



EUROPEAN INNOVATION COUNCIL AND SMES  
EXECUTIVE AGENCY (EISMEA)

## RECORD OF PERSONAL DATA PROCESSING ACTIVITY

Based on **Article 31 of the Regulation (EU) 2018/1725<sup>1</sup>** on the protection of natural persons with regards to the processing of personal data by the Union Institutions, bodies, offices and agencies and on the free movement of such data, each responsible EISMEA data controller has to maintain a record of the processing activities under his/her responsibility.

**Record No: R-2019-21-2**

**Initial approval by Data Controller:** *see date of Ares date*

**Previous Notification** (if applicable): DPO-2011-1(b)

**Update(s)** (if applicable): July 2022; January 2024

### NAME OF THE PROCESSING ACTIVITY

**Anti-harassment policy in EISMEA**

### IDENTIFICATION OF THE DATA CONTROLLER

**European Innovation Council and SMEs Executive Agency (EISMEA), Head of Department C – Compliance, People & Budget, C-HR Sector**

### GROUND FOR THIS RECORD (select relevant ground)

- Record of a new type of processing activity of personal data (before its implementation)
- Record of a processing activity of personal data that is already in place (ex-post)
- Change/Amendment/ Update of an already existing previous record (or previous notification to DPO)

### DESCRIPTION OF THE PROCESSING ACTIVITY

This processing operation aims at preventing and remedying cases of alleged harassment within the Agency during an informal procedure. The formal procedure falls outside the scope of this processing activity as this is not processed by the Agency but by DG HR.IDOC. The steps of the informal procedure can be divided in: opening of a file, conciliation and closure.

During the first step, the Confidential Counsellor informs the alleged victim about the procedure, his/her rights and provides any relevant information including the confidentiality declaration. The alleged victim needs to complete the opening form, which will later be sent to the Anti-Harassment Coordinator, who assigns a unique reference number to the case for confidentiality purposes.

During the conciliation and with the consent of the alleged victim, the alleged harasser is informed by the Confidential Counsellor about the ongoing procedure, his/her rights, envisaging the possibility to find an amicable solution.

To close the informal procedure, the Confidential Counsellor shall pass the closing form and the case file to the Anti-Harassment Coordinator.

<sup>1</sup> [Regulation \(EU\) 2018/1725](#) of the European Parliament and of the Council of 23 October 2018 on the protection of natural persons with regard to the processing of personal data by the Union institutions, bodies, offices and agencies and on the free movement of such data, and repealing Regulation (EC) No 45/2001 and Decision No 1247/2002/EC (OJ L 295/39 of 21.11.2018).

# 1. INFORMATION ON THE PROCESSING ACTIVITY of the anti-harassment policy in EISMEA

This processing activity is performed in accordance with **Regulation (EU) No 2018/1725<sup>2</sup>** on the protection of individuals with regard to the processing of personal data by the Union institutions, bodies, offices and agencies and on the free movement of such data.

## 1.1. The Data Controller is:

European Innovation Council and SMEs Executive Agency (EISMEA), Head of Department C – Compliance, People & Budget – C-HR Sector, B-1049 Brussels, Belgium and can be contacted at: EISMEA-HR-HARASSMENT@ec.europa.eu.

**1.2. The following entity(ies) is/are acting as Processor(s):** European Commission Directorate-General for Informatics (DG DIGIT); Directorate-General Human Resources (DG HR) – Medical Service.

**1.3. The legal basis** for the processing based on **Article 5(1)** of Regulation (EU) 2018/1725:

- (a) the processing is necessary for the **performance of a task carried out in the public interest** or in the exercise of official authority vested in the Union Institution or body<sup>3</sup>;
- (a2) the processing is necessary for the **management and functioning** of the Union Institutions or bodies (Recital (22) of Regulation (EU) 2018/1725);
- (b) the processing is necessary for **compliance with a legal obligation** to which the controller is subject, which are:
  - Staff Regulations of officials (SR) and the Conditions of Employment of other servants of the European Union (CEOS)<sup>4</sup>: Articles 1(d), 12, 12 (a), 24 SR and Articles 11, 81 CEOS. Article 12 (a) of the Staff Regulations provides that "officials shall refrain from any form of psychological harassment";
  - Commission Decision C(2006)1624 on the European Commission policy on protecting the dignity of the person and preventing psychological harassment and sexual harassment<sup>5</sup>;
  - Memorandum of Understanding for the setting up of a network of Confidential Counsellors;
  - Implementing rules of the Agency: Steering Committee Decision on the policy on protecting the dignity of the person and preventing psychological harassment and sexual harassment
  - Executive Agencies' Manual of Procedures.
- (c) the processing is necessary for the **performance of a contract** to which the data subject is party or in order to take steps at the request of the data subject prior to entering into a contract;
- (d) the data subject has given **consent** to the processing of his or her personal data for one or more specific purposes;
- (e) the processing is necessary in order to protect the **vital interests** of the data subject or of another natural person.

**1.4 Purpose** of this processing is to prevent and remedy cases of alleged harassment within the Agency during an *informal procedure*, which aims at helping and protecting the alleged victim at an early stage.

<sup>2</sup> [Regulation \(EU\) 2018/1725](#) of the European Parliament and of the Council of 23 October 2018 on the protection of natural persons with regard to the processing of personal data by the Union institutions, bodies, offices and agencies and on the free movement of such data, and repealing Regulation (EC) No 45/2001 and Decision No 1247/2002/EC (OJ L 295/39 of 21.11.2018).

<sup>3</sup> *EISMEA Establishment Act*: Commission Implementing Decision (EU) 2021/173 of 12 February 2021 establishing the European Innovation Council and SMEs Executive Agency (OJ L 50/9 of 15.2.2021).

*EISMEA Delegation Act*: Commission Decision C(2021)949 delegating powers to the European Innovation Council and SMEs Executive Agency with a view to the performance of tasks linked to the implementation of Union programmes in the field of Innovative Europe, Single Market and Interregional Innovation Investments comprising, in particular, implementation of appropriations entered in the general budget of the Union.

<sup>4</sup> [Regulation No 31 \(EEC\), 11 \(EAEC\)](#), laying down the Staff Regulations of Officials and the Conditions of Employment of Other Servants of the European Economic Community and the European Atomic Energy Community as last amended by Commission Decision 2019/C 1/08 (OJ 45, 14.6.1962, p. 1385).

<sup>5</sup> pending the application of the new Commission Decision C(2023)8630, repealing the previous one.

Presumed victims may also initiate the *formal procedure* under Article 24 of the Staff Regulations, which may be processed by DG HR.IDOC. More specifically the processing of this informal procedure aims:

- to support and protect the victim;
- to be able to refer cases to the relevant services;
- to provide efficient and proper administration of cases to be solved as soon as possible;
- to guarantee confidentiality and create conciliation;
- to prevent cases;
- to review request for help and any need for psychological support;
- to identify recurrent cases and provide references for disciplinary actions where applicable;
- to provide data for the formal procedure and to reply to the Ombudsman or legal authorities at the national or European level in the case that the complaint leads to a formal procedure.

This processing does not cover the selection of Confidential Counsellors, which are covered by another record, nor the formal procedure per se, which is not handled by the Agency. Administrative inquiries are also covered by another specific record.

### **1.5 Categories of data subjects** concerned by this processing are:

Permanent Agency staff (temporary and contractual agents, seconded officials), intra-muros experts, interim staff, persons working under national contracts, trainees and project applicants/beneficiaries or external experts, visitors, witnesses and any persons potentially concerned, who could be alleged harasser, alleged victim, or other person implicated.

### **1.6 The following personal data** are or may be collected (on a need-to-know basis):

- *Administrative data* of the alleged victim, alleged harasser, and/or witness or other person implicated e.g. name (surname at birth, current surname, forename), nickname, personal number, professional address (street, postcode, place, country), phone number (office & GSM), email addresses, sector/unit/department, office number, social media accounts, date & place of birth, gender, nationality, etc.
- *Relevant data* for the harassment case collected through the Confidential Counsellors and Anti-harassment Coordinator or directly from the alleged victim including the alleged working and personal situation of the data subject and of other implicated persons. In particular, sensitive data relating to physical or psychological harassment might be processed.

### **1.7 The recipients** to whom the personal data during the anti-harassment procedure will or might be disclosed on a need-to-know and need-to-do basis when the procedure is launched and *with the prior explicit consent* of the person who gave them to the recipients.

*Transmission without explicit prior consent* can only occur in exceptional cases covered by Article 5.1 (e) of the Regulation, i.e. when necessary to ensure the protection of the alleged victims (vital interest).

Recipients with access to the personal data on a need-to-know basis, are:

- Confidential Counsellors and Anti-Harassment Coordinator;
- Authority Empowered to Conclude Contracts of Employment (Agency Director), Heads of Department;
- services of Agency: Legal Team, DPO or Internal Control Team in case of audits of legal proceedings;
- services of the Commission: DG HR Medical Service, DG HR Security Directorate, Legal Service.

In addition, certain data maybe disclosed, in compliance with the relevant applicable Union and national legislation and established case law, and on a temporary basis to legislative or supervisory bodies of the Agency or to national authorities, as well as auditing bodies or courts, (such as the Anti-Fraud Office (OLAF), European Public Prosecutor's Office (EPPO), internal audit, Court of Auditors, DG HR.IDOC, European Ombudsman, EDPS). The transmission will be restricted to the information necessary for the competent entity to carry out its task.

**1.8** Personal data **will not be transferred to third countries or international organisations.**

**1.9** The processing of this personal data **will not include** automated decision-making (such as profiling).

#### **1.10 The following technical and organisational**

Access to data is only possible via restricted access on an individual need-to-know basis and through User-ID and password. Personal data is stored on the servers of the Agency/European Commission, which abide by strict security measures implemented by DG DIGIT to protect the security and integrity of the relevant electronic assets.

##### *Organisational measures:*

To guarantee security of confidential data provided to Confidential Counsellors and the Head of Anti-Harassment Coordinator (or the Head of Human Resources Service) respectively, all written exchanges must be in paper-copy in envelopes marked as 'Private and confidential'.

All transfer of documents other than to the recipient is forbidden.

All notes taken during meetings and other documents compiled in a given case are kept in a locked cabinet or drawer (recommended safe boxes whenever possible). This concern the time when the documents are held by the Confidential Counsellor as well as when all documents have been sent to the Anti-Harassment Coordinator. Where documents are stored on an electronic medium, data shall be protected by password or kept on an encrypted disk, to prevent unauthorized access of third parties.

Transfer of documents between the Confidential Counsellor and the Anti-Harassment Coordinator, especially the closing form and files of a case must be delivered by hand in an envelope marked "staff matters and confidential".

For the purposes of policy monitoring, and to avoid single cases being recorded twice, the Anti-Harassment Coordinator allocates files a unique number (comprising digits and letters), which it will forward to the Confidential Counsellor responsible for a case. From this point onwards, with a view to preserving confidentiality, the files will be identified solely by their numerical codes and no names will be included in file references.

Recipients of data are reminded on their obligation of confidentiality and to use the personal data only for the purposes for which they have been transmitted and that the principle of confidentiality applies to all personal data.

In addition, a Code of Ethics of Confidential Counsellors and persons seeking assistance was adopted.

##### *Technical measures:*

All communication between the Anti-Harassment coordinator and the Confidential Counsellor shall be made through an anonymised number code. All written exchanges must be made in envelopes marked as "private and confidential." Data may also be kept in an encrypted disk by the Confidential Counsellors and the Anti-Harassment Coordinator. The use of encrypted messages (i.e. SECEM) shall also apply.

#### **1.11 The personal data concerned will be kept for the following a periods:**

The Agency applies by analogy the principles and retention periods indicated in Common Retention List of the Commission.

The Anti-Harassment Coordinator shall keep the files (both opening and closing files with the case) for a period of no more than **five years** after the outcome of the informal procedure. This period is necessary to evaluate the policy, reply to legal questions and identify possible recurrent cases.

If at the date of the expiration of the initial **five years**, there are ongoing legal or administrative proceedings, which may necessitate the consultation of the files, records shall be kept until the rights for appeal expire.

The Confidential Counsellor does not keep any personal data beyond the time limit necessary for him or her to accomplish his /her task.

The Confidential Counsellor shall not keep data more than **three months** after having finished his/her tasks and closure of the case (file closing form). When the term expires, the documents sent by the alleged victim are returned to him or her or forwarded to the Anti-Harassment Coordinator with the alleged victim's explicit consent in line with the security measures described above.

If the alleged harasser has not been informed of the existence of an informal procedure, no data relating to him/her shall be kept in the archives of the Anti-Harassment Coordinator.

Further processing for historical, statistical or scientific purposes envisaged, which would go beyond the normal retention period:

At the end of each year, anonymous statistical data are collected and analysed to enable an assessment to be made of developments in the situation and, where appropriate, to adapt the action to be taken, notably as regards prevention. Confidential Counsellors are responsible for completing an anonymous statistical form for each case handled, even if only in a brief and informal manner. The form is sent to the Anti-Harassment Coordinator of the Agency where the victim works once a case has been closed.

#### **1.12 Data Subjects are informed on the processing of their personal data via a data protection notice on their rights :**

- to access their personal data held by a controller;
- to request their personal data held by a controller to be corrected;
- to obtain in some situations erasure of their personal data held by a controller, e.g. when data are held unlawfully (right to be forgotten);
- to withdraw consent at any time, without affecting the lawfulness of processing based on consent before its withdrawal;
- **of recourse** at any time to the **EISMEA Data Protection Officer** at [EISMEA-DPO@ec.europa.eu](mailto:EISMEA-DPO@ec.europa.eu) and to the **European Data Protection Supervisor** at <https://edps.europa.eu>.

**Request from a data subject to exercise a right** will be dealt within **one month**.

The right to information, access, rectification, erasure, restriction or objection to processing, communication of a personal data breach or confidentiality of electronic communications may be restricted only under certain specific conditions as set out in the **applicable Restriction Decision** in accordance with Article 25 of Regulation (EU) 2018/1725.

Any queries concerning the processing of personal data, have to be addressed to the Data Controller indicated above in 1.1. at. [EISMEA-HR-HARASSMENT@ec.europa.eu](mailto:EISMEA-HR-HARASSMENT@ec.europa.eu).

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