

**DRAFT DECISION**

**Decision on the functioning of the Advisory Committee dealing with harassment complaints concerning Members of the European Parliament and its procedures for dealing with complaints**

THE BUREAU OF THE EUROPEAN PARLIAMENT,

– having regard to the Staff Regulations of Officials of the European Union (hereinafter ‘Staff Regulations’) and the Conditions of Employment of Other Servants of the European Union (hereinafter ‘CEOS’), and in particular Article 12a and 24 of the Staff Regulations and Articles 11, 81 and 127 of the CEOS,

– having regard to Rule 25(2) and (3) of the European Parliament’s Rules of Procedure,

whereas:

- (1) It is in the interests of the institutions to promote a working environment which respects human dignity and to promote employees’ professional and personal development.
- (2) The concept of harassment is governed by Article 12a of the Staff Regulations, and is applied by analogy in the CEOS.
- (3) The procedure for the investigation of complaints regarding harassment by Members must enable a sufficiently vigorous, speedy, confidential and diligent investigation of the facts on which the complaint is based, depending on the circumstances of the case.
- (4) The experience gained since 2014 in dealing with complaints regarding harassment in the European Parliament has led to improvements in the structured preparation of the institution’s work aimed at addressing these complaints more quickly and rigorously.
- (5) For reasons of clarity, comprehensibility and legal certainty, a coordinated approach is needed.
- (6) The Committee shall be assisted by a Secretariat that will be adequately staffed.

## Article 1 Subject

The purpose of this Decision is to lay down the procedure for establishing whether harassment by a Member of the European Parliament, which has been alleged by a Parliament staff member, (the complainant) did in fact occur.

## Article 2 Definitions

1. ‘Complainant’ means a person who considers himself or herself to be a victim of harassment by a Member of the European Parliament. A complainant, within the meaning of this decision, may be an accredited parliamentary assistant (APA), an official or a staff member of the European Parliament’s Secretariat, a staff member of one of the political groups, a national expert seconded in accordance with the Bureau decision of 4 May 2009 on the rules for the posting of national experts to the European Parliament, or a trainee.
2. ‘Trainee’ means a trainee under the terms of the applicable internal rules concerning Member trainees or traineeships and study visits in the European Parliament’s Secretariat.
3. “The Committee” means the Advisory Committee dealing with harassment complaints concerning Members of the European Parliament”.
4. “The appointing authority” means the authority defined by the Bureau Decision of 13 January 2014 on the delegation of the powers of the appointing authority and of the authority empowered to conclude contracts of employment (AECE).
5. In accordance with Article 12a of the Staff Regulations:
  - a) ‘Psychological harassment’ means any improper conduct that takes place over a period, is repetitive or systematic and involves physical behaviour, spoken or written language, gestures or other acts that are intentional and that may undermine the personality, dignity or physical or psychological integrity of any person.
  - b) ‘Sexual harassment’ means conduct relating to sex which is unwanted by the person to whom it is directed and which has the purpose or effect of offending that person or creating an intimidating, hostile, offensive or disturbing environment. Sexual harassment shall be treated as discrimination based on gender

### Article 3 Harassment complaint

1. The complainant who considers him/herself to be a victim of harassment by a Member of the European Parliament within the meaning of Article 12a of the Staff Regulations shall submit his/her complaint to the appointing authority, in the form of a request for assistance under Article 24 of the Staff Regulations, or by analogy, as provided for in Articles 11 (first paragraph) 81 or 127 of the CEOS, or, in the case of trainees and national experts on secondment in accordance with the duty to have regard for the welfare of staff.
2. Before submitting his/her complaint, the complainant may informally contact the Members of the Committee or its Secretariat.

### Article 4 Preliminary study

1. Where a complainant submits a request for assistance alleging harassment by a Member, the appointing authority shall:
  - inform the Committee;
  - entrust the complaint without delay to the responsible service in the Parliament Secretariat who will carry out a thorough preliminary study into the alleged facts in order to determine whether there is any prima facie evidence of harassment.
2. Within 40 days of the receipt of the complaint, the responsible service shall submit a preliminary study to the Committee and the appointing authority.

This preliminary study shall contain:

- the complaint and where appropriate, any written witnesses statements,
- a list and a summary of the evidence collected and copies of the relevant documents,
- an opinion as to whether or not there is prima facie evidence of harassment.

The study shall be based on the complaint and, where appropriate, any written statements from the proposed witnesses, and information obtained from the relevant services in the administration, such as absences, documentation relating to the recruitment of the complainant, and data with a short retention period, for example, concerning access to the Parliament.

3. In the absence of sufficient evidence to establish a prima facie case of harassment, and in agreement with the Committee, the appointing authority shall consult the Legal Service and give the staff member concerned the opportunity to be heard before taking a decision on the basis of Article 24 of the Staff Regulations.
4. An intentionally false and/or misleading complaint may lead to disciplinary proceedings against the complainant, and in the case of a trainee, to the termination of the traineeship.
5. If there is sufficient evidence to establish a prima facie case of harassment, the Committee shall continue the investigation.

## Article 5 Provisional measures

1. The appointing authority may decide at any moment to adopt provisional measures. These measures may include, inter alia, permission for the complainant to perform work at home or in the European Parliament, but not in the office of the Member concerned, or for the complainant to be granted a leave of absence ex officio.
2. If the appointing authority decides to adopt provisional measures, it shall inform the Committee of the measures, indicating whether it was necessary to inform the Member concerned.

## Article 6 Composition and meetings of the Committee

1. The Committee shall be composed of six members. The Chair of the Committee and two other members shall be Quaestors. The Chair of the Advisory Committee on Harassment and its Prevention at the Workplace shall be a member. Two members shall be members of the Accredited Parliamentary Assistants' Committee ("the APA Committee") - the Chair of the APA Committee and one being the assistant of a member of another political group
2. If the Committee is considering a complaint by a staff member other than an accredited parliamentary assistant or a Member's trainee, the members of the APA Committee shall be replaced by one member of the Advisory Committee on Harassment and its Prevention at the Workplace representing the Staff Committee.
3. The members of the Committee shall be appointed by the President of the European Parliament who shall also appoint the Chair of the Committee. The composition of the Committee shall observe gender balance.
4. Two expert advisers - one medical officer from the Medical Service and one Member of the Legal Service - shall be appointed by the Secretary General.
5. The Committee shall be assisted in its work by a Secretariat.

## Article 7 Quorum and vote

1. The Committee shall meet when convened by its Chair or one of the other Quaestors replacing the Chair. In his/her absence the Chair shall be replaced by one of the other Quaestors in the order of precedence of their election by the Plenary.
2. Three members of the Committee, including two Quaestors and one member of the APA Committee or, where Article 6(2) of this Decision applies, the member of the Advisory Committee on Harassment and its Prevention at the Workplace representing the Staff Committee, shall constitute a quorum.

3. In the event of a tied vote, the Chair shall have a casting vote.

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Article 8  
Procedure

1. The Committee shall work with complete autonomy, independence and confidentiality. Its proceedings shall be secret.
2. It shall investigate cases brought before it with due rigour, speed and discretion.

Article 9  
Detailed investigation by the Committee

1. For each case referred to it, the Committee shall appoint, from among its members, a rapporteur. The rapporteur shall inter alia identify the facts to be clarified and the persons to be heard and shall propose to the Committee a draft report.
2. Unless the Committee decides that the complaint lodged by the complainant does not constitute an instance of harassment, the Committee will inform the Member concerned of the complaint and will send to him/her a summary of the allegations made against him/her to enable him/her to become acquainted with them and to submit his position and arguments, if he/she so wishes. The summary may conceal the origin of certain testimonies to the extent necessary to protect the witnesses. The Committee will give reasonable time to the Member concerned to respond before the complainant is heard by the Committee.
3. The complainant shall be invited to be heard alone as promptly as possible. If the complainant provides valid reasons for not being able to be heard within a reasonable time, the Committee may proceed without hearing the complainant, explaining the reasons for its decision to proceed in the report that it shall submit to the President.
4. On the basis of the preliminary study, the Advisory Committee, on a proposal from the rapporteur, shall assess whether any witnesses are to be heard and whether any additional investigation is needed. Members' assistants, officials and other staff members shall be required to appear before the Committee unless they can give valid reasons for not attending. They shall be heard alone and separately. The Committee may invite other third persons to be heard.
5. The Member shall be heard alone by the Advisory Committee regarding the allegations made against him or her.
6. Any person heard may ask to be accompanied by a member of the European Parliament's Medical Service.

Article 10  
Report to the President

1. The Committee shall forward to the President its reasoned opinion on whether or not alleged harassment has occurred, in the form of a confidential report. Where appropriate, any minority opinion shall be recorded in it.
2. The Committee's confidential report shall contain:
  - a summary of the allegations made by the complainant,
  - a description of any improper conduct identified,
  - a summary of the investigation, including the comments of the Member concerned and of any witnesses heard,
  - an assessment of the facts and an evaluation of the evidence, including the witnesses' testimonies,
  - the Committee's conclusions as to whether or not harassment has occurred,
  - in the event that the Committee has concluded that harassment has occurred, a recommendation to the President on any sanctions against the Member concerned and any follow-up concerning the complainant concerned,
  - the Committee may make any other recommendation it considers necessary.

Article 11  
Decision of the President

1. In the light of the opinion delivered by the Committee, the President shall issue a reasoned decision as to whether or not harassment has occurred. He or she shall endeavour to notify his decision to the complainant and the Member concerned within six weeks of receiving the report, and shall inform the Committee and the appointing authority thereof.
2. Before deciding that harassment has occurred, the President shall hear the Member concerned. The President may impose a penalty on him/her in accordance with the European Parliament's Rules of Procedure.
3. The President may decide to impose financial measures by means of which the Member acknowledges accountability for the professional harm suffered by the complainant.
4. The hearing of the Member shall be deemed to be a hearing as required by the European Parliament's Rules of Procedure.

Article 12  
Decision of the appointing authority

1. In the light of the President's decision, the appointing authority shall take a final decision on the request for assistance after consulting the Legal Service.
2. If the President's decision concludes that harassment has occurred, the appointing authority shall decide on the action to be taken to support the victim of the harassment.
3. If the appointing authority intends to reject the request for assistance, it shall offer the complainant concerned an opportunity to be heard beforehand.

Article 13  
Access to documents

1. The documents of the Committee are confidential and shall remain secret. They shall be kept for as long as it is necessary for the treatment of the case and for no longer than 5 years.
2. Access to the documents of the Committee shall only be granted by unanimous decision of the Committee.
3. The reports of the Committee shall be kept for 10 years.

Article 14  
Other tasks of the Committee

1. The Committee shall be responsible for assessing the effectiveness of the procedure set out in this Decision. The Chair of the Committee shall regularly inform the Bureau about the functioning of the Committee.
2. The Committee may report to the President of Parliament and propose prevention, information or training measures.

Article 15  
Entry into force

1. This Decision shall enter into force on 1<sup>st</sup> September 2018 and it shall apply to requests for assistance submitted after that date.
2. This Decision replaces the Bureau Decision of 14 April 2014 on the internal rules on harassment and its prevention at the workplace and on harassment complaints involving Accredited Parliamentary Assistants and Members of the European Parliament as amended on 6 July 2015.