

REGISTER NUMBER: 591

NOTIFICATION FOR PRIOR CHECKING

Date of submission: 28/04/2010

Case number: 2010-321

Institution: EESC

Legal basis: article 27-5 of the regulation CE 45/2001⁽¹⁾

(1) OJ L 8, 12.01.2001

INFORMATION TO BE GIVEN⁽²⁾

(2) Please attach all necessary backup documents

1/ Name and adress of the controller

CONTROLLER: Marie-Hélène BURHIN, Head of 'Staff Support Services, Individual Rights, Equal Opportunities' (SSP) Unit, Directorate for Human Resources, European Economic and Social Committee, Rue Belliard 99, 1040 Brussels

DELEGATED CONTROLLER: Jakub SZUMIELEWICZ, Administrator in the 'Staff Support Services, Individual Rights, Equal Opportunities' (SSP) Unit, Directorate for Human Resources, European Economic and Social Committee, Rue Belliard 99, 1040 Brussels

2/ Organisational parts of the institution or body entrusted with the processing of personal data

Directorate for Human Resources

'Staff Support Services, Individual Rights, Equal Opportunities' (SSP) Unit

3/ Name of the processing

Name of the processing:

Implementation of the informal procedure for treating cases of psychological and sexual harassment in the European Economic and Social Committee.

Short description of the processing:

The treatment consists in particular in listening to individuals who feel they are victims of harassment, the creation and storage of a file containing the contact information of the persons concerned (alleged victim and alleged harasser), the date on which the procedure was started and dates of subsequent meetings. This file can contain notes taken during meetings as well as e-mail messages or any other document related to the case in question submitted by the persons concerned.

There are several possibilities put in place within the framework of the anti-harassment policy:

Informal procedure:

- Consulting the harassment unit or one of its members**
- Request the intervention of hierarchical superiors**
- Request for mediation by harassment panel or by an external psychological adviser**

Formal procedure:

- Request to the Appointing Authority for assistance, without passing through the informal procedures, during or after informal procedures**

(For details please see Annex I)

4/ Purpose or purposes of the processing

In relation to the informal procedure for treating cases of psychological and sexual harassment data is collected and processed for the following purposes:

- a) to establish certain facts and help the victim assess the situation and to decide if a given situation could be considered as harassment;**
- b) to provide support and protection to the alleged victims and direct them, if need be, towards other appropriate services;**
- c) to ensure efficient handling of cases and to try to solve the problem on the basis of information as detailed as possible;**
- d) to deal with the information received in strict confidentiality so as to ensure the protection of the alleged victim;**
- e) to attempt mediation;**
- f) to put in place preventive measures;**
- g) to monitor and evaluate the anti-harassment policy;**
- h) to analyse the request, monitor and prevent psychosocial risks;**
- i) to identify individuals who are believed to be recurrent or multiple harassers and notify about this fact the Appointing Authority;**
- j) to forward the appropriate information to the appropriate services (Directorate for Human Resources) when the alleged victim starts a formal procedure.**

Depending on the stage of the informal procedure, data is processed by:

- a) the harassment panel or one of its members, whose primary role is to alleviate the suffering of the alleged victim of harassment by receiving the person, listening attentively and providing information on possibilities of further action. The harassment panel can also hear other persons involved in a conflict which appears to constitute harassment (alleged harasser, colleagues, witnesses), it can also draw Appointing Authority's attention to cases deemed especially serious, general problems in certain services and recurrent harassment cases;
- b) the hierarchical superior, who, upon being informed of improper conduct, tries to resolve the problem with a view to establish harmonious working relationships;
- c) in the mediation stage if the parties involved give their consent – the mediating party (harassment panel or an external psychological adviser provided by the Administration), who is charged with listening attentively to the alleged victim and alleged harasser to help them identify the conflict, to investigate its causes and to attempt to resolve the issue by mutual agreement or by compromise. The mediating party can make recommendations, and draw the Appointing Authority's attention to cases deemed especially serious, and recurrent harassment cases;
- d) in the formal procedure – the Appointing Authority, who reviews the request according to provisions of the Staff Regulations in force and decides on the appropriate action, if necessary, by carrying out an administrative investigation to establish the facts invoked in the request for assistance;
- e) in urgent situations at both informal and formal stages the Appointing Authority may also take any necessary measures in the interest of the service and of the parties involved, including reassignment of the presumed victim or alleged harasser within the Committee.

5/ Description of the category or categories of data subjects

Potentially concerned are all the persons working in the European Economic and Social Committee: officials, temporary agents, contractual agents, special advisors, seconded national experts, trainees.

Data to be processed are that of the alleged harasser and alleged victim, witnesses and others involved in a case of presumed harassment.

Concerning the informal procedure, it is important to note that this applies only to the personnel covered by the Staff Regulations or by the Conditions of employment of other servants of the European Communities as well as seconded national experts, special advisors, and trainees. Other persons not subject to the Staff Regulations or the Conditions of employment of other servants of the European Communities wishing to file a complaint of harassment against any member of the EESC staff may resort to national legislation. However, these persons can in parallel inform the EESC Appointing Authority about the fact pertaining to their complaint.

6/ Description of the data or categories of data (including, if applicable, special categories of data (article 10) and/or origin of data)

Members of the harassment panel are authorized to keep a record of names of the people who have consulted them, as well as the dates of their visits, for a period of 5 years. This data, after being rendered anonymous, shall be used for activity reports and statistical purposes. With the interlocutor's prior consent the panel is allowed to take notes during a consultation.

All data relevant to the handling of a case of alleged harassment are susceptible to processing under this procedure. The following is a non-exhaustive list of personal data of persons involved in a case of alleged harassment that can be processed:

- a) Identification data (name, e-mail address, telephone number, etc.);
- b) Administrative data (grade, unit, service, duties and responsibilities, etc.);
- c) Data on the health status of persons concerned;
- d) Claims, statements, information on cases treated coming from the alleged victim, the alleged harasser, witnesses or persons involved in other capacities;
- e) Documents that the person consulting a member of the harassment panel wishes to submit, provided that the latter considers these documents to be necessary for the accomplishment of his/her mission;
- f) Dates of consultations with a member of the harassment panel;
- g) Stages of potential mediation efforts.

Data subjects can exercise their right to access the information or documents relating to them and to update or rectify factual mistakes at any given time at a simple request to the harassment panel or the data controller.

All data subjects shall be able to access the documents they have themselves transmitted. Access to any other document will only be granted if this document does not contain personal data relating to other persons or confidential statements, or if there is no risk that its transmission may negatively affect one of the parties involved in the case, the smooth running of the procedure or future relations between the parties.

7/ Information to be given to data subjects

Together with the adoption of the decision concerning the procedures for dealing with psychological and sexual harassment at work within the EESC Secretariat mentioned in point 11 of the present notification, a separate Declaration on the protection of personal data within the framework of an informal procedure for treating cases of alleged psychological harassment (Privacy statement) will be published on the Intranet website dedicated to this topic.

This statement clearly indicates the Controller of the data processing, the purposes of the processing, the description of the data processed, the procedures for accessing and rectifying data, the data recipients, as well as the retention periods of data in accordance with this notification.

(Please see Annex II for the Privacy statement, which will be put in the relevant section on the Intranet)

8/ Procedures to grant rights of data subjects (*rights of access, to rectify, to block, to erase, to object*)

Data subjects can exercise their right to access the information or documents relating to them and to update or rectify factual mistakes at any given time at a simple request to the harassment panel or the data controller.

All data subjects shall be able to access the documents they have themselves transmitted. Access to any other document will only be granted if this document does not contain personal data relating to other persons or confidential statements, or if there is no risk that its transmission may negatively affect one of the parties involved in the case, the smooth running of the procedure or future relations between the parties.

The alleged harassers are only directly informed of the rules for the processing and storage of the data if and when the alleged victim has given his/her prior consent. This exception is based on the need to guarantee the protection of the alleged victim (Article 20(1)(c) of Regulation 45/2001). However, if at the end of the intervention of the harassment panel, the alleged victim still refuses that the alleged harasser be informed of the informal procedure involving him/her, all data related to that person will be erased from the record and no element that could reveal the identity of this person will be kept by any member of the harassment panel.

9/ Automated / Manual processing operation

Processing of personal data is done manually.

The drafting of various documents is usually done with computer software for standard word processing.

10/ Storage media of data

The data is stored in paper format in a binder. This binder is kept in a locked cabinet in the office of the respective harassment panel member.

11/ Legal basis and lawfulness of the processing operation

Legal basis of the processing operation:

Charter of Fundamental Rights of the European Union: Articles 1 and 31;
Staff Regulations of Officials of the European Communities: Articles 1d, 12, 12a, 24, 86, and 90;
Conditions of employment of other servants of the European Communities: Articles 11, 46, 81, and 117;

Draft decision concerning the procedures for dealing with psychological and sexual harassment at work within the EESC Secretariat.

12/ The recipients or categories of recipient to whom the data might be disclosed

In the informal procedure the data is only transmitted to the competent authorities in cases of harassment (members of the harassment panel, the harassment panel, external psychological adviser performing mediation, the hierarchical superior, the Appointing Authority) and with the consent of the person concerned. All information provided to the harassment panel or its members individually in the course of their work shall be considered as confidential, even after informal or formal procedures have been closed. Such information may be divulged only in the context of procedures relating to harassment, and with the explicit consent of the person concerned. The harassment panel shall, however, draw the Appointing Authority's attention to cases deemed especially serious, general problems existing in certain services, and to recurrent cases when different persons complain against the same individual.

13/ retention policy of (categories of) personal data

Members of the harassment panel may keep a record for a period of 5 years. If at the date of the expiration of the initial 5 years there are ongoing legal or administrative proceedings, which may necessitate their consultation, records shall be kept until the rights for appeal expire.

13 a/ time limits for blocking and erasure of the different categories of data
(on justified legitimate request from the data subject)
(Please, specify the time limits for every category, if applicable)

LOCK:

2 weeks after receipt of the request

ERASE:

2 weeks after receipt of the request

14/ Historical, statistical or scientific purposes

If you store data for longer periods than mentioned above, please specify, if applicable, why the data must be kept under a form which permits identification,

After being rendered anonymous, data can be used for activity reports and statistical purposes, as well as for monitoring and evaluating the implementation of the anti-harassment policy.

15/ Proposed transfers of data to third countries or international organisations

As part of a formal and/or legal procedure, personal data may be transmitted to the Civil Service Tribunal, the European Court of Justice, and the Appointing Authority of another EU institution.

16/ The processing operation presents specific risk which justifies prior checking (*please describe*):

Yes.

The informal procedure for treating cases of psychological and sexual harassment may lead to certain measures, such as reassignment, which may have a significant career implication for the persons concerned.

AS FORESEEN IN:

X Article 27.2.(a)

Processing of data relating to health and to suspected offences, offences, criminal convictions or security measures,

In the informal procedure for treating cases of psychological and sexual harassment is very likely that data will be processed that is related to presumed offences and health.

X Article 27.2.(b)

Processing operations intended to evaluate personal aspects relating to the data subject,

In the informal procedure for treating cases of psychological and sexual harassment is very likely that data will be processed aimed at evaluating the conduct of the persons involved.

☐ Article 27.2.(c)

Processing operations allowing linkages not provided for pursuant to national or Community legislation between data processed for different purposes,

Not applicable

☐ Article 27.2.(d)

Processing operations for the purpose of excluding individuals from a right, benefit or contract,

Not applicable

☐ Other (general concept in Article 27.1)

17/ Comments

None

PLACE AND DATE: Brussels, 28 of April

DATA PROTECTION OFFICER: Maria Arsene

INSTITUTION OR BODY: European Economic and Social Committee