

**Cour
Pénale
Internationale**

**International
Criminal
Court**

**Administrative Instruction
ICC/AI/2005/006**

Date: 14 July 2005

EQUAL EMPLOYMENT OPPORTUNITY AND TREATMENT

The Registrar, with the agreement of the Presidency and the Prosecutor, recognising the value of diversity in the workforce and seeking to sustain a work environment upholding dignity and respect for all, in accordance with Staff Regulations 1.2(a) and (b) and 4.3, and Staff Rules 101.2 and 104.18, promulgates the following:

Section 1

Purpose

- 1.1 The International Criminal Court ("the Court"), in accordance with its obligations pursuant to the Rome Statute, the Staff Regulations and Rules, and the relevant resolutions of the Assembly of States Parties ("the ASP"), recruits, hires, transfers, trains and compensates its staff members on the basis of merit and without regard for characteristics such as race, marital status, pregnancy or potential pregnancy, religion, ethnicity, colour, sexual orientation, disability, political belief or responsibilities as a caregiver.

Section 2

Definitions and Limitations

- 2.1 Discrimination refers to the act of treating an individual less favourably because he or she has a particular characteristic or belongs to a particular group.

2.2 Discrimination may be intentional or inadvertent.

2.3 Discrimination may take either one of two forms:

- (a) Direct discrimination occurs when, without justification, an individual with a particular characteristic, association, or ideology is treated less favourably than others without such a characteristic, association or ideology in the same or similar circumstances.
- (b) Indirect discrimination occurs when an individual with a particular characteristic, association, or ideology is expected to comply with a condition or requirement with which he or she cannot comply. The imposition of the condition or requirement is discriminatory unless it can be proven that the condition or requirement is reasonable or necessary.

2.4 Discrimination 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 procedures shall not be used as a means to demean an individual or as a form of retaliation for reporting discriminatory conduct.

Section 3

Application of the Instruction

- 3.1 The present instruction shall apply to all aspects of employment, from recruitment and hiring, to general treatment at work and termination.
- 3.2 The present instruction shall apply to all current and former staff members of the Court.

Section 4

Implementation

- 4.1 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").
- 4.2 Opportunities for employment, transfer and training shall be advertised widely, and all candidates shall be considered without regard to characteristics such as race, marital status, pregnancy or potential pregnancy, religion, ethnicity, colour, sexual orientation, disability, political belief or responsibilities as a caregiver. Subject to the requirements of the Rome Statute, the Staff Regulations and Rules, and the relevant resolutions of the ASP, selection criteria shall be exclusively related to the qualifications for the job opportunity.
- 4.3 With respect to announcements of available posts and subject to the requirements of the Rome Statute, the Staff Regulations and Rules, and the relevant resolutions of the ASP, personal and

- 4.4 job specifications shall be limited to those requirements which are necessary for the effective performance of the job. Interviews shall be conducted on an objective basis, and job applicants shall not be asked about personal considerations unrelated to the requirements of the post. Personal commitments shall not form the basis of employment decisions, except where absolutely necessary.
- 4.5 Job applicants shall not be asked about the existence, nature, or severity of a disability, however applicants may be asked about their ability to perform specific job functions. Offers of employment shall be subject to medical clearance pursuant to Staff Rules 104.1(c)(i) and 104.13.

Section 5

Complaints

- 5.1 Staff members shall have reasonable grounds before making a complaint of discrimination.
- 5.2 Complaints of discrimination may also be made by other personnel, as defined in Article 4.1.
- 5.3 All complaints shall be kept confidential.
- 5.4 The Court shall not retaliate against any individual who makes a complaint of discriminatory conduct, nor shall it permit any staff member to act in a retaliatory manner.
- 5.5 As to current staff members, a complaint alleging discriminatory conduct shall be submitted within six (6) months of the asserted conduct. With regard to former staff members, a complaint alleging discriminatory conduct shall be submitted within ninety (90) days following the end of their employment with the Court, providing that the discriminatory conduct occurred no more than ninety (90) days prior to the staff member's departure. The individual alleged to have engaged in discriminatory conduct must currently be a staff member of the Court.

Section 6

Grievance Procedures

- 6.1 An individual wishing to file a formal complaint may do so by contacting either the Registrar or the Prosecutor to commence disciplinary proceedings.

- 6.2 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.
- 6.3 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 Prosecutor as to whether discriminatory behaviour has taken place and recommend what, if any, measures should be taken.
- 6.4 Proven cases of discriminatory conduct may be subject to disciplinary measures as set forth in Staff Rule 110.6.
- 6.5 If the alleged conduct is not found by the Registrar or Prosecutor, upon the recommendation of the Disciplinary Advisory Board, to constitute discrimination, the case shall be closed.
- 6.6 The final decision of the Registrar or Prosecutor shall be communicated to the complainant, as well as to the individual found to have engaged in discriminatory conduct.

Section 7

Final Provisions

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

Bruno Cathala
Registrar

