

(To be filled out in the EDPS' office)
REGISTER NUMBER:

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NOTIFICATION FOR PRIOR CHECKING

DATE OF SUBMISSION:

CASE NUMBER:

INSTITUTION: EIOPA

LEGAL BASIS: ARTICLE 27-5 OF THE REGULATION CE N° 45/2001⁽¹⁾

INFORMATION TO BE GIVEN²

1/ NAME AND ADDRESS OF THE CONTROLLER

FAUSTO PARENTE
EXECUTIVE DIRECTOR
EUROPEAN INSURANCE AND OCCUPATIONAL PENSION AUTHORITY EIOPA
WESTHAFENPLATZ 1
60327 FRANKFURT AM MAIN
GERMANY

2/ ORGANISATIONAL PARTS OF THE INSTITUTION OR BODY ENTRUSTED WITH THE PROCESSING OF PERSONAL DATA

Human Resources Unit
Confidential Counsellor

3/ NAME OF THE PROCESSING

Selection of confidential counsellors and informal procedures for cases of harassment in EIOPA

4/ PURPOSE OR PURPOSES OF THE PROCESSING

¹ OJ L 8, 12.01.2001.

² Please attach all necessary backup documents

The purpose of the processing is to prevent harassment at EIOPA and guarantee a work environment free of any form of psychological or sexual harassment. In order to achieve this, EIOPA has set up informal procedures, in accordance with EIOPA's anti-harassment Policy, for the implementation of which the selection of confidential counsellors is necessary. Personal data will, therefore, have to be processed both in the course of these internal procedures, for investigating and combatting harassment cases, and during the selection of confidential counsellors, for assessing their aptitude and appropriateness to perform the specific task of confidential counsellor.

5/ DESCRIPTION OF THE CATEGORY OR CATEGORIES OF DATA SUBJECTS

Every person working at EIOPA, regardless of grade or contract of employment (Staff members: Temporary Agents (TA) and Contract Agents (CA)/ Seconded National Experts (SNEs)/ trainees/ on-site consultants & temporary workers-interim staff).

6/ DESCRIPTION OF THE DATA OR CATEGORIES OF DATA (*including, if applicable, special categories of data (Article 10) and/or origin of data*).

The following categories of data are being processed:

- Identification & Administrative data are processed both in the context of the selection of confidential counsellors and in the course of informal procedures. In particular, such information might be contained in the applications/motivation letters submitted by the applicants for the position of confidential counsellor (e.g. name, email address, contract type, position, job title, Department/Unit/Team) and in the documents sent by the alleged victim to the confidential counsellor once the informal procedure has been initiated (e.g. name, email address, Department/Unit/Team).
- During the selection of confidential counsellors, the abilities, the sensitivity and the empathy skills of the candidates are also being evaluated. In addition, past professional experiences and whether the data subjects have ever been subject to an administrative inquiry / disciplinary proceedings are assessed too.
- In informal procedures, "subjective"³ data are also processed (e.g. allegations and declarations based upon subjective perceptions of data subjects, mainly collected by means of personal notes of the counsellors).
- Special categories of data, as these are described in Article 10(1) of Reg. 45/2001, including past personal experiences of data subjects, are processed but only in exceptional cases. For instance, data concerning health or sex life might be voluntarily provided by the data subjects both in the case of the informal procedures and the selection of confidential counsellors. In such cases, it should be considered that Article 10(2) paragraph (a) and/or (b) of Reg. 45/2001 applies.

7/ INFORMATION TO BE GIVEN TO DATA SUBJECTS

³ As defined in the EDPS Guidelines concerning the processing of personal data during the selection of confidential counsellors and the informal procedures for cases of harassment in European Institutions and Bodies.

All the information listed in Articles 11 and 12 of Reg. 45/2001 is provided to the data subjects in the relevant Privacy Statement, which will be:

- a) published on the InCiderNet (EIOPA's intranet) under the section referring to EIOPA's anti-harassment Policy, as well as the section referring to the appointed confidential counsellors;
- b) attached to the call for interest for the position of confidential counsellor;
- c) provided to the alleged victim, as soon as s/he contacts a confidential counsellor in the context of an informal procedure, and to the potential harasser (provided that the alleged victim agrees to him/her being informed and such an information would not prejudice the informal procedure).

8/ PROCEDURES TO GRANT RIGHTS OF DATA SUBJECTS

(Rights of access, to rectify, to block, to erase, to object)

EIOPA's Implementing Rules on Data Protection provide for specific rules and procedures, according to which data subjects may exercise their rights of access, rectification, erasure and objection.

When dealing with access and rectification requests, EIOPA will take into consideration the restrictions provided in Article 20 of Reg. 45/2001, in order to safeguard, for instance, the rights and freedoms of others.

Data subjects may address any request regarding the exercise of their rights to EIOPA's Data Controller (the Executive Director), the DPO, as well as the Harassment Prevention Coordinator of the HR Unit and/or the confidential counsellors, by sending an e-mail to the respective functional mailboxes. A reply is given to such requests normally within 15 working days.

Further to that, and in accordance with Articles 11(1)f(iii) and 12(1)f(iii) of Reg. 45/2001, data subjects may at any time recourse to the EDPS, requesting the protection of their rights.

9/ AUTOMATED / MANUAL PROCESSING OPERATION

The processing of personal data in the context of the selection of confidential counsellors and in the course of informal procedures is both manual and automated, as the relevant documents are kept both in paper and electronic form.

10/ STORAGE MEDIA OF DATA

Paper files relating both to the selection of confidential counsellors and the informal procedures are securely stored in locked cupboards located at the offices of the HR Unit or of the confidential counsellors, whose keys are respectively only kept by the Harassment Prevention Coordinator of the HR Unit or the confidential counsellors.

Electronic files containing the relevant information are stored in a secure SharePoint workspace with restricted access rights.

Emails exchanged are saved under Outlook folders accessible only by the persons involved.

11/ LEGAL BASIS AND LAWFULNESS OF THE PROCESSING OPERATION

Legal Basis

Article 12a of the Staff Regulations and Articles 11 and 81 of the CEOS.

Lawfulness

The processing of personal data relating to the implementation of EIOPA's anti-harassment Policy falls under Article 5(a) and complementarily under Articles 5(d) and (e) of Reg. 45/2001.

12/ THE RECIPIENTS OR CATEGORIES OF RECIPIENT TO WHOM THE DATA MIGHT BE DISCLOSED

Only the personal data necessary for the recipients to carry out their tasks will be disclosed.

More precisely, personal data could be disclosed to the following recipients:

Selection of confidential counsellors:

- Human Resources Unit and Staff Committee (they form the Selection Panel)
- Executive Director (he officially appoints the confidential counsellors)
- EIOPA staff (are informed of the names and contact details of selected confidential counsellors)
- Training providers (are informed of the names of selected confidential counsellors)
- Inter-agency network of confidential counsellors (are informed of the names and contact details of selected confidential counsellors).

Informal procedure:

(Personal data will only be transmitted to the competent bodies when a formal procedure is launched.)

- Confidential counsellors (they have access to all personal data collected)
- Human Resources Unit, and in particular the Head of HR Unit and the Harassment Prevention Coordinator(s) (s/he should receive only the identification data / administrative information in view of coordinating the process)
- The Executive Director (will be informed of recurring harassment cases)
- Alleged harasser
- Line manager(s) of the alleged victim and harasser
- Internal and/or external Medical Advisor(s)
- EIOPA DPO
- European Ombudsman
- EDPS
- EU Courts
- OLAF

13/ RETENTION POLICY OF (CATEGORIES OF) PERSONAL DATA

EIOPA shall apply the following retention periods:

a) Selection of confidential counsellors

- Non-selected candidates: the data will be retained until the deadline for challenging the selection decision has passed.
- Selected candidates: the data will be retained until the end of their respective mandate(s).

b) Informal procedure

The data will be stored for a maximum period of 5 years following the closure of the harassment case. However, longer retention periods might apply for informal procedures:

- a) for the purpose of detecting recurring cases. The confidential counsellor may store a summary of harassment cases, including basic facts and the identity of the alleged harasser for a period beyond this retention period, but not longer than the duration of the employment of the alleged harasser concerned.
- b) if the harassment case is brought before the European Ombudsman and/or the EU Courts. Personal data will be kept up until their respective judgment has been issued.

13 A/ TIME LIMIT TO BLOCK/ERASE ON JUSTIFIED LEGITIMATE REQUEST FROM THE DATA SUBJECTS

The rights of blocking and erasure can be exercised at any point in time.

EIOPA's DPO will react to such requests within the time-limit provided in EIOPA's Data Protection Implementing Rules, i.e. 15 working days.

14/ HISTORICAL, STATISTICAL OR SCIENTIFIC PURPOSES

Personal data collected in the context of EIOPA's anti-harassment Policy will be stored for historical or statistical purposes only on an anonymous basis.

15/ PROPOSED TRANSFERS OF DATA TO THIRD COUNTRIES OR INTERNATIONAL ORGANISATIONS

N/A

16/ THE PROCESSING OPERATION PRESENTS SPECIFIC RISK WHICH JUSTIFIES PRIOR CHECKING (*Please describe*):

AS FORESEEN IN:

x Article 27.2.(a)

x Article 27.2.(b)

As for the selection of confidential counsellors, the applicants' ability to perform the function will be evaluated, and there will possibly be processing operations related to their health.

As for the informal procedure, the data subjects' conduct will be evaluated and there will possibly be processing operations related to their health.

17/ COMMENTS

18/ MEASURES TO ENSURE SECURITY OF PROCESSING⁴ :

A number of technical and organisational measures have been put in place that ensure a level of security of the personal data processed appropriate to the risks presented in this particular case (i.e. prevent the assessment of the collected personal data by non-authorised persons). More precisely:

- All the persons involved in the informal procedure will be required to sign confidentiality declarations and confidential counsellors will need to attend a specific training;
- All information (including personal data) exchanged in electronic or paper files, is classified as confidential pursuant to internal “Rules on Handling EIOPA Information and Documents” and is treated and processed accordingly;
- All hard copy exchanges in the course of the informal procedure are delivered by hand in sealed envelopes marked “staff matters and confidential”;
- Paper files are stored in locked cupboards, whose keys are only kept either by the confidential counsellors or the Harassment Prevention Coordinator;
- Electronic files are stored in a secure SharePoint workspace, where access is restricted based on a need-to-know principle only to those involved in relevant processing operations;
- Electronic files exchanged are encrypted and secure USB sticks are used;
- Emails exchanged are saved under Outlook folders strictly accessible only by the persons involved.

PLACE AND DATE: FRANKFURT, 19/10/2017

DATA PROTECTION OFFICER: CATHERINE COUCKE

INSTITUTION OR BODY: EIOPA

⁴ Not to be published in the EDPS' Register (Art. 27(5) of Regulation (EC) N°: 45/2001)

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FOLLOW UP *(in case of acting measures to be taken)*