

## NATO UNCLASSIFIED

10 September 2003

**OFFICE NOTICE**  
ON(2003)48-REV1

### PROTECTION AGAINST DISCRIMINATION AND HARASSMENT AT WORK

#### Note by ASG Executive Management

The Headquarters Management Board and Secretary General have reviewed and approved the document prepared by the Joint Working Group on Equal Opportunities entitled *Protection against Discrimination and Harassment at Work*. This policy shall apply to international civilian personnel of the IS and IMS.

The full text is attached to this Office Notice and is available in French and English at the Intranet Website: <http://web10/eoo/index.htm>. I encourage all staff to familiarise themselves with this document.

#### Background and Summary

Acting since 2001, with the full backing of the Secretary General, a Joint Working Group composed of management and Staff Association personnel was instrumental in obtaining a change to the Civilian Personnel Regulations (CPR). Accordingly, a new CPR article (12.14) states that "members of the staff shall treat their colleagues and others, with whom they come into contact in the course of their duties, with respect and courtesy at all times. They shall not discriminate against them on the grounds of sex, race or ethnic origin, religion or belief, disability, age or sexual orientation."

The policy underlines that in our multicultural environment every person must be aware of and respect the sensitivities of others. It also clarifies how some of its articles apply in situations of interpersonal conflict.

Some other basic principles underpin the text:

- Emphasis on prevention. The administration will show vigilance in avoiding conditions where difficulties may arise.
- Early treatment and assistance. Staff members are encouraged to take action rapidly in case of difficulty, and can expect help from a variety of people.
- Colleagues will be trained to act as advisers and mediators, in addition to the trained staff in Human Resources.

Conciliation and mediation should be attempted in earnest before a formal complaint is lodged.

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**Next Steps**

The policy makes it possible to define the standards of conduct which are expected from staff members, and the preventive measures which may be taken under the authority of the Secretary General. Violations such as discrimination, harassment, intimidation, bullying or abuse of authority will be considered infringements of the Civilian Personnel Regulations, and will lead to disciplinary measures.

The EM Division will conduct appropriate follow-up, including distribution of an explanatory brochure, contracting consultants for staff training and appointing Prevention and Mediation Panel members. Special training in combating discrimination and harassment at work will be organised for an appropriate number of staff members, giving priority to the members of the Prevention and Mediation Panel.

IS members who participated in the project have produced a document which will be a useful tool for staff and managers in the years ahead, as we strive to build a more diverse, welcoming and productive work environment at NATO HQ.

If you have any questions or comments, please feel free to contact Mirjam Smets-Achten of EM Division, Human Resource Management/Personnel Support and her team.

(Signed) Juan M. ESPARZA

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Partners

JOINT WORKING GROUP ON EQUAL OPPORTUNITIES

PROTECTION AGAINST DISCRIMINATION AND HARASSMENT  
AT WORK

CHAPTER I  
POLICY AND DEFINITIONS

Article 1 – OBJECTIVE

Article 12.14 of the Civilian Personnel Regulations provides that "members of the staff shall treat their colleagues and others, with whom they come into contact in the course of their duties, with respect and courtesy at all times. They shall not discriminate against them on the grounds of sex, race or ethnic origin, religion or belief, disability, age or sexual orientation."

Article 2 – STATEMENT OF THE POLICY

2.1 All staff members must be treated fairly in the workplace, in an environment free of discrimination or harassment. They bear responsibility for making this policy effective.

2.2 No forms of discrimination or harassment at work will be tolerated.

2.3. In a multicultural environment every person must be aware of and respect the sensitivities of others

2.4 Staff members at all levels should understand the importance for NATO, as an Organization, of creating and maintaining a positive working environment. They must be encouraged to observe high standards of professional and private conduct, including courteous and respectful behaviour towards their colleagues.

2.5 The present policy should make it possible to define the standards of conduct which are thus expected from staff members, and the preventive measures which may be taken under the authority of the Secretary General. Violations such as the acts defined in Article 4 will be considered infringements of the Civilian Personnel Regulations, and will lead to disciplinary measures.

2.6 Special training in combating discrimination and harassment at work will be organized for an appropriate number of staff members, giving priority to the members of the Prevention and Mediation Panel (article 6.2.2).

### **Article 3 – APPLICABILITY**

3.1 This policy shall apply to international civilian personnel of the IS and IMS.

3.2 Should an external contractor or a member of a NATO delegation or of a military headquarters, to whom the Civilian Personnel Regulations do not apply, be directly involved in harassment or discrimination, the case will be settled according to the principles laid down in this policy, and in consultation with the other employer.

### **Article 4 – DEFINITIONS**

There is not and there cannot be one single definition for all forms of abusive behaviour, since they take on many and varied forms. However, for the purposes of the present policy, the following definitions will serve as a guideline:

#### **4.1 Harassment**

Visual, verbal, non-verbal or physical conduct that has the purpose or effect of unreasonably interfering with an individual's working performance or which creates an intimidating, hostile or offensive work environment, or causes personal humiliation or embarrassment to a staff member.

##### **4.1.1 Sexual harassment**

Any unwelcome sexual advance, request for sexual favours or other unwelcome verbal, non-verbal or physical conduct of a sexual nature, especially when in connection with employment or promotion.

##### **4.1.2 Intimidation, bullying or abuse of authority**

Behaviour of an individual who improperly uses the power and/or authority inherent in his or her position to endanger a staff member's job, undermine the performance of that job, threaten the economic livelihood of the staff member, or in any way interfere with or influence the career of the staff member.

4.2 Discrimination

Any action arising from unwarranted distinctions or prejudices, as defined in article 1, which has the purpose or effect of treating individuals or groups unfairly or unjustly.

**Article 5 – PREVENTION**

5.1 The Administration will determine what preventive measures are taken to protect staff members against discrimination and harassment at work. These measures shall include activities to inform staff and make them aware.

5.2 The Prevention Adviser, the Welfare Assistant and the Medical Adviser will help to organize these activities.

## CHAPTER II PROCEDURES FOR REPORTING AND INVESTIGATING COMPLAINTS

### Article 6 – INVOLVED PARTIES

#### 6.1 Directly involved parties

##### 6.1.1 The complainant

The staff member who feels that he or she has been discriminated against or harassed in violation of this policy.

##### 6.1.2 The alleged offender

The individual accused by the complainant of having committed an act of discrimination or harassment.

#### 6.2 Other parties

##### 6.2.1 The Prevention Adviser

A qualified staff member, normally an official belonging to the Human Resources Management Directorate, who is in charge of implementing and monitoring the policy and who takes part in the development of preventive measures. He or she chairs the Prevention and Mediation Panel. An official nominated by the Director of the International Military Staff (DIMS) will act as Prevention Adviser in the case an IMS staff is involved for the role specified in paragraphs 9.2 and 9.3, alinea, and paragraph 10.6.

##### 6.2.2 The Prevention and Mediation Panel

A body set up at NATO Headquarters to recommend measures for protection against discrimination and harassment. Besides the Prevention Adviser, the Panel comprises up to six staff members appointed by the Secretary General for a three-year renewable period. At least one of these members will be appointed by the Director, International Military Staff. Each of these can be chosen as a mediator under article 10.2. The Staff Association may nominate members. The members of the Prevention and Mediation Panel will receive appropriate training.

## Article 7 – RIGHTS AND RESPONSIBILITIES

7.1 The complainant

7.1.1 The complainant has the right to:

- put forward a complaint without fear of embarrassment or reprisals;
- be accompanied by a colleague of his/her choice throughout all stages of the procedure;
- benefit if necessary from a fair and impartial investigation;
- be informed of the outcome of the investigation and the measures that will be taken.

7.1.2 He/she is responsible for:

- making known his/her disapproval or unease about a person's actions or behaviour within a reasonable time;
- if necessary seeking advice and/or guidance (see paragraph 9.2) on the best course of action;
- co-operating with those responsible for investigating his/her complaint.

7.2 The alleged offender

7.2.1 The alleged offender has the right to:

- be informed that a complaint has been made or that a formal complaint has been filed against him/her;
- be provided with a written statement of the formal complaint and have an opportunity to respond;
- be accompanied by a colleague of his/her choice throughout the procedure;
- benefit from a fair and impartial investigation;
- be informed of the outcome of the investigation and the measures that will be taken.

7.2.2 He/she is responsible for:

- if necessary seeking advice and/or guidance from appropriate persons;
- co-operating with those responsible for investigating the complaint.

7.3 The Administration

7.3.1 The Administration is responsible for ensuring that there is a positive working environment. The Administration shall enforce the present policy within the framework of the Civilian Personnel Regulations.

7.3.2. To guarantee that the policy is not diverted from its stated purpose, the Administration will, upon proposal of the line management or at its own initiative, close without action, after a preliminary investigation, any case found to be manifestly frivolous, unless a formal complaint has been filed in accordance with article 61 of the Civilian Personnel Regulations

7.4 Line management

7.4.1 All persons with supervisory rôles are responsible for taking all reasonable steps to ensure that the policy is adhered to.

7.4.2 Provided that they are not directly involved, line management supervisors should examine and put an end to any cases of discrimination or harassment that they become aware of, whether or not a complaint has been made. They shall ensure that any complaints are dealt with promptly, consistently and fairly.

## Article 8 – PRINCIPLES GOVERNING PROCEDURES

8.1 Complaints of alleged violations of the present policy shall be handled as discreetly as possible by all concerned and investigated speedily, fairly and thoroughly. Any staff member found responsible for discrimination or harassment shall be subject to appropriate disciplinary action.

8.2 When the alleged offender is the supervisor of the complainant, they should if possible be kept physically and hierarchically separate during the investigation, in the interests of all parties.

8.3 It is recommended that the complainant go through the informal procedure (described in article 9 on conciliation and article 10 on mediation) before filing an official complaint (as in article 11).



## Article 9 – CONCILIATION

9.1 Any staff member who feels that he or she has been discriminated against or harassed in violation of this policy is encouraged to take action promptly to resolve the problem at an early stage and, where possible, to inform the alleged offender directly, firmly and promptly that his or her behaviour is unwelcome.

9.2 However, if the staff member finds it too difficult to do this himself/herself and needs guidance and help from another person, he/she may choose to discuss his/her concerns with:

- a trusted colleague;
- his/her supervisor;
- a qualified staff representative;
- the Prevention Adviser who, after establishing whether there is a prima facie case, may direct the staff member to one of the following:
  - the Medical Adviser;
  - the Welfare Assistant;
  - a senior member of Personnel Services or the Head of Social Services;
  - a member of the Prevention and Mediation Panel.

The above persons will assist, listen to and guide the staff member who has approached them throughout the procedure. They will provide confidential advice and/or guidance on possible courses of action towards the person whose behaviour is alleged as offensive, with the aim of solving the case amicably.

9.3 The alleged offender is equally entitled to guidance and assistance, in the same conditions as the complainant, from :

- a trusted colleague;
- his/her supervisor;
- a qualified staff representative;
- the Prevention Adviser;
- the Medical Adviser;
- the Welfare Assistant;

- a senior member of Personnel Services or the Head of Social Services;
- a member of the Prevention and Mediation Panel.

## **Article 10 – MEDIATION**

10.1 Either party has the right to request or refuse mediation. Refusal of mediation does not give the right to refuse formal investigation.

10.2 If mediation is requested, one of the members of the Prevention and Mediation Panel shall act as mediator for the case in question, as provided for in article 6.2.2.

10.3 A mediator can be challenged by one or other of the parties, in which case the latter must both agree on the choice of another member of the Prevention and Mediation Panel.

10.4 The mediator shall conduct a preliminary investigation to confirm that there is prima facie evidence substantiating the allegations and, if so, shall seek a settlement.

10.5 A solution proposed by the mediator is only valid if both parties agree to it and sign a document of mediation. The complainant and/or the alleged offender may at any time ask for the mediation procedure to be stopped. Either party may then request an investigation, which shall be conducted by the mediator.

10.6 The mediator shall draw up a written report with the help of the Prevention Adviser. This report, which may include a document of mediation, shall be addressed to the parties.

10.7 During mediation, the complainant and the alleged offender each have the right to be accompanied and assisted by a trusted colleague of their choice.

## **Article 11 – FORMAL PROCEDURE**

11.1 If the parties are unable or unwilling to settle their differences by conciliation or mediation, the complainant may submit a complaint as laid down in Article 61 of the Civilian Personnel Regulations.

11.2 The complaint shall be dealt with according to the procedure established in Annex IX to the Civilian Personnel Regulations, taking into consideration articles 11.3 to 11.7 below.

11.3 The members of the Complaints Committee, appointed by the Secretary General/ Director of the International Military Staff as appropriate, from among staff

members, should have followed special training, provided by the Organization, in protection against discrimination and harassment.

11.4 To facilitate the investigation of the facts, the written complaint shall in particular indicate:

- (a) the type of discrimination and/or harassment, giving concrete examples attesting to the frequency of the events;
- (b) the date(s), time(s) and place(s) of the occurrence(s);
- (c) the identity of the alleged offender(s);
- (d) evidence, including the name(s) of any witness(es).

11.5 Where the Complaints Committee is involved, its members shall arrive at their decisions freely and independently and shall respect the confidential nature of their work.

11.6 If at any time the Complaints Committee feels that the case can be settled through conciliation, and if the parties are willing to accept such a settlement, the case can be decided in this way. In this event the Chairperson shall prepare a report which, to be valid, must be signed by all the members of the Committee and by the parties.

11.7 If it is manifest that the complaint has been made in bad faith, the Complaints Committee may terminate the proceedings by unanimous consent at any time and make a report to the Secretary General/ Director of the International Military Staff as appropriate, recommending disciplinary measures against the complainant if appropriate.

## Article 12 – DISCIPLINARY ACTION

12.1 Any staff member found responsible for discrimination or harassment as defined in article 4 will be subject to appropriate disciplinary action under Chapter XIII of the Civilian Personnel Regulations.

12.2 Any staff member using retaliatory or repressive measures against a person who reports discrimination or harassment, who assists in an investigation or who is wrongfully accused of discrimination or harassment will be subject to appropriate disciplinary action, in accordance with Chapter XIII of the Civilian Personnel Regulations.

12.3 Anyone who abuses these procedures or makes complaints out of malice or in bad faith will be subject to appropriate disciplinary action, in accordance with Chapter XIII of the Civilian Personnel Regulations.

## Article 13 – MONITORING

13.1 The Prevention Adviser will keep a record of the number of mediations and of complaints lodged, the nature of these complaints, the outcome of reviews and investigations and the type of corrective measures taken.

13.2 The Prevention Adviser will report to the Administration on the number, if any, of ongoing unresolved cases as well as of new cases filed during the year.