEC to transfer all existing investigation materials to the Panel. On 30 April 2020, the Panel informed the Chair of the

Board that, despite emails and telephone calls with TW, the material had not been sent yet. The Panel finally received the material on 11 May 2020, two months after the start of its assignment.

During the above-mentioned meeting with the WoCo, it was agreed that the WoCo should contact all former employees or those on leave/sabbatical, who had contacted the council with official or unofficial complaints or relevant information since January 2018, and inform them about the establishment of the Panel and its tasks. They should be asked whether they wish to be contacted by the Panel. The names and email addresses of those interested should be passed on to the Panel.

On 19 March 2020, the WoCo provided the Panel with the names and email addresses.

Due to the Corona situation, the Panel was unable to conduct discussions in person, but had a wide range of telephone calls with colleagues from TI as well as with former TI-S employees.

The Panel decided to structure its work and the following report under five topics:

- Background of the present situation
- Complaints against [REDACTED]
- Complaints against [REDACTED]
- Complaints/questions to the Board regarding the response or handling of any matter related to the investigations
- Recommendations

3. Background of the Present Situation

The development and current problems of TI-S are easier to understand and set in context if the organisational and staff changes over the past years are taken into consideration.

In the following, the Panel provides an overview on developments, first before 2017 and then in 2018 up to March 2020, to the extent to which this seems relevant for this report.

The Panel considers that [REDACTED] had a decisive role, and a chapter on this body is therefore also included in this report.

As a background for its recommendations, the Panel will then highlight the relevant aspects of the TW report.

3.1. Developments before the AMM 2017

Since 2014, TI-S has repeatedly discussed and experienced considerable changes to its organisational structure, work processes and management staff, which in turn each harboured potential for internal tensions.

In 2015, Price Waterhouse Cooper (PwC) submitted a study which came to the main conclusions that TI-S suffered from a lack of cooperation between staff, was too hierarchical and that there was no clear delimitation between the tasks of the MD and the Board, in particular the Chair.

As a result of this study, a consultant was entrusted with the task of developing and installing a new organisation model with fewer hierarchy levels. The result was the proposal for a holocratic system without hierarchy for the staff of approx. 120 people, which had been trimmed down to this size for budgetary reasons. However, TI ended the working relationship with the consultant before the new system was installed.

In August 2017, another consultant submitted his report on the situation, together with recommendations on the future organisation and allocation of tasks between the MD and the Chair [REDACTED]. This for the most part confirmed the results of the PwC report as regards unclear allocation of work and decision-making structures, and recommended a clear decision either in favour of a structured, transparent implementation of the holocratic system which enables decision-making, or the return to a hierarchical system.

These structural issues were also accompanied by a lack of continuity or a vacuum at the top management level of TS. The former MD was removed from office by the Board in February 2016. The proposed successor then did not accept the position due to protests about the lack of a formal selection procedure. From February 2016 until October 2017, a total of three people worked as MDs, sometimes parallel to each other with different roles. This situation led to the Chair increasingly managing the organisation, and the steady erosion of the intended allocation of tasks between the Board and the MD.

When the new MD took over the management of TI-S in October 2017, there was practically no functioning internal structure model. Staff were uncertain and frustrated, and has high expectations of the new manager.

3.2. October 2017 to January 2020

The following, mainly chronological account is restricted to the events which are important in connection with this report.

October 2017 The new MD starts at TI-S

October 2017 New Board of TI elected at the AMM

December 2017 There were 113 staff members at the end of 2017, with 46 leaving and 22 starting at TI-S throughout the year.

April 2018 Balance of Interests signed between MD/ WoCo. MD installs the first members of the SMT, handpicked without a formal recruitment procedure, according to the arrangement in the Balance of Interests.

June 2018 MD cancels appointment policy

July 2018 Lawyer's letter from WoCo to the lawyers of TI-S, warning that the agreement from 2012 concerning the enterprise's salary system must be complied with.

September 2018 The Board has seen the 2018 Works Council survey and discusses the issue in a Board Meeting documented as follows: "The Board noted that, if accurate, the claims in the cover email would be cause for a significant concern, and reaffirmed its commitment to proper safeguarding of TI-S staff. The Board asked management to look further into this as a matter of urgency and to report back."

October 2018 A letter to the Board of TI by TI Ireland draws "the TI Board's attention to concerns related to the governance and management of Transparency International's Secretariat during 2018. In particular, we request an independent investigation into the actions and behaviour of [REDACTED]"

November 2018 An employee of TI-S (later Complainant Case#2) contacted the BEC with concerns on bullying and harassment, another employee (later Complainant Case#3) voiced concerns of discrimination, favouritism and an unethical work environment. From both, there was a request for confidentiality. The two employees were informed of the BEC procedures and that, in order to officially process a complaint, it must be formalised in accordance with BEC procedures.

December 2018 The BEC informed the Board on its initial assessment of the situation.

December 2018 Lawyer's letter of complaint from WoCo to the lawyers of TI-S, that the rights of the Works Council in general and in particular in the case of staff discussions must be safeguarded.

December 2018 There were 110 staff members at the end of 2018, with 25 leaving and 25 starting at TI-S throughout the year.

January 2019 Case#1 reached out to the BEC with an ethical complaint against [REDACTED] and requested utmost confidentiality.

February 2019 The Board intensively discussed the situation. There was increasing concern about the performance of [REDACTED] future with the organisation. Still at this point, the general direction of the Board was that the management needed to be supported to carry through the challenging task of restructuring TI-S internally with management and accountability structures.

April 2019 Complainant Case#2 and Complainant Case#3 filed official complaints with the BEC, the latter with the request to keep it confidential until 7 June.

April 2019 The BEC recommended to the Board that an independent investigation of these and other issues should be conducted by an external source. The Board was deeply worried but decided in favour of an internal solution, to create a Board Task Force to review the change management process at TI-S.

May 2019 The BEC begins its official investigation of Case#2.

June 2019 Renewed discussions on an independent investigation. However, the Board decides to reinstate the Task Force as the Safeguarding and Wellbeing Support Group.

July 2019 Official investigation of Case#3 starts.

August 21 Guardian article “Transparency International staff complain of bullying and harassment” appeared on its website.

August 22 The Board resolved to conduct an independent external investigation into alleged misbehaviour at TI-S which might constitute a breach of rules, principles and standards of an ethical nature.

October 2019 The AMM suggests that the Board install an independent ethic panel if this seems necessary after the delivery of the TW report.

November 2019 TW presents its final report to the Board.

December 2019 Controversy between TI and TW whether the terms of reference have been fulfilled. [REDACTED]

December 2019 There were 115 staff members at the end of 2019, with 30 leaving and 35 starting at TI-S throughout the year.

January 2020 Final agreement between TI and TW

January 2020 Complaint by the WoCo to BEC/SG regarding special bonus payments to four staff members for the year 2018 [REDACTED] and retroactive salary adjustments for a number of staff, in each case without the participation of the WoCo.

February 2020 The Board asked Hartmut Bäumer, Chair of TI Germany, to head an independent ethics panel. The Board took note of his proposal to ask Peter Conze, Founding Member of TI, to work with him on the panel.

February 2020 Chair informs the MD that she is released from her duties as MD from 1 April onwards. Formal termination of the MD’s employment at the end of March. Interim MD is appointed and installed in office.

March 9 The Independent Ethic Panel starts work.

April 2020 SMT is dissolved. [REDACTED]

Interim Assessment of the Panel

The assessment of recent years makes it clear that TI-S is still in the course of a reorganisation process lasting several years, in which different cultural and managerial approaches were pursued. As a result of this, the Panel reached the conclusion that there was far-reaching uncertainty amongst the staff, which was worsened further by the new organisational reforms started at the beginning of 2018. This is also reflected in the high staff turnover rate between 2017 and 2019. At the outset, the reform process was welcomed by many staff and the WoCo, but this changed in the course of 2018 because many staff considered the type of implementation by the management to be for the most part authoritarian and lacking in transparency. There was deep distrust between a large part of

the staff and the WoCo on the one hand and the management [REDACTED] on the other hand, which prevents the transparent and open cooperation necessary in a reform process.

3.3. The SMT

In the Balance of Interests and the binding Information Document for the TI-S Works Council between the MD and the WoCo dated 7 April 2018, the formation of the SMT and the appointment of team managers was agreed. The members of the SMT, up to five in number, are appointed by the MD from the workforce, in which they continue to work in line functions, e.g. as Team Manager. The SMT is equipped with extensive powers of attorney with regard to the strategic process and staff selection decisions. According to the organigram in the Information Document, the SMT and the MD together constitute the top management at TI-S. In the Balance of Interests, the WoCo is guaranteed the rights of codetermination set forth in Section 95 et seq. of the German Works Constitution Act for the types of transfers which are precisely defined. No proceedings in labour courts were commenced.

In its article dated 21 August 2019, the Guardian claimed that the MD unilaterally appointed the members of the SMT. This is correct, but is also in compliance with the regulations in the Balance of Interests.

The Panel considers that one significant reason for the subsequent conflicts was the construction and the concept of the SMT, its composition of members and the unclear delimitation of its powers to issue instructions as a part of the management level together with the MD, and the respective individual role as staff members ranking equally with other staff members. This can also be seen from the fact that a large proportion of the complaints relates to the competences, actions and the way in which members of the SMT dealt with other employees.

According to all sociological and psychological organisation experience, the overlap of tasks of management and line functions involves a major risk of conflict, which is inflamed in case of staff selections which are not accepted by the workforce.

3.4. The TW Report

On 20 September 2019, TW was instructed with the external investigation of the various complaints against [REDACTED] and [REDACTED]. According to the original aim of the Board formulated on 22 August 2019, the investigation should have been completed by the end of the first week in October 2019. TW submitted its report to the BEC on 22 November 2019.

The instruction was based on the following Terms of Reference (TOR):

Objectives of the Investigation

1. To establish the full facts of all allegations within the scope below and determine, in each specific matter, whether the concerns identified are substantiated.

2. To determine whether any decision or action of the Managing Director and/or any relevant member of the SMT constituted a breach of the core values and ethical principles referenced in Transparency International's Code of Conduct, TI Values and Guiding Principles, any other relevant policies or instruments of TI, or any legal obligations.

As documented in the report "the TW investigation is limited to matters governed by currently applicable German law as presently enacted and currently practised." As regards its methodology, the report follows the logic of how a judge would proceed in German civil court proceedings. In accordance with this, roughly speaking, actions must be dismissed if the pleadings do not outline any (substantiated) legally relevant facts and circumstances or if the respondent argues against the action with (substantiated) legally significant reasons. In this case, a "*non liquet*" applies and the action is dismissed unless the plaintiff submits substantiated proof in support of its pleadings. TW has explained that, with two exceptions, the facts and circumstances of the complaints were either unsubstantiated or not proven, so that TW ultimately found there were no systematic infringements of the law by the MD or the SMT.

This was purely a legal investigation. It did not give an answer to management style, attitudes or questions of behaviour. A broader approach would have been better.

In the final agreement between TW and TI in January 2020, it was stipulated that the "Independent Panel" to be newly formed should have all documents in TW's possession made available to it by TW. Although TW was informed that the Panel had already started work in March, the Panel only received a stick with the documents on 11 May 2020 after several demands.

4. Complaints by Employees against [REDACTED]

4.1. The three complaints dealt with in the TW report

For one of the complaints, TW came to the conclusion that they "could not identify any proven facts that qualify for systematically bullying, discriminatory behaviour or criminally relevant harassment under TI rules and/or German law."

In one of the cases, TW came to the conclusion that they could not identify a systematic breach of the TI rules and/or German law, but continued: "We did, however, establish individual incidents in which, from our point of view, the values/principles of transparency and accountability have not been complied with entirely."

Another complaint could not be further investigated since the complainant had not waived his anonymity. However, according to the TW report, there was one aspect in the complaint regarding warning letters he had received which constituted harassment.

The report has been received by the Board. The Board or the BEC might not agree with some of the results and might question the procedures of TW under some aspects. The

complainants or the defendants may also be unhappy. However, the Board had decided on an independent external investigation. The process has come to an end and the results have been submitted. The Panel therefore saw no necessity to investigate these cases further. If the complainants wish to pursue their cases further, they would need to do so in the labour courts.

All three complainants were informed in August 2019 by the BEC that their cases have been transferred to TW for an external independent investigation. Since then, they have received no official information about the results of the investigations in the TW report.

On 6 April, the Panel recommended that the Board inform the complainants about the TW results and explain the legal problem concerning the distribution of the report or its summary which have led to a delay in the communication. The Panel also recommended an expression of regret for the problems the employees had experienced. In the meantime, such emails had been sent to the complainants on 16 May.

One of the complainants has still not waived his/her anonymity. Therefore, the Panel was unable to take any further steps. However, the aspect of the complaint which, according to TW, is substantiated is practically a labour law case. The complainant wishes to have warning letters removed from his/her personnel files which he/she thinks are unjustified. The Panel has advised the complainant to approach the Interim MD and request the removal of the warning letters from the personnel file. If the Interim MD fails to do this, the complainant could file a labour law case.

As a result, we recommend no further investigation initiated by the Board regarding these three cases and repeat our recommendation to inform the two known complainants as soon as possible.

4.2. Other Complaints of Employees not dealt with by TW

4.2.1. TW did not conduct talks with all those wishing to talk to them. Consequently, there may be persons with relevant information who have not been heard or who wanted to file complaints.

As the Panel wanted to ensure that everybody has the chance to submit complaints, information or proposals/ideas, the Board informed the Chapters, TI-S staff and the WoCo about the existence and the tasks of the Panel in consultation with the Panel. In addition, as already mentioned, the WoCo contacted all former employees who had been in contact with the WoCo regarding any formal or informal complaint, and asked them whether they wish their names and addresses to be forwarded to the Panel.

Nine names were provided by the Works Council. In addition, four persons contacted the Panel directly.

Out of the thirteen, eight were former employees, two on leave/sabbatical and three presently working at TIS.

4.2.2. The Panel conducted telephone calls with all thirteen. In these calls, the Panel first explained its tasks (although all had been informed already by the WoCo), asked them why they wanted to talk to the Panel and how they wish to proceed.

All thirteen wanted to give information which they thought would be important for the investigations of the Panel. Some of the information did not concern themselves but other colleagues who, in their opinion, had been unfairly treated. Two of these cases did not fall under the Terms of Reference of the Panel. Some of them just wanted to talk about their experience because they had the feeling that nobody had really listened to them to date. Others felt they had been squeezed out of the organisation and stated that they had never received any appreciation for what they had done, often in many years of employment with TI. Others saw a lack of transparency in decision-making or recruitment processes. Some of them left TI-S without having found a new job because they felt exhausted and decided that they could not work in what they called a toxic environment. Many of them obviously had not yet reconciled themselves with the end of their employment for TI.

4.2.3. All thirteen people to whom the Panel talked still believe in and support the cause of TI. All of them already knew about the change at the top of TI-S and most of them already about the abolition of the SMT. They felt that it is time now to look ahead and concentrate on what TI is for: the fight against corruption. They want to see TI returning to its old strengths.

None of them will start a formal complaint. Some of them came up with proposals what should be done to prevent a future recurrence of the situation in TI-S in recent years.

One complaint, which had already been filed with the BEC but has not been taken up so far, will not be pursued further by the complainant.

Part of the documents provided by TW was a list of persons who had contacted TW but were not interviewed by them. Two of them had approached TW regarding events which had taken place before the time covered by this report. The Panel had already talked to the other two.

As a result, the Panel comes to the conclusion that no more complaints are to be expected, and that no more investigations will be necessary regarding complaints of employees against [REDACTED]

The Panel recommends a letter of appreciation to the former employees for their work, combined with an expression of regret for distress they might have experienced– the earlier the better.

4.3. Complaint of the Works Council against [REDACTED]

In January 2020, the WoCo approached the BEC and the SG with a complaint about [REDACTED]. The subject of the complaint was unfair conduct and the breach of codetermination rights in connection with special bonus payments and retroactive salary increases for 2019 (see 3.2.).

In 2018 and 2019, there was a series of further complaints by the WoCo regarding a lack of compliance with the TI Code of Conduct and adverse effects on the work of the WoCo caused by [REDACTED] which were in some cases addressed to the BEC and in other cases by lawyers' letter to the employer's lawyers.

In order to understand the WoCo sphere of tasks, a brief description of the legal framework for the actions of the WoCo is provided here:

The rights and duties of the WoCo are stipulated in the Works Constitution Act. In accordance with this, the WoCo is the body elected by the workforce to safeguard the employees' interests. It is an independent organ of the enterprise with its own rights of cooperation and codetermination, with an obligation of trustful cooperation with the employer (and vice versa) (Section 2 Works Constitution Act). The WoCo can take independent action before a labour court against the employer in case of breaches of its rights, for example in case of discrimination against members of the WoCo, Sections 37(4), 5, 78 Works Constitution Act or in case of breaches of rights of codetermination regarding internal payment issues, Section 87(10), (11) Works Constitution Act or individual personnel measures, Sections 99 et seq. Works Constitution Act.

In addition, as the representative of the interests of individual employees, the WoCo is entitled and obliged to ensure compliance with individual statutory protective norms or codes of conduct specific to the enterprise, including the right to participate in personnel discussions.

In case of breaches of individual protective statutes or internal codes of conduct for the enterprise, the WoCo is not usually entitled to its own claim to be heard which can be enforced in court, but to a duty of support and influence regarding compliance with internal standards within the enterprise.

The WoCo complaint in January 2020 affected both facts and circumstances relating to the duty of codetermination or cooperation as well as to the TI code of conduct. The special bonus payments and the retroactive salary increases are at least *prima facie* collective remuneration regulations requiring codetermination pursuant to Section 87(10), (11) Works Constitution Act. Ultimately, it could only be decided in proceedings before a labour court whether the explanations of [REDACTED] by way of justification for the payments without the involvement of the WoCo as not being subject to the obligation of codetermination or covered by the Balance of Interests are accurate. This assessment also applies to the accusation of discrimination against WoCo members in the lawyer's written pleadings in December 2018.

By contrast, in the case of individual complaints by employees, it is recommended that the facts and circumstances should be precisely stated, with reference to specific statutes or internal standards within the enterprise. The general accusation of "bullying" or "harassment" leaves too much discretion for the assessment what is specifically meant.

In case of disputes with [REDACTED] the WoCo should first use the internal channel for complaints, and should not shy away from the labour courts in case agreement cannot be reached. Permanently simmering conflicts can be clarified in this way.

In view of the appointment of a new MD and the dissolution of the SMT, **the Panel recommends** that the WoCo and the Interim MD reach amicable agreement on all issues stated in the letter of complaint in January 2020. This would be clear support for the fresh start desired by all sides in the relations with the enterprise.

5. Complaints by the Former Managing Director against the Board and the BEC

The former MD filed two official complaints in December 2019, one against the Board and one against the BEC, followed by another complaint against the Board in January 2020. Due to the pending negotiation between TI and the former MD, the Panel decided not to investigate the complaints.

6. Questions or Complaints against the Board of Directors or its Members Regarding their Response or Handling of any Matter Related to these Investigations

The Board's resolution of 22 August 2019 contains the following wording:

"The Board recognises and regrets that it has been unable to act as quickly as desired to ensure a full and proper response to those staff complaints about unethical practice of which it has been made aware."

What was the background?

After the AMM on 15 October 2017 in Berlin, the new Board was in a difficult position:

- Of twelve positions, eight Board members were newly elected, including the Chair and the Vice Chair. They were not only new in their positions but were also not involved in, and only partly familiar with, what had happened at TI-S in the tumultuous years 2015, 2016 and 2017.
- The eight new Board members, especially the Chair and the Vice Chair, had no role in the recruitment process of the new MD. In order to avoid further delays in recruitment, the process had been planned in a way that the outgoing Board recruited the new MD who started in the new position on 1 October.
- The boundaries of the roles of the MD and the Chair had become less distinct in 2015, 2016 and 2017. Due to the circumstances mentioned under 3.1. the former Chair of the Board more and more acted in areas which should be the realm of the MD. In the light of this, it was understandable and also necessary that the new Board, especially the Chair and the Vice Chair, insisted on having a clear division of roles, the new MD with the full responsibility for TI-S and the Board with a supervisory role.

In September 2018, the alarming results of a survey conducted by the WoCo came to the knowledge of the Board. Cooperation with the WoCo falls within the preserve of the MD. Consequently, the Board did not intervene but asked management to look into this further as a matter of urgency, and to report back.

In October, Transparency Ireland informed the Board and the BEC about alleged concerns relating to the governance and management of TI-S in 2018, and requested an independent investigation into the actions and behaviour of [REDACTED]. However, no formal complaint reached the Board or the BEC at the time. Therefore, the BEC rightly pointed out that, as long as there are no official complaints, there was no basis for formal actions of the BEC.

In November 2018, the BEC was contacted by two TI-S colleagues with their concerns about bullying, harassment in one case and discrimination, favouritism and the unethical work environment in the other. Due to fear of retaliation, there was a request for confidential treatment of this information. The BEC informed the two complainants about the correct procedures and, that for the BEC to process a complaint, it has to be formalised according to BEC procedures.

This means that at the end of 2018/beginning of 2019, the Board knew about the serious problems at TI-S. It was faced with the dilemma either to fully support [REDACTED] in the knowledge of the internal problems or to dismiss [REDACTED] already after less than one and a half years or at least weaken [REDACTED] by an independent investigation.

The Board decided to further support [REDACTED]. Taking into account the many personnel and organisational changes in the past, an open conflict with [REDACTED] or another change at the top of TI-S, probably combined with a long vacancy, would have involved the risk of worsening the situation. The first steps of the stabilisation process might have been derailed. The Board's decision is understandable. However, for those outside the Board who knew about the internal problems, especially for the staff members, it was difficult to understand.

The seriousness of the situation was underlined when, in January, the employee known as Case#1 reached out to the BEC with ethical complaints against [REDACTED] and requested utmost confidentiality for his/her complaint due to fear of retaliation, followed by the two more employees, Case#2 and Case#3, in April. The situation led again to discussions within the Board about an independent investigation. In its April meeting the Board decided to install an internal task force for an assessment of the transformation process and its issues. In the Board meeting in June, the Board decided to transform the Task Force into a Safeguarding and Wellbeing Support Group. An independent investigation was launched on 22 August after the Guardian had published its article.

With hindsight, it would have been better to have an independent investigation earlier and with a broader scope although, as described above, there were, from the sight of the Board, understandable reasons for not doing so.

7. Recommendations

1. TI-S has a new interim Managing Director. The SMT was abolished. The interim MD has proposed a new structure and is discussing it with the Works Council.

New complaints by employees regarding the last two years are not to be expected. TI-S must look ahead. All Board members and TI staff should fully support the new interim MD.

2. The cooperation with TW has come to an end. The Panel recommends no further investigations in matters investigated by TW.

As early as 6 April, the Panel recommended informing the complainants of the results of the TW report. Respective emails have been sent in the meantime.

The Panel also recommended informing interested donors of the results of the TW report, either by sending the whole report or a summary. The Panel understands that there are legal restrictions. However, the fact that five months after the delivery of the report there is no information on the content to the interested donors or the Chapters is difficult to understand. We recommend not to wait any longer, but to find a way to share the results of the report with the donors and the movement.

3. The full instalment of the new integrity system has highest priority.

A permanent integrity officer should be in place as soon as possible.

MD, WoCo, staff, the Board and all committees are bound by the new integrity system resolved by the Board in September 2019. It is important that all are aware of the three official channels for reporting - integrity officer, line manager and whistle-blower collection point. All stakeholders must follow these procedures.

The Panel emphasises that the integrity officer must have an independent position.

Conflicts/disputes/criticism between colleagues or colleagues and their line managers should normally not be classified and treated as bullying or harassment, and must be solved within TI-S.

Labour law issues must be solved within the procedures provided and are not questions for the integrity system.

There is an urgent need for more communication, transparency and professionalism. The Panel recommends coaching and training for TI-S in order to improve teamwork and cooperation between teams within TI-S.

The Panel does not see any further function for the Safeguarding and Wellbeing Support Group.

4. TI-S management as well as Board members must be familiar with the role, rights and duties of a Works Council. We propose a workshop with an independent professional experienced in workplace relations and labour law.

The partner of the Works Council is the MD and not the Board. However, the Works Council should have the chance to talk to the Chair of the Board, for instance twice a year, in the presence of the MD.

We propose having a representative of the Works Council as an observer in Board meetings, except as regards matters involving personnel decisions.

Attachment 1

BOARD RESOLUTION ON INDEPENDENT INVESTIGATION

Adopted 22-08-2019

1. The Transparency International Board of Directors is committed to reviewing any allegations related to bullying in the workplace or any other behavior which potentially violates TI ethical rules, principles and standards or constitutes a breach of the organisation's integrity system.
2. The Board reaffirms that misconduct at any level of the organisation cannot, and will not be tolerated.
3. The Board recognises and regrets that it has been unable to act as quickly as desired to ensure a full and proper response to those staff complaints of unethical practice of which it has been made aware; and promises a full account to stakeholders, subject to due process, regarding the handling of these matters.
4. The Board Ethics Committee is in charge of assessing complaints of ethical nature related to the Managing Director and/or a member of the Senior Management Team.
5. As part of its work the Board Ethics Committee has assessed two cases identified as Case #2 and Case #3 and has recommended the Board to conduct an independent, external investigation to clarify the facts and persons involved and to determine whether there has been ethical misconduct as alleged by the complainants.
6. Having received and discussed the Board Ethics Committee's recommendation,

THE INTERNATIONAL BOARD RESOLVES

1. To conduct an independent external investigation on alleged misbehavior at TI-S which might constitute a breach of rules, principles, and standards of ethical nature.
2. The Board Ethics Committee shall prepare the ToRs for the investigation, which shall be approved by the Board.
3. The Secretariat shall make available the resources to conduct such an investigation.
4. The investigation shall be concluded not later than the first week of October 2019 or as soon as reasonable thereafter.
5. The selection of investigator shall be made by the Board on the recommendation of the Board Ethics Committee after receiving advice from the Integrity Officer (including in respect of any suitably qualified candidates nominated by the BEC or other Board members)
6. The Board Ethics Committee is in charge of the oversight of the investigation.
7. The Integrity Officer shall collaborate with the Board Ethics Committee and the external investigator and will report exclusively to the Board Ethics Committee.
8. The Chair will inform the Managing Director and relevant members of the Senior Management Team that they are the subject of an investigation and require their full

cooperation with the investigation, including, to ensure trust in the investigation, ceasing involvement in all matters relating to the investigation and TIS' integrity infrastructure.

9. The investigator shall present a final detailed report to the BEC on the result of the investigation, including a complete description of the procedure, evidence, interviews, and findings.

10. After receiving the report, the BEC shall recommend to the Board the measures to adopt, including a form of the report appropriate for full and transparent accounting to the Members of the Movement and relevant stakeholders.

11. The Board Safeguarding and Wellbeing Support Group will continue to address all relevant issues regarding TI-S management structures, processes and policies relating to staff wellbeing and the broader working environment at TI-S, including:

- the planned wellbeing assessment (including independently conducted surveys of current and former staff);
- continued support to the Board, BEC and Integrity Officer in implementation of best-practice integrity infrastructure, including to ensure the independence of the Integrity Officer;
- finalization and implementation of replacement selection and appointment procedures for all staff including management positions/roles;
- direct consultation with all relevant stakeholders as the Support Group deems necessary;
- full progress reports to the Board and the Annual Membership Meeting.

Ends