

**Cour
Pénale
Internationale**

**International
Criminal
Court**

**Administrative Instruction
ICC/AI/2005/005**

Date: 14 July 2005

SEXUAL AND OTHER FORMS OF HARASSMENT

The Registrar, with the agreement of the Presidency and the Prosecutor, recognising the right of every person to be treated with dignity and respect and to be free from all forms of harassment in the workplace, in accordance with Staff Regulation 4.3 and Staff Rule 101.2, promulgates the following:

Section 1

Purpose

- 1.1 The International Criminal Court ("the Court") seeks to provide a professional and congenial work environment in which all staff members are treated with courtesy and respect.
- 1.2 The Court prohibits harassment of any kind and shall take all measures necessary to sustain a work environment upholding dignity and respect for all.
- 1.3 The Court is a multicultural workplace, and all staff members shall be expected to show tolerance, sensitivity and respect for diversity.

Section 2

Definitions

- 2.1 Harassment occurs when one or more individuals engage in unwelcome behaviour that reasonably has the effect of violating someone else's dignity or creating an intimidating, degrading, hostile, humiliating, or offensive work environment.
- 2.2 Sexual harassment is any unwelcome sexual advance, request for sexual favour or other verbal, non-verbal or physical conduct of a sexual nature, which interferes with work, alters or is made a condition of employment, or creates an intimidating, degrading, hostile, humiliating, or offensive work environment.

Section 3

Scope of Harassment

- 3.1 Harassment on any basis, in no particular order and including but not limited to race, gender, marital status, pregnancy or potential pregnancy, religion, nationality, ethnicity, colour, sexual orientation, disability, age, political belief or responsibilities as a caregiver, is unacceptable and shall result in appropriate action being taken against the harasser.
- 3.2 Harassment may take many forms, including but not limited to:
 - (a) Verbal conduct, such as epithets, derogatory comments, slurs, unwelcome advances or invitations, harassing phone calls and requests for sexual favours ;
 - (b) Visual conduct, such as derogatory or offensive posters, cartoons, bulletins or drawings, or e-mails;
 - (c) Physical conduct, such as assault, leering or lewd gestures or physical interference.
- 3.3 Harassing behaviour may be an isolated occurrence or may occur repeatedly. It need not be habitual in order to be subject to disciplinary action.
- 3.4 Harassment is not to be confused with the assessment of an individual's work performance made as part of regular evaluation and feedback procedures, such as the Performance Appraisal System. However, such feedback shall not be used as a means to demean an individual or as a form of retaliation for reporting harassing behaviour.
- 3.5 It is not the intention of the harasser which defines whether a particular type of conduct is harassment.
- 3.6 If an action not constituting harassment is nonetheless reasonably perceived as offensive or intimidating by another, whether intended or not, it shall be stopped.

- 3.7 Individuals have a responsibility to communicate clearly to their colleagues about behaviour which they find offensive and to listen to and respond to comments or requests about their own behaviour.

Section 4

Application of the Instruction

- 4.1 The present instruction shall apply to all current and former staff members of the Court.
- 4.2 Conduct prohibited by the present instruction shall be unacceptable in the workplace and in any work-related setting, as well as during work-related social functions, and shall result in appropriate action being taken against the harasser.
- 4.3 Special care shall be taken on Court missions, where the mission members may be brought together in situations resulting in closer personal contact. Staff members who feel harassed in a mission environment shall be encouraged to follow the grievance procedures outlined below.
- 4.4 Intimate relationships between supervisors and subordinates shall be discouraged, as they have the potential to give rise to complaints by one of the participants, or as they may lead to complaints of unequal treatment or favouritism by third parties.

Section 5

Implementation

- 5.1 The present instruction shall be made available to all staff members. It shall also be made available to individuals affiliated with or having a contractual relationship with the Court, such as independent contractors, gratis personnel, interns, consultants, interpreters, and experts on mission ("other personnel").
- 5.2 All staff members shall be trained on issues related to harassment, including sexual harassment, to increase awareness of these issues and to promote a work environment that is free from harassment of any kind. Training programs shall also be made available for new staff members.

Section 6

Complaints

- 6.1 Staff members shall have reasonable grounds before making a complaint of harassment.

- 6.2 Complaints of harassment may also be made by other personnel, as defined in Article 5.1.
- 6.3 An individual who believes that he or she has been or is being harassed shall be encouraged to keep a written record of relevant events as soon as possible.
- 6.4 All complaints, either formal or informal, shall be kept confidential.
- 6.5 The Court shall not retaliate against any individual who makes a complaint of harassment, nor shall it permit any staff member to act in a retaliatory manner.
- 6.6 As to current staff members, a complaint alleging harassing conduct shall be submitted within six (6) months of the first instance of the alleged conduct. With regard to former staff members, a complaint alleging harassing conduct shall be submitted within ninety (90) days following the end of their employment with the Court, providing that the first instance of alleged harassing conduct occurred no more than ninety (90) days prior to the staff member's departure. The alleged harasser must currently be a staff member of the Court.

Section 7

Grievance Procedures

- 7.1 An individual wishing to file a formal complaint may do so by contacting either the Registrar or the Prosecutor to commence disciplinary proceedings.
- 7.2 Those individuals who may not wish to approach either of the above directly may confide in a third party, who shall in turn file a formal complaint with either the Registrar or the Prosecutor on the staff member's behalf. Third parties may include the following individuals:
 - (a) A manager or supervisor;
 - (b) The Staff Counsellor;
 - (c) A fellow staff member;
 - (d) A representative of the Human Resources Section;
 - (e) The Court's Medical Officer; or
 - (f) A member of the Staff Representative Body.
- 7.3 In accordance with Chapter X of the Staff Rules, the Registrar or Prosecutor shall transmit the complaint to the Disciplinary Advisory Board, which shall advise the Registrar or the Prosecutor as to whether harassing behaviour has taken place and recommend what, if any, measures should be taken.
- 7.4 Proven cases of harassment may be subject to disciplinary measures as set forth in Staff Rule 110.6.
- 7.5 If the alleged conduct is not found by the Registrar or Prosecutor, upon the recommendation of the Disciplinary Advisory Board, to constitute harassment, the case shall be closed.

- 7.6 If the complaint is found, by the Registrar or Prosecutor, upon the recommendation of the Disciplinary Advisory Board, to be base-less or malicious, the complainant may be subject to disciplinary action.
- 7.7 The final decision of the Registrar or Prosecutor shall be communicated to both the complainant and the alleged harasser.
- 7.8 The above-mentioned procedures shall not preclude an individual from seeking informal resolution of the situation through dialogue with the alleged harasser and a third party, such as those individuals set forth in Article 7.2.

Section 8

Final Provisions

- 8.1 This Administrative Instruction shall enter into force on the 14th day of July, 2005.

Bruno Cathala
Registrar

