

United Nations

INTEROFFICE MEMORANDUM



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MEMORANDUM INTERIEUR

INTERNAL AUDIT DIVISION I
OFFICE OF INTERNAL OVERSIGHT SERVICES

TO: Mr. Philippe Elghouayel
A: Officer-in-Charge
MINURSO

DATE: 20 May 2005

REFERENCE: AUD-7-5:8 (7/8/05)

THROUGH:

S/C DE:

FROM: Patricia Azarias, Director
DE: Internal Audit Division I
Office of Internal Oversight Services

A handwritten signature in blue ink that reads "P. Azarias".

SUBJECT:

OBJET: **OIOS Audit No. AP2005/628/01: Review of the state of discipline in MINURSO**

1. I am pleased to present herewith our final report on the above-mentioned review, which was conducted from 4 to 15 April 2005.
2. We note from your response to the draft that MINURSO has accepted all recommendations. The recommendations will remain open in OIOS' recommendations database pending further action, specified in the last sentence of the paragraph following each recommendation.
3. IAD-I is assessing the overall quality of its audit process and kindly requests that you consult with your managers who dealt directly with the auditors and complete the attached client satisfaction survey form.

I. INTRODUCTION

4. OIOS conducted a review of the state of discipline in MINURSO from 4 to 15 April 2005. The review was conducted in accordance with the standards for the professional practice of internal auditing in United Nations organizations.
5. Due to widespread allegations of sexual exploitation and abuse in some missions, which undermines the significant contributions the United Nations has made in the field of peacekeeping, the Department of Peacekeeping Operations (DPKO) has sought a broader understanding of the overall state of discipline in all DPKO peacekeeping operations and requested OIOS to conduct a review of the subject.

6. MINURSO operates in a conservative society. Moreover, the Moroccan Coordinator for MINURSO keeps close watch over the activities, official or otherwise, of MINURSO personnel and from time to time brings to MINURSO's attention violations of local laws.

II. AUDIT OBJECTIVES

7. The major objectives of the review were to:
- i. Assess the state of discipline in MINURSO;
 - ii. Identify gaps in existing policies and procedures on discipline; and
 - iii. Identify tools that MINURSO require to maintain an environment of good order and adherence to code of conduct.

III. AUDIT SCOPE AND METHODOLOGY

8. The review included survey on the state of discipline in the Mission and analysis of data and statistics on cases of misconduct for the past three calendar years 2002, 2003 and 2004. The auditors conducted a preliminary overview of the Mission's operations and environment, reviewed all relevant policies and guidelines on discipline. In addition, discussion and one-on-one interviews were held with management and relevant civilian and military personnel involved in the Mission's disciplinary mechanism and enforcement. The auditors also met with the Moroccan Coordinator for MINURSO and the Head of UNHCR Sub-office in Tindouf, Algeria.

IV. OVERALL ASSESSMENT

9. The review indicates that the overall state of discipline in MINURSO is good, based on OIOS' analysis of facts and perception (as indicated by the survey results), and consideration of the impact on discipline of the local environment in which the Mission is operating. The review also identified some areas in the subject of discipline that need improvement, as set out in the following section of the report.

V. AUDIT FINDINGS AND RECOMMENDATIONS

A. The state of discipline in MINURSO

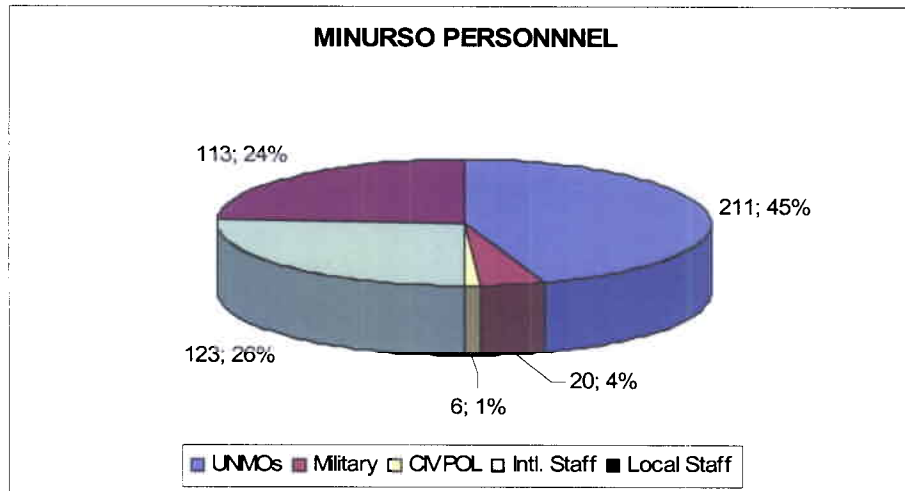
Reported misconduct cases

10. There were three documented cases of misconduct in the calendar years 2002, 2003 and 2004 and none of these cases pertained to sexual exploitation and abuse (SEA). As shown in the Annex, of the three cases, two were investigated and closed by the Mission and one was referred to Headquarters, which resulted in a reprimand.

11. All 12 Boards of Inquiries convened in the period from 2002 to date were related to investigation of major traffic accidents. Two of these resulted in the repatriation of the personnel

involved in the accident. The team also noted that the number of traffic accidents had considerably declined in the last two years when the CARLOG system was introduced. This was particularly so in the case of military observers. The categories and number of MINURSO personnel as of 31 March 2005 are shown in Figure 1*.

Figure 1



Perception on the state of discipline

12. OIOS conducted a survey on the state of discipline in the Mission and distributed questionnaires to all civilian and military personnel. Figure 2 shows the personnel strength, who were all surveyed, and the response rate to the questionnaire:

Figure 2

Categories of Personnel	Number of personnel surveyed	Response	
		No.	%
International	123	56	46%
Local	113	22	19%*
Military Observers	211	118	56%
Military Troops	20	15	75%
Civilian Police	6	5	83%
TOTALS	473	216	46%

*The Mission clarified that the low response from the local staff is due to (i) approximately 40% are illiterate in English, French or Arabic and (ii) discussion of issues related to sexual exploitation and abuse is considered taboo.

* In Figure 1, pairs of numbers are shown, e.g. 113; 24%. This means that there are 113 personnel of a particular category, which represent 24% of the total number of the Mission personnel.

13. For the purpose of presenting key survey results, the responses from small groups of respondents from the other uniformed personnel belonging to the military troop or the Korean Military Unit (KMU) and the civilian police categories of personnel, OIOS grouped their responses with that of the military observers. As such, in the following highlights of the survey results, references are made to only three groups of personnel, namely, international staff, local staff and uniformed personnel:

- a. The overall state of discipline
 - i. Seventy percent of international staff (7% have no response), 64% of local staff and 96% of uniformed personnel feel that the overall state of discipline in MINURSO is good (answers ranging from 3 to 5);
 - ii. Fifty-four percent of international staff (23% gave no response), 73% of local staff and 89% of uniformed personnel perceive that misconduct cases are handled well by the Mission (answers ranging from 3 to 5);
 - iii. The percentage of respondents who indicated that the Mission’s attitude on misconduct, overall and specific, is between normal and strict (answers ranging from 3 to 5) is shown in Figure 3.

Figure 3

Type of Misconduct	International		Local		Uniformed Personnel	
	Range 3 to 5	No Response	Range 3 to 5	No Response	Range 3 to 5	No Response
Overall	62%	18%	77%	18%	94%	3%
Theft and misappropriation	57%	34%	85%	36%	88%	8%
Fraud and misrepresentation	56%	32%	80%	36%	82%	13%
Harassment	61%	23%	70%	27%	89%	7%
Physical assault	59%	27%	65%	41%	89%	8%
Sexual exploitation and abuse	53%	27%	60%	23%	91%	7%
Others	43%	18%	40%	23%	90%	5%

- iv. Sixty-six percent of international staff, 87% of local staff and 91% of uniformed personnel either do not think or do not know that misconduct is occurring, going undetected and unpunished;
- b. Awareness of code of conduct or rules and regulations relating to discipline
 - i. Eight-nine percent of international staff, 68% of local staff and 94% of uniformed personnel are familiar with the staff rules and regulations or code of conduct;
 - ii. Eighty to eighty-six percent of staff members and 96% of uniformed personnel are aware of what constitutes misconduct or prohibited behavior;
 - iii. Ninety-eight percent of uniformed personnel received briefing or information on the United Nations code of conduct when they joined the Mission;

c. Sexual exploitation and abuse

- i. On average, 85% of all personnel are aware that involvement with a prostitute is prohibited and 93% are aware that sexual activity with persons under the age of 18 is prohibited;
- ii. The majority of the staff members and 81% of uniformed personnel think that the Mission is implementing measures to prevent SEA and enforce the United Nations standards of conduct relating to SEA.

d. Reporting allegations or cases of misconduct

- i. Fifty-five to fifty-nine percent of staff members and 70% of uniformed personnel would report a suspicion of misconduct;
- ii. Sixty-three to sixty-eight percent of staff members and 91% of uniformed personnel do not fear reporting cases of misconduct;

14. Although the percentages above indicate a fairly good perception of the state of discipline, OIOS noted the following areas where the respondents expressed some concerns on discipline issues:

- i. On average, only 50% of staff members indicated that they received briefing or information on the staff rules and regulations relating to discipline when they joined the Mission (vs. 98% for uniformed personnel);
- ii. Only 50% of staff members are aware of their duty to report concerns or suspicions of SEA by a colleague;
- iii. Only 41% of staff members consider the disciplinary mechanism to be fair (71% for uniformed personnel);
- iv. Although the majority of the staff members and most uniformed personnel think that the Mission is implementing measures against SEA, only 27% of international staff, 36% of local staff and 48% of uniformed personnel think that these measures are effective;
- v. Only 48% of international staff and 36% of local staff know how to report or file a formal complaint (65% for uniformed personnel).

15. OIOS also noted some of the respondents' specific suggestions to improve the state of discipline in the Mission. In the respondents' opinion, there is a need for:

- i. Increased awareness or consciousness raising programme, with emphasis on briefing about local culture, traditions and customs;
- ii. Greater motivation of all personnel by senior management;
- iii. Strong punishment or severe penalties for serious misconduct;
- iv. Frequent inspections or audits;
- v. Informing all personnel about consequences of misconduct or making public findings and punishment on cases of misconduct to serve as lesson for all;
- vi. More specific guidelines on discipline.

B. Implementation of policies and procedures on discipline

Policies and guidelines on discipline

16. MINURSO employs casual and contractual employees in the conduct of its operations. Although the management of the companies employing these individuals working for the Mission bears ultimate responsibility over their employees, the Mission has concerns with regard to the applicability of the United Nations code of conduct to this category of personnel. For example, the briefing of the 38 aircrew from two private companies on their arrival at the Mission is limited to restrictions on the consumption of alcohol. According to the Air Operations Officer, he does not furnish the United Nations code of conduct to the aircrew, as they are not MINURSO personnel.

Recommendation 1

The MINURSO SRSG should seek guidance from DPKO on the applicability of the United Nations code of conduct to contractors (AP2005/628/01/01).

17. *MINURSO accepted the recommendation.* OIOS will keep this recommendation open in its database until it can be confirmed that the recommendation has been implemented.

Roles and responsibilities of offices or officials responsible for discipline in MINURSO

18. The Mission has appointed the Legal Officer and one Information Officer as the Focal Points for receiving reports on cases of SEA pursuant to SGB/2003/13 dated 9 October 2003, Special measures for protection from sexual exploitation and sexual abuse. However, it is still in the process of establishing a MINURSO Disciplinary Panel (the Panel), which will deal with all cases related to discipline, violation of traffic rules and road safety as well as any other violation of UN or local laws and rules. OIOS further noted that the Panel's composition, authority and functions have not been defined.

19. In OIOS' opinion, the SRSG should consider the qualifications and experience in handling complaints and investigations of members he intends to appoint to the Panel. Also, it should be noted that the creation of such a panel does not absolve Mission managers and commanders of their responsibilities and accountability with regard to misconduct.

Recommendation 2

The MINURSO SRSG should expedite defining the composition, authority and functions of the Disciplinary Panel in the form of formal terms of reference, in accordance with and within the authority of existing United Nations rules, regulations and instructions on discipline (AP2005/628/01/02).

20. *MINURSO accepted the recommendation and commented that it will establish a Joint Disciplinary Panel and formulate the relevant TOR and submit it for DPKO's approval.* OIOS will keep this recommendation open in its database until it can be confirmed that the recommendation has been implemented.

Receipt and handling of complaints

21. OIOS noted that there were no formal procedures in place for the receipt and handling of complaints. The survey also showed that only 48% of international staff and 36% of local staff know how to report or file a formal complaint (65% for uniformed personnel). The staff were generally unaware of the individual or office that should receive the complaint and the obligations of the complainant and rights of the accused if allegations are found to be false or ill-motivated. The SRSG may consider including in the functions of the Disciplinary Panel the responsibility for receipt and handling of complaints.

Recommendation 3

The MINURSO SRSG should establish formal procedures for the receipt and handling of complaints (AP2005/628/01/03).

22. *MINURSO accepted the recommendation.* OIOS will keep this recommendation open in its database until it can be confirmed that the recommendation has been implemented.

Monitoring of complaints from their receipt to final resolution

23. The Mission does not have a central mechanism in place for monitoring complaints from their receipt to final resolution. The information OIOS received on cases of misconduct, including Boards of Inquiries convened in 2002 to 2004, were compiled by three different offices: Security Section, Civilian Personnel Section, Military Personnel Branch and Claims and Survey Unit. The SRSG may consider including in the functions of the Disciplinary Panel the monitoring of complaints from their receipt to final resolution.

Recommendation 4

The MINURSO SRSG should establish a mechanism for the central monitoring of complaints from their receipt to final resolution (AP2005/628/01/04).

24. *MINURSO accepted the recommendation.* OIOS will keep this recommendation open in its database until it can be confirmed that the recommendation has been implemented.

C. Staff awareness and misconduct prevention programmes

25. Although the survey results indicated that most MINURSO personnel are familiar with the United Nations code of conduct or staff rules and regulations relating to discipline, some of them emphasized the need for re-familiarization from time to time.

26. OIOS also observed that the Mission lacks a proper staff awareness programme that will underscore the importance of understanding local customs. This can also serve as a tool for re-familiarization with the United Nations code of conduct and rules and regulations relating to discipline.

Recommendation 5

The MINURSO SRSG should establish conduct/misconduct awareness programmes, on top of the briefing upon personnel's arrival in the Mission area, to be conducted regularly with the view to re-familiarizing all personnel with the United Nations code of conduct and rules and regulations relating to discipline (AP2005/628/01/05).

27. *MINURSO accepted the recommendation and commented the MINURSO Working Group on Integrated Training is in the process of developing an enhanced induction programme with the view to providing a more comprehensive briefing to the new military/civilian personnel upon arrival, as well as to re-familiarizing all mission personnel with the Code of Conduct and rules and regulations relating to discipline. OIOS will keep this recommendation open in its database until it can be confirmed that the recommendation has been implemented.*

VI. ACKNOWLEDGEMENT

28. We wish to express our appreciation to the Management and staff of MINURSO for the assistance and cooperation extended to the auditors during this assignment.

TABLE 1 - Analysis of cases of misconduct involving international staff members, as the alleged offender, in MINURSO

	Complaints received		Under investigation				Closed without referral to HQ				Dismissed				Referred to HQ		Cases that resulted to OHRM sanction					
	2002	2003	2002	2003	2004	2002	2003	2004	2002	2003	2004	2002	2003	2004	2002	2003	2004	2002	2003	2004		
1 Theft and misappropriation																						
2 Fraud and misrepresentation																						
3 Harassment and sexual harassment, including verbal assault*		1																				
4 Physical assault**	1																					
5 Sexual exploitation and abuse																						
6 Abuse of power, position or authority, including inappropriate superior-subordinate relationship																						
7 Misuse of UN resources																						
8 Others																						
TOTALS	1	0	1	0	0	0	0	0	1	0	0	0	0	0	0	0	0	0	0	0	0	0

LEGEND: (1) Dismissed because case could not be substantiated; (2) Dismissed due to false allegation

TABLE 2 - Analysis of cases of misconduct involving national staff members, as the alleged offender, in MINURSO

	Complaints received		Under investigation				Closed without referral to HQ				Dismissed				Referred to HQ		Cases that resulted to OHRM sanction						
	2002	2003	2004	2002	2003	2004	2002	2003	2004	2002	2003	2004	2002	2003	2004	2002	2003	2004					
1 Theft and misappropriation																							
2 Fraud and misrepresentation	1																						
3 Harassment and sexual harassment, including verbal assault																							
4 Physical assault																							
5 Sexual exploitation and abuse																							
6 Abuse of power, position or authority, including inappropriate superior-subordinate relationship																							
7 Misuse of UN resources																							
8 Others																							
TOTALS	1	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0

LEGEND: (1) Dismissed because case could not be substantiated; (2) Dismissed due to false allegation

TABLE 3 - Analysis of cases of misconduct involving UNVs and other civilian personnel, as the alleged offender, in MINURSO

	Complaints received			S T A T U S						Cases that resulted to OHRM sanction							
	Under investigation			Closed without referral to HQ		Dismissed				Referred to HQ							
	2002	2003	2004	2002	2003	2004	2002	2003	2004	2002	2003	2004					
1 Theft and misappropriation							(1)	(2)		(1)	(2)						
2 Fraud and misrepresentation																	
3 Harassment and sexual harassment, including verbal assault																	
4 Physical assault																	
5 Sexual exploitation and abuse																	
6 Abuse of power, position or authority, including inappropriate superior-subordinate relationship																	
7 Misuse of UN resources																	
8 Others																	
TOTALS	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0

LEGEND: (1) Dismissed because case could not be substantiated; (2) Dismissed due to false allegation

TABLE 4 - Analysis of cases of misconduct involving members of military contingents, as the alleged offender, in MINURSO

	Complaints received			S T A T U S						Cases that resulted to repatriation							
	Under investigation			Closed without referral to HQ		Dismissed				Referred to HQ							
	2002	2003	2004	2002	2003	2004	2002	2003	2004	2002	2003	2004					
1 Theft and misappropriation							(1)	(2)		(1)	(2)						
2 Fraud and misrepresentation																	
3 Harassment and sexual harassment, including verbal assault																	
4 Physical assault																	
5 Sexual exploitation and abuse																	
6 Abuse of power, position or authority, including inappropriate superior-subordinate relationship																	
7 Misuse of UN resources																	
8 Others																	
TOTALS	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0

LEGEND: (1) Dismissed because case could not be substantiated; (2) Dismissed due to false allegation

TABLE 5 - Analysis of cases of misconduct involving military observers, as the alleged offender, in MINURSO

	Complaints received				Under investigation				Closed without referral to HQ				Dismissed				Referred to HQ				Cases that resulted to repatriation			
	2002		2003		2004		2002		2003		2004		2002		2003		2004		2002		2003		2004	
							(1)	(2)	(1)	(2)	(1)	(2)	(1)	(2)	(1)	(2)								
1 Theft and misappropriation																								
2 Fraud and misrepresentation																								
3 Harassment and sexual harassment, including verbal assault																								
4 Physical assault**	1																							
5 Sexual exploitation and abuse																								
6 Abuse of power, position or authority, including inappropriate superior-subordinate relationship																								
7 Misuse of UN resources																								
8 Others																								
TOTALS	1	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	1	0	0	0	

LEGEND: (1) Dismissed because case could not be substantiated; (2) Dismissed due to false allegation

TABLE 6 - Analysis of cases of misconduct involving civilian police officers, as the alleged offender, in MINURSO

	Complaints received				Under investigation				Closed without referral to HQ				Dismissed				Referred to HQ				Cases that resulted to repatriation			
	2002		2003		2004		2002		2003		2004		2002		2003		2004		2002		2003		2004	
							(1)	(2)	(1)	(2)	(1)	(2)	(1)	(2)	(1)	(2)								
1 Theft and misappropriation																								
2 Fraud and misrepresentation																								
3 Harassment and sexual harassment, including verbal assault																								
4 Physical assault																								
5 Sexual exploitation and abuse																								
6 Abuse of power, position or authority, including inappropriate superior-subordinate relationship																								
7 Misuse of UN resources																								
8 Others																								
TOTALS	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	

LEGEND: (1) Dismissed because case could not be substantiated; (2) Dismissed due to false allegation

* The case is a verbal confrontation between an international staff member and an individual who is not connected with the UN. The staff member apologized and the written apology was put in his personnel file.

** This is one and the same case where an international staff and a military observer are involved. The staff member was reprimanded. When the case was resolved the military observer had completed his tour of duty.