

Allegation 1:

It is alleged that at the end of an official meeting held in his office on 18 December 2003, Mr. Lubbers committed misconduct in that he engaged in inappropriate and unwelcome sexual conduct which included physical contact with a female staff member in UNHCR.

18. The statements provided to OIOS by all persons who attended the meeting agree on the following points:

- a. all of them attended the meeting at the time and location indicated in the complaint of Mrs. [REDACTED]
- b. the meeting was cordial and professional;
- c. Mr. Lubbers sat on one side of the table, with Mrs. [REDACTED] on his left side and Mr. Sultan-Khan on his right side;
- d. Mr. Blatter sat in front of Mrs. [REDACTED] on the other side of the table, together with Messrs. Hegenauer, Mir and Vanniasingam;
- e. at the end of the meeting, all persons in attendance rose from their seats;
- f. Messrs. Hegenauer, Mir and Vanniasingam left the room before Mrs. [REDACTED] and [REDACTED]
- g. when Mrs. [REDACTED] rose and passed in front of Messrs. Lubbers and Sultan-Khan, who were standing together, Mr. Blatter was still sitting across the table.

19. As regards the nature of the physical contact between Mr. Lubbers and Mrs. [REDACTED] the statement of Mrs. [REDACTED] differs from that of the three others present at the time of the incident, namely Messrs. Blatter, Lubbers and Sultan-Khan.

a. Mrs. [REDACTED]
20. Mrs. [REDACTED] told OIOS that when she passed in front of Mr. Lubbers, who was standing behind her together with Mr. Sultan-Khan, without a word he abruptly put both of his hands on her waist from behind her, pulled her backwards towards him, took a step forward, pushed his groin to her buttocks and held her briefly in that position. Mrs. [REDACTED] indicated that while Mr. Lubbers was acting in this manner, she noted the expression of great surprise on the face of Mr. Blatter, who, as she put it, "had a shocked look on his face, his mouth was open and his jaw dropped."

21. Mrs. [REDACTED] added that although she was shocked and humiliated by the behaviour of Mr. Lubbers, she did not react immediately; she left the room without looking back and joined her colleagues who were standing by the elevator door on the 7th floor, where the office of Mr. Lubbers is located. She added that shortly thereafter, Mr. Blatter joined the group and they all took the elevator to the ground floor.

b. Mr. Blatter

22. Mr. Blatter said that he saw Mr. Lubbers touching Mrs. [REDACTED] twice. The first time occurred just after the meeting when she passed in front of Mr. Lubbers who put his arm around her waist while talking to her, and a second time, in the same fashion, he put his arm around her while he led her along towards the door. Significantly, Mr. Blatter described these gestures by Mr. Lubbers as "overly familiar".

23. Further, he said that after the 18 December meeting, when he recalled how Mr. Lubbers had touched Mrs. [REDACTED] at the end of the meeting, he told her "you saw how nice is the HC?" though not as alleged by Mrs. [REDACTED] "I saw what the HC did to you". He said that if he had seen Mr. Lubbers do anything improper, he would have intervened to protect Mrs. [REDACTED] however, he told OIGS that he had told Mr. Lubbers that his touching of Mrs. [REDACTED] around the waist was "overly familiar."

c. Mr. Sultan-Khan

24. When asked whether he observed anything unusual during or after the meeting, Mr. Sultan-Khan recalled only that Mrs. [REDACTED] had requested a pen and Mr. Lubbers gave her one. However, when asked whether Mr. Lubbers, at any point before, during or after the meeting on 18 December, had touched Mrs. [REDACTED] Mr. Sultan-Khan replied that he "did not see this." He conceded that from the position where he was standing (that is, next to Mr. Lubbers) he should have noticed any physical contact between Mr. Lubbers and Mrs. [REDACTED] He could not explain why his recollection differed from Mr. Blatter's.

d. Mr. Lubbers

25. At the outset of his interview, Mr. Lubbers requested that OIGS provide him with a copy of the complaint made against him, that he be allowed to have a third party present during the interview and that he be afforded the opportunity to review and sign the record of discussion with him. OIGS responded that pursuant to its own mandate, terms of reference and investigative protocols, there is no requirement to provide copies of complaints nor is there a requirement that a third party be entitled to attend the interview. Moreover, Mr. Lubbers was fully aware of the details of the complaint, including the identity of the complainant because, at the request of the Under-Secretary-General, OIGS, the Inspector General of UNHCR had notified him of the complaint on 6 May 2004. Further, the Office of Legal Affairs has long advised OIGS that subjects of interview are not entitled to counsel in OIGS interviews. As is usual in administrative investigative practice, OIGS does not normally allow such third parties in order to protect against inappropriate disclosure of information. In any case, at the beginning of the interview, Mr. Lubbers was apprised of the allegation of misconduct made against him and he was invited to comment on it extensively. After the interview, he was provided with a copy of the record of discussion and was allowed to make editorial changes, clarify any misunderstanding, and offer any further comments. As such, OIGS rejects the charge, made days later by Mr. Lubbers, that he was not afforded due process.

26. When asked whether there was any physical contact between him and Mrs. [REDACTED] at the end of the 18 December meeting, Mr. Lubbers initially told OIOS: "I cannot exclude that I might have touched her." He was emphatic that if he did touch her, he did so only in order to usher her out of the room, and not with the intent to embarrass her. He added that there were only two times during that meeting when he had had physical contact with Mrs. [REDACTED] the first was when he lent her a pen and the second was when, at the end of the meeting, he ushered her out of the room, "in a friendly manner".

27. When advised that Mr. Blatter had told OIOS that he had twice seen Mr. Lubbers putting his arm around the waist of Mrs. [REDACTED] Mr. Lubbers replied that he was aware of this fact because he had discussed Mrs. [REDACTED] complaint with Mr. Blatter after the notification by the UNHCR IG. During that discussion, Mr. Blatter had reminded Mr. Lubbers that he had twice touched Mrs. [REDACTED] at her waist. Referring to the statement of Mr. Blatter, he then said that he might have thus touched Mrs. [REDACTED] but only in a polite and friendly manner, to usher her towards the door.

28. Mr. Lubbers described himself as a "physical" and "friendly" person and while conceding that on occasion he touches people around him, he argued that his gestures should not be construed as improper, but rather as polite and courteous. For example, he said that sometimes, when he shakes hands, he does so using both of his hands.

29. In his interview, Mr. Lubbers was asked if he knew why Mrs. [REDACTED] had filed such a complaint against him. He replied that he did not know but he offered two possible reasons. He noted that he had not remembered Mrs. [REDACTED] when he was first advised of the allegation by the UNHCR IG. Subsequently, he queried his secretary who reminded him that he had met Mrs. [REDACTED] in March or April 2001, when Mrs. [REDACTED] applied for the position of Chef de Cabinet, which was available at that time. Mr. Lubbers said that although not eligible for that position because she was a General Service staff, Mrs. [REDACTED] was interviewed by him at the request of the former Chef de Cabinet who had suggested that to do so would be good for improving the relations with the Staff Council of which Mrs. [REDACTED] was a member. Mr. Lubbers noted that she was not given the job as she was only a General Service staff and after her interview, Mrs. [REDACTED] sent him a note apologizing for having taken up his time. He also described her as "outspoken" and "brutally frank". He said that Mrs. [REDACTED] had made an impression on him, particularly during a farewell party organized in 2003 for Mr. Naveed, the outgoing Staff Council President, during which she made "a remarkable speech" which suggested that Staff Council members "knew everything" and managers did not. This prompted him to "neutralize" the effect of her speech when he spoke after her with light remarks.

30. Mr. Lubbers gave a second possible reason for her complaint which he had learned from Mr. Blatter. In late 2003, Mrs. [REDACTED] had competed unsuccessfully with Mr. Hegenauer for the position of Chair of the Staff Council.

He also recently learned that "things did not go well in the Staff Council". Mr. Lubbers opined that she might have been "frustrated" after she lost the election.

Allegation 2:

It is alleged that on two separate occasions, Mr. Blatter committed acts of misconduct in that he tried to replay the incident between Mrs. [REDACTED] and Mr. Lubbers in front of her colleagues.

a. Mrs. [REDACTED]

31. Mrs. [REDACTED] told OIOS that on 18 December, upon leaving the office of Mr. Lubbers, she joined Messrs. Hegenauer, Mir and Vanniasingam who were waiting for the elevator. Shortly thereafter, Mr. Blatter joined them and they all took the elevator to the ground floor. As they exited the elevator on the ground floor, a smiling Mr. Blatter told her "I saw what the HC did to you" and, in a playful manner tried to grab her, in an attempt to imitate the action of Mr. Lubbers. This made her feel further humiliated, after the incident with Mr. Lubbers.

32. Mrs. [REDACTED] further alleged that a few days later, when she and her colleagues were waiting in the elevator area, preparing for another meeting with Mr. Lubbers, Mr. Blatter came across the atrium to join them. When he approached her, she noted with surprise that he mentioned again the earlier behaviour of Mr. Lubbers to her. In doing so, he moved towards her and, again, tried to grab her. She stated that she had to use Mr. Hegenauer as a human shield, (as he is very tall) trying to keep him between herself and Mr. Blatter, to protect herself from the latter who feinted right and left to get around Mr. Hegenauer.

33. According to Mrs. [REDACTED] Mr. Blatter then stepped into the elevator and advised the group that he would meet with Mr. Lubbers alone. She added that Mr. Blatter asked her what she would do, should Mr. Lubbers grab her again, to which she said she replied, "But why didn't you protect me...or at least say something?" Noticing that Mr. Blatter was laughing at her, she said that she reproved him, saying; "Christ, it's not funny. You're the Director of DHRMI." Mrs. [REDACTED] further said that as the elevator door closed, Mr. Blatter continued to laugh and retorted: "So?"

b. Messrs Mir, Vanniasingam and Hegenauer

34. When asked to comment on the first incident with Mr. Blatter, Mr. Mir replied that he did not recall the incident but "did not rule it out either", Mr. Vanniasingam said "I didn't see it", but, referring to Mr. Blatter, immediately added that "I do not normally challenge people older than me or in position of authority".

35. Mr. Hegenauer, when questioned, said "I remember them playing and making inside jokes". When further asked to indicate whether Mrs. [REDACTED] had used him as a human shield in the second incident to protect herself against the

"jokes" of Mr. Blatter, Mr. Hegenauer replied that he did not remember, but said that this is a group of persons familiar with each other who are used to making jokes. He added, however, "This doesn't mean it did not happen".

c. Mr. Blatter

36. Mr. Blatter denied the allegations made against him by Mrs. [REDACTED] although he admitted "joking with her". He reiterated that the actions of Mr. Lubbers in twice touching the waist of Mrs. [REDACTED] had been "overly familiar".

V. Credibility of the Complainant

37. In cases of this nature, it is usual practice to determine the credibility of the complainant and the witnesses. While investigating the alleged misconduct, OIOS had to consider the possibility that Mrs. [REDACTED] had falsely accused Mr. Lubbers and Mr. Blatter. One of the key points was why she had waited for four months before filing the complaint.

38. Mrs. [REDACTED] told OIOS that this was not the first time she had been sexually harassed since joining UNHCR. In the more than 20 years she has spent with UNHCR, there were occasions when she had been sexually harassed by other senior managers who, she said, have since left the Organization. She did not complain at the time because she believed that nothing could be done. However, this time, she said that she felt so angry and humiliated that she could not remain silent anymore.

39. Mrs. [REDACTED] further stated that from the time of the incidents until April 2004, she had discussed the matter with several colleagues and friends to elicit their advice because filing a complaint, especially against Mr. Lubbers, was a serious step. To each of them, she said, she had described in detail what Mr. Lubbers and Mr. Blatter had done.

40. In the interviews with the persons consulted by Mrs. [REDACTED] and with others, OIOS corroborated the statement of Mrs. [REDACTED]. It was established that immediately following the 18 December meeting, while in the elevator, Mrs. [REDACTED] had discussed the actions of Mr. Lubbers with Mr. Vanniasingam. Mr. Hegenauer also confirmed the details that Mrs. [REDACTED] had discussed with him in early January 2004. Further, there is evidence that in February 2004, Mrs. [REDACTED] had sought advice on how to proceed on her case from two members of the Inspector's General Office of UNHCR. Similarly, others interviewed by OIOS confirmed that she had spoken with them in detail and with consistency. OIOS noted that the chronology of events and the details provided by Mrs. [REDACTED] to each of these witnesses were consistent with the complaint made by, and the interview statements of, Mrs. [REDACTED]. In their interviews, the witnesses have confirmed to OIOS the details that Mrs. [REDACTED] had provided to them of the incident with Mr. Lubbers and of the incidents with Mr. Blatter. Most of the witnesses were told either immediately or shortly after the incidents complained of; some were consulted more than once while others were consulted only later.