

**TIPS AND INFORMATION NEWSLETTER  
FROM LAURENCE C. FAUTH, ESQ.**

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Harassment and Filing Deadlines

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It is important to remind staff union/association members that harassment-related grievances usually must be reported within a certain period of time. Failure to do so may result in loss of the ability to claim redress. While a staff member cannot expect the kind of compensation awarded in national courts (in 2006 a London banking institution was held vicariously liable for a prolonged campaign of bullying and harassment at work suffered by one of its female employees, who succeeded in winning damages of just over 930,000 euros in compensation in the UK legal system), the ILO Administrative Tribunal awards anywhere from 10,000 to 75,000 euros for proven cases of harassment. It should also be recalled that attention to this problem has only recently (last 10-15 years) been seriously addressed by the adoption of rules and policies against harassment, and each successful case helps to reduce the prevalence of harassment in the workplace and adds to the body of law on damages for harassment.

The starting point for analysis is of course the staff regulations and rules, and any written policies on resolution of harassment-related grievances. In the absence of any rules, there may be an implied deadline for making a complaint based on reasonableness. Most policies provide a deadline of anywhere between 1 and 6 months. In Judgment No. 2675 (ILO) the staff member lodged a complaint on 18 April 2005 about an “assignment” on 2 February 2004 to work from home because of a medical condition. The staff member felt isolated and belittled by the assignment, which she alleged was the result of prejudice. Having received no answer to her grievance, she lodged an internal appeal. The internal appeals board reached the merits and recommended dismissing the appeal. On further appeal, the Tribunal held that the grievance was time-barred and the internal appeals body made an error by considering the merits of the grievance. According to the applicable rules, a grievance had to be lodged within 6 months of the alleged misconduct, and since it was not lodged until over a year later, it was time-barred.

This case offers valuable lessons about the importance of timely lodging grievances for harassment. If the staff member fails to lodge a complaint within the time provided in the rules, the possibility of obtaining relief will likely be lost.

An important exception is available in cases where there is a pattern of harassment over a long period of time. As long as the last harassing conduct is reported timely, the staff member may cite earlier instances of harassing conduct even though the underlying adverse decisions could not be challenged.

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