

# NATIONAL INSTITUTE FOR NUCLEAR PHYSICS

## **Code of conduct for the protection of the dignity of people who work and operate within the National Institute for Nuclear Physics**

### Introduction

As part of its independent role and in implementation of the Commission Recommendation no. [92/131](#) of 27 November 1991 on the protection of the dignity of women and men at work, in accordance with the Equal Opportunities Code approved with Legislative Decree no. 198/2006 and subsequent amendments, in line with the provisions of article 1.1 of Legislative decree no. 165 of 30 March 2001, as amended by article 21 of Law no. 183 of 4 November 2010, also based on the European Parliament Resolution no. [2001/2339](#) of 20 September 2001 on harassment at the workplace, upon the proposal of the Central Guarantee Committee for equal opportunities, the enhancement of workers' welfare and non-discrimination (hereinafter the "CUG" – *Comitato Unico di Garanzia*), and having heard the Trade Unions, the National Institute for Nuclear Physics (hereinafter the "Institute") adopts this Code on the protection of the work environment quality and the fundamental rights (dignity, freedom, equality, health) of women and men.

The Code's provisions prevent acts and conduct prejudicial to people's dignity, including harassment and sexual harassment, moral or psychological violence and, should they occur, regulates the appropriate procedures for addressing the problem, avoiding any resurgence.

The Institute adopted the Code — which implements the Three-Year Plan – in resolution no. 7485 of 20 December 2001, considering the fact that the acts and conduct prejudicial to people's dignity, freedom and equality, including sexual harassment, affect female and male workers' rights and also harm the work environment and the correct and effective accomplishment of the Institute's mission. They may also have a negative effect on the health, trust, morale and performance of the affected parties and, to a lesser extent, those who are aware of them.

The Code was also updated to reflect the changes to the European and Italian legislation on discrimination and harassment, making it an increasingly effective and adequate tool to combat practices with an extremely negative impact on female and male workers.

In accordance with article 7.1 of Legislative decree no. 165/01, the Institute guarantees equality and equal opportunities between men and women and prohibits any form of discrimination, either direct or indirect, based on gender, age, sexual orientation, race, ethnic origin, disability, religion, language, access to work, work treatment and conditions, professional training, promotion and safety at the workplace, while guaranteeing a work environment based on organisational wellbeing and committing to identifying, combating and eliminating any form of

psychological or moral violence within its structure\*.

The Code is a tool for the implementation of the above regulatory principles and, consequently, it prosecutes direct discrimination, i.e., any provision, criteria, practice, act, deed or conduct that is prejudicial to any female and male worker, based on sex, race and ethnic origin, religion, age, disability, sexual orientation, personal beliefs, and indirect discrimination that occurs when any provision, practice, criteria, act, deed or an apparently neutral conduct place or may place the workers belonging to the above categories at a particular disadvantage (Community directives nos. 2000/78/EC and 2000/43/EC implemented by Legislative decree no. 215/216 of 2003).

The Code also pursues women's and men's well-being at work and intends to prevent the risks for the workers' safety and health, including work-related stress risks, as set out in the European Agreement of 8 October 2004, or those related to differences in gender, age, origin from other Countries and the specific contractual type through which the work service is rendered, as required by Legislative decree no. 81/2008, amended by Legislative decree no. 106/2009.

The Code deals with a specific and sensitive issue as it is strictly related to the legislative and contractual provisions governing disciplinary procedures and sanctions. Furthermore, it may also be related to acts punishable under the criminal law or the legislation on health and safety at work.

Based on the above, the Code makes reference to the definition of punishable acts, and the related sanctions, set out by ruling law or contractual provisions.

Specifically, reference is made to the specific definition of sexual harassment set out in Directive 2006/54/EC of the European Parliament and of the Council, of 5 July 2006, on the implementation of the principle of equal opportunities and equal treatment of men and women in matters of employment and occupation (recast), as transposed into Italian legislation or directly applicable to it.

The above defines sexual harassment as where any form of unwanted verbal, non-verbal or physical conduct of a sexual nature occurs, with the purpose or effect of violating the dignity of a person, in particular when creating an intimidating, hostile, degrading, humiliating or offensive environment. This conduct, as well as less favourable or retaliatory treatment, applied as a result of the rejection of, or submission to, such conduct, shall be considered as discrimination in every respect and shall be prosecuted as such.

With respect to harassment, the Code also makes reference to the definitions set out in Legislative decrees nos. 198/06, 215/03 and 216/2003, whereby discrimination includes all unwanted conduct, held for reasons attributable to gender, race or ethnic origin, religion, age, disability, sexual orientation, personal beliefs, with the purpose or effect of violating the dignity of a person and of creating an intimidating, hostile, degrading, humiliating or offensive environment.

With respect to harassment at the workplace, the Code makes reference to the principles set out in the European Parliament resolution no. 2001/2339 of 20 September 2001, and, pending the adoption of a more comprehensive European or Italian legislative framework, acts as a useful prevention tool, in line with the ruling National Collective Bargaining Agreement which provides for disciplinary

sanctions for all «acts and conduct, including sexual harassment, prejudicial to people's dignity» (article 28.5, (i)).

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In this Code, the use of the term “race” does not imply the acceptance of the theories which attempt to determine the existence of separate human races. The European Union rejects these theories in the Treaty and Directive 2000/43/EC.

Article 1  
Scope of application

1. This Code applies to all personnel who works and operates within INFN.

Article 2  
Principles and purposes

1. The Institute undertakes to protect the right of female and male workers to live in a trouble-free work environment where interpersonal relations are fair and based on the mutual respect for freedom, equality and people's dignity.

2. To this end, the Institute:

a) undertakes to remove all obstacles to the implementation of these rights, in order to guarantee a work environment where women and men mutually respect people's inviolability and dignity;

b) undertakes to guarantee the right to the protection from any act or conduct prejudicial to interpersonal relations and which discriminates, also indirectly, against sex, race and ethnic origin, language, religion, age, disability, sexual orientation and personal beliefs, to all those who operate within INFN;

c) undertakes to prevent abusive or persecutory conduct such to cause psychological uneasiness and discomfort for the female or male worker.

3. Nobody is allowed to use their position to eliminate or reduce the guarantees set out in this Code.

Article 3  
Duty of cooperation

1. The department managers have a particular duty to prevent discrimination, acts and conduct, including harassment and sexual harassment, psychological or moral violence, which are prejudicial to people's dignity, and to support the person than intends to react.

2. All female and male workers shall contribute to ensuring a work environment where people's dignity is respected.

Article 4  
Procedures

1. When an act or conduct, including harassment and sexual harassment, psychological or moral violence, which are prejudicial to people's dignity, occurs any person subject to it may contact the Confidential Counsellor to commence, at their choice, the informal or formal procedure, without prejudice to, in any case, any other form of available judicial protection.

Article 5  
Confidential Counsellor

1. The Confidential Counsellor provides the employees subject to the conduct set out in this Code with consultancies and support. The Confidential Counsellor is not part of the Institute and is chosen among those who have the experience and independence necessary for the required task; he/she is appointed by INFN's Chairperson, subject to the CUG's favourable opinion; he/she remains in office for three years and may be reappointed only once.

2. The Management provides the Confidential Counsellor with the tools necessary to fulfil their duties.
3. The Counsellor may avail of collaborators, either internal or external to the Institute, for specific consultancies in respect of the pending cases.
4. He/she may suggest actions to promote an organisational environment which is such to ensure equal dignity and personal freedom and participates in the information and training initiatives launched by the Institute in respect of the aspects covered by this Code, in collaboration with the CUG.
5. At the end of his/her office, and at least once a year, the Confidential Counsellor shall inform the Institute's Chairperson and the CUG about the cases identified and report on the activities carried out, while ensuring the confidentiality required.

Article 6  
Informal procedure

1. On the request of the affected person, the Confidential Counsellor takes on the case in order to stop the unwanted conduct.
2. The Confidential Counsellor shall not adopt any measure without the preventive and explicit consent of the person who reported the above conduct.
3. The Confidential Counsellor may:
  - a) provide the affected person with advice on the best way to resolve the case;
  - b) interview the alleged person responsible for the reported conduct;
  - c) obtain any witnesses and obtain access to administrative deeds, if any, related to the pending case;
  - d) suggest meetings for a conciliation procedure between the affected person and the person responsible for the harassment;
  - e) in the most serious cases, recommend to the Manager of the competent department that one of the persons concerned be transferred, without prejudice to the needs of the affected person;
  - f) propose adequate actions to guarantee a work environment which respects the freedom and dignity of the personnel involved in the case.
4. The informal procedure shall be completed in a reasonably short time.
5. The affected person may withdraw the reported conduct at any time during the informal procedure.

Article 7  
Formal procedure

1. The formal procedure commences with filing the complaint - with the support of the Confidential Counsellor - with the Manager of the department in which the person who allegedly committed the act or conduct prejudicial to people's dignity and which fall under the scope of application of this Code, works.
2. Where the person responsible for the prejudicial act or conduct is the department manager, the complaint shall be filed with the Institute's Chairperson.
3. When the complaint states that the person responsible for the prejudicial act or conduct is not an employee, an associate or holds another engagement, the Manager, or the Chairperson in the case covered by point 2, shall file the complaint - within five days of the date the fact became known - with the relevant Management, requesting that a disciplinary procedure be commenced.
4. When the complaint states that the person responsible for the prejudicial act or conduct is a person that has entered into contractual, consultancy or collaboration agreements, the formal procedure is assigned to the Confidential Counsellor. In these cases, the Counsellor carries out the necessary checks, hears the relevant parties, attempts conciliation or provides the Institute's Chairperson with measures for the resolution of the case.
5. The Manager, unless the prejudicial conduct is not to be sanctioned with a verbal reprimand, or the Chairperson, in the case set out in point 2, sends - within five days of the date the fact became known - the complaint to the Department in charge of disciplinary measures.

6. The ensuing procedure shall be carried out in accordance with the provisions of Legislative decree no. 165/2001 and subsequent amendments as well as with ruling National Collective Bargaining Agreement for the employees of Public research bodies on disciplinary sanctions and procedures.
7. With respect to the disciplinary procedures concerning the aspects covered by this Code, where appropriate, the competent Department may hear the Confidential Counsellor as an informed witness.
8. Also pending the disciplinary procedure, the Institute guarantees adequate protection to the affected person from possible retaliation or penalisation and checks that the prejudicial conduct against this person ceases.
9. In these cases, including where requested by either parties, the Institute may decide for a temporary transfer in order to restore a fair environment, without causing distress.
10. If, following the procedure covered by this article, the complaint is groundless, the Institute, where necessary, shall apply the most suitable measures to protect the dignity and the honour of the person considered responsible for the prejudicial conduct, subject to his/her preliminary favourable opinion.
11. Should the procedure described in point 5 end with the application of a disciplinary measure, at least equal to a fine up to 4 hours of remuneration, the Institute may revoke all the engagements assigned.
12. Where the Management of the personnel in point 3 does not act promptly or does not disclose the outcome of the disciplinary procedure commenced, the Institute may adopt the measures deemed necessary to restore a fair environment.

#### Article 8 Confidentiality

1. All persons interested in the resolution of the cases covered by this Code are required to treat with confidentiality the facts and information they become aware of during the handling of the case.
2. During the assessment procedure, the involved persons have the right to absolute confidentiality as to the circulation of their name.
3. The female or male workers affected by acts or conduct prejudicial to people's dignity have the right to request that their name be omitted in any document to be published for any reason.

#### Article 9 Training and information

1. The Institute regularly and timely organises training and information sessions about the aspects covered by this Code, including on a decentralised and remote basis.
2. The Institute informs the personnel of the name and place of contact of the Confidential Counsellor.
3. The Institute provides a copy of this Code to all personnel in force, with an association engagement, or newly hired or appointed, and emphasises its circulation by displaying it in the records of each department.

Article 10  
Coming into force

1. This Code comes into force 30 days after the date of the resolution of the Governing Council which adopted it.

Article 11  
Amendments to the Code

1. This Code may be amended only by a resolution of the Governing Council, upon proposal of the Executive Council, and after hearing the CUG and the Trade Unions.
2. The Institute regularly checks the results of the adoption of the Code and makes the necessary amendments or integrations, if any, also following the publication of new Italian or European regulations governing the issues covered by this Code.