

Protocol for dealing with, preventing and eradicating **WORKPLACE HARASSMENT** at IFAE

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**Institut de Física
d'Altes Energies**



CONTENTS

1. INTRODUCTION	2
2. OBJECTIVES.....	2
3. SCOPE OF APPLICATION	2
4. CONTENT	3
4.1. BEHAVIOUR CONSTITUTING HARASSMENT	3
4.1.1. Overview.....	3
4.1.2. Psychological harassment	3
4.1.3. Sexual harassment	4
4.1.4. Harassment because of gender or sexual orientation	4
4.1.5. Other discriminations.....	4
4.2. BEHAVIOUR NOT CONSIDERED HARASSMENT.....	5
4.3. PREVENTIVE MEASURES	5
4.4. PROCEDURES	6
4.4.1. Informal procedure	7
4.4.2. Formal procedure.....	8
4.4.3. Actions following the Report.....	8
4.5. ANNUAL REPORT	9
5. ADDITIONAL INFORMATION.....	9
6. ANNEXES.....	11
6.1. ANNEX 1: REQUEST OF INTERVENTION.....	11
6.2. ANNEX 2: AUTHORISATION TO INVESTIGATE POSSIBLE HARASSING BEHAVIOURS	12

1. INTRODUCTION

In the course of our work, we constantly have to interact with other employees. These relationships can be positive for the individual but they may also sometimes involve improper conduct, which can be a source of conflict and may constitute a significant risk for health and safety.

One of the main objectives of the Spanish Law on the prevention of work-related risks¹ is to preserve and protect the health of employees in the working environment. This protection is not only necessary regarding physical risks but also in the case of risks that may harm employees psychologically.

In view of this employee right, IFAE will regulate, by means of this protocol, the problem of harassment in the workplace, establishing methods to prevent it and deal with any cases that may arise, with all appropriate guarantees and taking current legislation into account.

2. OBJECTIVES

The general purpose of this protocol is to compile basic recommendations to prevent harassment situations of any kind and establish procedures to deal with it if it is suspected, and to overall eradicate any inappropriate type of conduct at IFAE.

The specific objectives are:

- To promote a good working atmosphere, based on mutual respect and good relations in the workplace, through compliance with guidelines for good working practices.
- To ensure that these good practices form part of the organization's values and culture.
- To give a clear, concise definition of conduct that will be considered as harassment in the workplace.
- To promote and implement quick, flexible procedures for reporting and investigating such conduct, respecting the rights of all parties involved and guaranteeing the confidentiality of information provided (as required by personal data protection legislation²).
- To implement a culture of prevention at all levels of the organization.

3. SCOPE OF APPLICATION

The protocol is applicable to all IFAE personnel, irrespective of the type of work they are doing and their position in the hierarchy.

¹ Spanish Law 31/1995, de prevención de riesgos laborales.

² Spanish Organic Law 15/1999, de protección de datos de carácter personal, and Catalan Law 5/2002 de l'Agència Catalana de Protecció de Dades.

It is also applicable to external companies and partners under the obligations established for the coordination of business activities by Article 24 of the Spanish Law on the prevention of work-related risks.

Under the provisions of the Law, when a case of harassment is detected which involves personnel from IFAE and the personnel of a company contracted externally or a customer of IFAE, IFAE will inform the company of the existence of the protocol and mechanisms for coordination between the companies will be applied. There will, therefore, be reciprocal communication regarding the case, so that each party can apply the relevant procedure and take the corrective action considered appropriate.

4. CONTENT

4.1. BEHAVIOUR CONSTITUTING HARASSMENT

4.1.1. Overview

Harassment is any unwanted behaviour related to an individual's racial or ethnic origins, religion or convictions, disability, birth, age, sex or sexual identity or orientation, or any other personal or social condition or circumstance of a person, intended as or resulting in an attack on his/her dignity and creating a situation which is intimidating, humiliating or offensive.

Harassment may occur at every level of the organizational hierarchy. Persons in a position of authority may harass subordinates, or employees may harass persons above them in the hierarchy. Harassment can also happen horizontally, among colleagues at the same level in the hierarchy.

4.1.2. Psychological harassment

Psychological harassment is an intense, reiterated and prolonged psychological abuse, directed at one or more individuals by others acting from a position of power, although not necessarily hierarchical, intended to create, or resulting in, an intimidating situation that disrupts the working life of the victim. This abuse, in the context of a working relationship, is not necessary for the organization of work and implies both an attack on the dignity of the person and a risk for his/her health.

In summary, the most characteristic features of psychological harassment at work are the following:

- **There are two sides:** The perpetrator behaves in a hostile, dominant or degrading manner, while the victim is in a position of weakness.
- **Asymmetry:** There must be an imbalance of forces, possibly because the victim cannot defend himself/herself or escape: this can be, for example, due to the social reasons (position in the hierarchy, professional status), economic factors (material dependence, job security), or possibly for reasons that are physical (age, strength or stamina) or psychological (the victim's self-esteem, the perpetrator's charisma).

- **Intentional behaviour:** The behaviour must be deliberate and clearly intended to hurt the victim by discrediting, discriminating against, offending, humiliating, intimidating or embarrassing them.
- **Objective:** The basic aim of psychological harassment is to free oneself from another person because he/she makes one feel uncomfortable, for personal or other reasons.
- **Frequency and duration:** This behaviour must be in principle systematic and prolonged, although one or a few serious incidents leading to obvious harm constitute harassment.
- **Target:** The behaviour must clearly target and focus on an individual or a small group.

Normally, in the early stages the harassment of the victim is secret, hidden or subtle. Examples of behaviour constituting psychological harassment in the workplace are attacks on the victim through organizational measures or attacks on his/her social relationships: isolating the victim, attacking the victim's private life or attitudes, vexatious verbal aggression or rumours, lack of dialogue or communication because the abuser has no intention of resolving issues, etc.

4.1.3. Sexual harassment

Sexual harassment is a series of incidents involving unwanted verbal, non-verbal and/or physical behaviour of a sexual nature, or a single incident that, because of its highly offensive, intimidating, hostile, humiliating, degrading or of criminal nature, may constitute a case of sexual harassment in itself.

It is a form of abuse that is exercised from a perception or sensation of psychological or physical power over the person harassed. It can occur in any type of relationship between people (in education, at work, at home, etc.) and there need not be any hierarchical superiority.

4.1.4. Harassment because of gender or sexual orientation

This is undesired behaviour related to a person's gender or sexual orientation affecting promotion in the workplace or access to employment or training, which, intentionally or otherwise, has the effect of an assault on the dignity of the individual and creates an environment that is intimidating, hostile, degrading, humiliating or offensive.

4.1.5. Other discriminations

This protocol can also be used as a framework for dealing with situations where there is discrimination for other reasons.

4.2. BEHAVIOUR NOT CONSIDERED HARASSMENT

The following situations would not be considered as harassment, although they could, if they became abusive, lead to a situation of harassment (with the exception of "situations affecting a group occurring for organizational reasons").

- **An isolated event:** A one-off argument, reprimand or bad mood, or a change of job or work centre (among other cases) which is justified but where there has been no prior consultation.
- **Situations affecting a group which occur for organizational reasons,** even if they are not justified and there has been no prior consultation: not being paid a productivity bonus, reduction in salary, changes in the work timetable or reduction of overtime.
- **Legitimate pressure** exerted by a senior member of staff to make a subordinate work harder or more efficiently. This is different from psychological harassment, in which case the perpetrator's motives for exerting pressure are malevolent and, indeed, the real intention is to make the victim's work suffer so that he/she can subsequently be criticized.
- **Argument** between two or more people, however violent. It must be borne in mind that there are two sides involved in an argument, which one or the other may win, but there is no initial imbalance of power. In cases of harassment, there is no argument because the harasser does not want to resolve the problem and is trying to prevent or impede communication.
- Continued **exposure** to negative working conditions inherent in the task. These may be physical (handling of excessively heavy weights), health-related (inhalation of contaminants), ergonomic (standing all day), psycho-social (tasks beyond the person's capabilities), organizational (working too fast, insufficient work load due to poor organization) or social (low wages).
- Frequent **constructive criticism** or work-related assessments, provided they are made clear and are not intended to be repressive.
- **Supervising and monitoring** work, provided it does not affect the worker's dignity.

4.3. PREVENTIVE MEASURES

Preventing such situations requires measures across a range of areas designed to stop conflict from arising in the first place:

- Dissemination of the protocol:
 - Include a reference to the protocol in the staff welcome package.
 - Distribute it to all staff and make it available in the repository of IFAE documents.
 - Make available in the repository the useful documents listed in Section 5.
 - Present the new document to the institute in a seminar.

- Development of awareness-raising strategies.
 - Distribute information using the internet and other media.
 - Advertise the possibility of consulting and seeking advice in a confidential manner from IFAE's Ombudsperson³.
- Formation both for all IFAE members and for people expected to deal with the requests.
- Co-responsibility of all IFAE members in preventing, detecting and reporting possible harassment.
- Do not allow the following behaviours in the workplace:
 - Comments on colleagues' personal life, appearance or sexual orientation, constant criticism, mimicking, etc.
 - Sharing pictures, drawings and photographs containing explicit sexual content.
 - Telephone calls, messages and e-mails of a sexual nature.
 - Verbal attacks (shouting, insults, threats, offensive put-downs, etc.)
 - Physical attacks, deliberate physical contact, excessive and unnecessary invasions of personal space, etc.
 - Attacks directed at a colleague's religious or political beliefs, nationality, race, sexual orientation, disability, etc.
 - Any behaviour based on or leading to discrimination, abuse, loss of dignity or humiliation.

4.4. PROCEDURES

When an employee feels he or she is being harassed in any way, or suspects a colleague is being harassed, the following procedures will be followed. This will not affect any civil or legal proceedings instigated by the victim at the same time or later.

The process is triggered by a request of intervention submitted in writing and duly logged (see the request of intervention model in Annex 1), addressed to IFAE's Ombudsperson or to the person appointed by Chair of IFAE's Safety and Health Committee for this purpose (henceforth, the Risk Prevention Officer)⁴.

- The request may be submitted by the person affected, a colleague, the Safety and Health Committee or at the request of the competent authorities.

³ IFAE will implement the figure of Ombudsperson. In the meantime, that role will be assumed by the Chair of the Safety and Health Committee.

⁴ These two contact people will be identified in the Request of intervention form.

- The affected person has to sign a document to authorise the investigation (see the authorisation to investigate possible harassing behaviours form in Annex 2). If the request is not submitted directly by the person affected, his/her express and informed consent must be sought by the Risk Prevention Officer or Ombudsperson in the form of the signed authorisation (see model in Annex 2).
- If the person does not consent to the case being investigated, the procedure will not be initiated. The Ombudsperson will inform the Risk Prevention Officer, if needed. The Risk Prevention Officer will only carry out any psychosocial measures that are considered necessary and will implement any corrective measures deemed appropriate as a consequence. No further steps will be taken.

If both documents are available, whoever receives the request (henceforth, the Reporter), whether the Risk Prevention Officer or IFAE's Ombudsperson, will immediately send a written notification of the case to the Director of IFAE and to the Chair of the Safety and Health Committee.

At the end of the full investigation process triggered by the request, the Reporter will write a Report stating its conclusions. The Report must be issued within 30 days of receipt of the request to investigate. The report will be delivered to the Director of IFAE, the Chair of the Safety and Health Committee and the Risk Prevention Officer (when the Reporter is IFAE's Ombudsperson) or IFAE's Ombudsperson (when the Reporter is the Risk Prevention Officer).

The whole process will be carried out under the principle of confidentiality.

A Committee will be created ad hoc for this process. The Committee will be formed by the Reporter and by either a person appointed by the Director of IFAE (when the Reporter is the Risk Prevention Officer) or by the Chair of the Safety and Health Committee (when the Reporter is IFAE's Ombudsperson).

The ad hoc Committee will meet with the complainant. This meeting may have the following outcomes:

- It will be decided that no harassment has taken place (as defined in point 4.2). The Reporter will write the Report stating its conclusions and inform the complainant.
- It will be agreed that this may be a case of workplace harassment. The ad hoc Committee would then meet with the other party. This meeting may have the following outcomes:
 - It will be decided that no harassment has taken place (as defined in point 4.2). The Reporter will write the Report stating its conclusions and inform both parties.
 - It will be agreed that this may be a case of workplace harassment. The parties will initially try to resolve the issue through an informal procedure (Section 4.4.1). If this is not possible, formal procedures will then be applied (Section 4.4.2).

4.4.1. Informal procedure

The aim is to find a solution through dialogue and negotiation (the ad hoc Committee must be present) between the parties or through a mediator. The mediator must be accepted by both parties

and will objectively observe the situation, formulate solutions and check that the problem has been resolved.

If an agreement is reached, the measures taken as a result of this procedure must be implemented within 15 days. The Reporter will write the Report stating its conclusions.

If there is no agreement between the parties, the process will move to a formal procedure.

4.4.2. Formal procedure

The formal procedure will be followed, in accordance with the following guidelines:

- The ad hoc Committee will carry out an investigation, where both parties will be heard.
- If considered appropriate, the ad hoc Committee may propose external mediation to the parties at any point in the investigation.
- If there are indications of serious interpersonal conflicts during the investigation, precautionary measures will be considered, such as relocating one of the parties while the investigation is ongoing.

At the end of this procedure, the Reporter will write the Report stating the conclusions reached by the ad hoc Committee. The Reporter will also inform both parties.

4.4.3. Actions following the Report

The following actions may result from the Report:

- If the conclusion is that harassment has occurred and has been damaging to the physical or psychological health of the victim, the case is referred to the Social Security to treat the physical or psychological injuries. IFAE will treat the case as a work accident.
- If the Report finds that there is evidence of harassment, the Director of IFAE will consider the information available and may opt to:
 - Immediately initiate the procedure to use sanctions or reprimand in accordance with the rules on sanctions established in the collective bargaining agreement applicable to IFAE⁵.
 - Set up an investigative committee to continue examining the case, comprising 1 representative from Management, 1 from Human Resources, 1 from the Safety and Health Committee and 1 representative from the area where person under the investigation works. The latter will participate in the committee's meetings, provide any necessary clarifications and be responsible for administrative tasks in respect of the committee's decisions, but may not vote.

⁵ Spanish Royal Decree 2/2015, Estatuto de los trabajadores.

The investigative committee must make its decision within 15 days of the presentation of the Reporter's report.

Once the investigation is concluded, the Director of IFAE will implement any measures needed and will propose any sanction or reprimand that is required, as established in the collective bargaining agreement applicable to IFAE. The procedure will then be considered closed.

At the end of the process, within 15 days, the Director of IFAE will report to the Chair of the Safety and Health Committee, the Risk Prevention Officer and the Ombudsperson on all the measures taken and the final decision reached.

The Risk Prevention Officer will regularly monitor the situation to verify the effectiveness of the preventive and corrective measures put in place. If it is deemed necessary, the psychosocial risk factors in the workplace and the health of the victim will be reassessed.

4.5. ANNUAL REPORT

On an annual base, a confidential report on the incidences and the outcome, whether through a formal or informal procedure, of the corresponding processes will be prepared by the Risk Prevention Officer and will be sent to IFAE's Director and Ombudsperson.

Requests that did not lead to either a formal or an informal procedure will also be included in this report, but it will not identify the people involved.

5. ADDITIONAL INFORMATION⁶

- Protocol de la Generalitat per a la prevenció, la detecció, l'actuació i la resolució de situacions d'assetjament psicològic laboral i altres discriminacions a la feina. (Protocol of the Government of Catalonia for preventing, detecting, acting and solving incidents workplace psychological harassment and other discriminations). Government of Catalonia, Ministry of Governance and Public Administration (2014).
- Guia per a l'eradicació de l'assetjament sexual, per raó de sexe i/o orientació sexual (Guide to the eradication of sexual harassment and harassment for reasons of gender and/or sexual orientation). Government of Catalonia, Ministry of Governance and Public Administration (2010).
- Guia per al tractament i la prevenció de l'assetjament psicològic (Guide to dealing with and preventing psychological harassment). Government of Catalonia, Ministry of Governance and Public Administration (2010).

⁶ All these documents are available at IFAE's repository.

- Assetjament psicològic en el treball. Full Informatiu nº 23 del Departament de Treball i Indústria. (Workplace psychological harassment. Information Leaflet 23). Government of Catalonia, Ministry of Labour and Industry (2003).
- Acoso psicológico en el trabajo. Diario de incidentes. (Workplace psychological harassment. Diary of incidents). National Institute of Workplace Safety and Health (INSHT) in collaboration with the Spanish Ministry of Labour and Immigration (2003).
- Spanish Organic Law 3/2007, para la igualdad efectiva de mujeres y hombres (on effective equality between men and women).
- Spanish Royal Decree 171/2004, por el que se desarrolla el artículo 24 de la Ley 31/1995, de 8 de noviembre, de Prevención de Riesgos Laborales, en materia de coordinación de actividades empresariales (on the prevention of work related risks in connection with the coordination of business activities).

6. ANNEXES

6.1. ANNEX 1: REQUEST OF INTERVENTION⁷

Sol·licitant / Applicant:

<input type="checkbox"/> Persona afectada / Person affected	<input type="checkbox"/> Company(a) de feina / Workmate
<input type="checkbox"/> Safety and Health Committee	<input type="checkbox"/> Autoritat competent / Competent authority

Tipus d'assetjament / Kind of harassment:

<input type="checkbox"/> Psicològic / Psychological	<input type="checkbox"/> Sexual
<input type="checkbox"/> Per raó de sexe / Because of gender	<input type="checkbox"/> Per orientació sexual / Because of sexual orientation
<input type="checkbox"/> Altres (indiqueu) / Other (specify)	

Persona afectada / Affected person:

Nom i Cognoms / First and Last Name:

E-mail:

Telèfon / Phone:

Conducta denunciada / Behaviour denounced:

Documentació adicional / Additional documents:

<input type="checkbox"/> Sí (indiqueu) / Yes (specify)	<input type="checkbox"/> No
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Sol·licitud / Request:

Sol·licito l'activació del Protocol per al tractament, la prevenció o l'eradicació de l'assetjament laboral a l'IFAE. / I request to trigger the Protocol for dealing with, preventing and eradicating workplace harassment at IFAE.

Data i signatura de la persona sol·licitant / Date and signature of the applicant

Bellaterra,

⁷ Available at IFAE's repository.

6.2. ANNEX 2: AUTHORISATION TO INVESTIGATE POSSIBLE HARASSING BEHAVIOURS⁸

Persona afectada / Affected person:

Nom i Cognoms / First and Last Name:

NIF/NIE:

e-mail:

Telèfon / Phone:

Autorització / Authorisation⁹:

Autoritzo l'estudi i anàlisi de l'entorn psicosocial relatiu al meu lloc de treball i funcions a l'IFAE, i eventualment a l'elaboració de propostes i recomanacions que se'n puguin derivar, d'acord amb el Protocol per al tractament, la prevenció i l'eradicació de l'assetjament laboral a l'IFAE. Conec el contingut del Protocol, en relació amb els drets, deures i els efectes que la seva aplicació pugui ocasionar. Sé que la signatura d'aquest consentiment no suposa cap mena de renúncia a possibles reclamacions futures, tant d'ordre mèdic –incloent psicològic- com legal.

I authorise the study and analysis of the psychosocial environment related to my working place and functions within IFAE, and eventually to the elaboration of a set of proposals and recommendations, following the Protocol for dealing with, preventing and eradication workplace harassment at IFAE. I am aware of the content of such Protocol, regarding rights, duties and consequences that it might lead to. I am aware of the fact that signing this Authorisation by no means implies giving up the possibility of further claims, either on medical –including psychological- or legal grounds.

Data i signatura / Date and signature:

Bellaterra,

⁸ Available at IFAE's repository.

⁹ Tota la informació serà tractada d'acord amb la normativa de protecció de dades personals (Llei orgànica 15/1999, de protecció de dades de caràcter personal, i Llei 5/2002 de l'Agència Catalana de Protecció de Dades). / All information will be handled in agreement with the current legislation dealing with personal data (Spanish Organic Law 15/1999, of protection of personal data, and Catalan Law 5/2002, of the Catalan Agency of Data Protection).

Document approved by:



Ramon Miquel, Director of IFAE

Bellaterra, 28/04/2016