



EUROPEAN COMMISSION

Brussels, 22.3.2012
C(2012) 1931 final

COMMISSION DECISION

of 22.3.2012

on the agreement to certain Agencies on their implementing rules for giving effect to the Staff Regulations

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THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union,

Having regard to the Staff Regulations of Officials ('Staff Regulations') and the Conditions of Employment of Other Servants ('CEOS') of the European Union, laid down by Council Regulation (EEC, Euratom, ECSC) No 259/68¹, and in particular Articles 1a paragraph 2 and 110 thereof,

Having regard to Article 13 of the Rules of Procedure of the Commission of 29 November 2000 and the Rules giving effect to the Rules of Procedure of 20 February 2002, in particular those concerning the conditions for the exercise of powers,

Having regard to the Commission Decision of 9 February 2005 empowering the Commissioner in charge of Personnel and Administration to exercise, on behalf of the Commission, the powers conferred on the Commission by virtue of Article 110 paragraph 1, second sentence, of the Staff Regulations of officials of the European Union,

Whereas:

- (1) The establishment act of all Agencies refer to the Staff Regulations as the common legal framework for staff matters . Implementing rules lay down technical details important for individual cases and the coherent application of the Staff Regulations in the Agencies,
- (2) Following Article 110 of the Staff Regulations, Agencies shall adopt the appropriate implementing rules for giving effect to these Staff Regulations, after consultation of the relevant Staff Committee and in agreement with the Commission,
- (3) In accordance with Article 13 of the Rules of Procedure of the Commission of 29 November 2000 and the Rules giving effect to the Rules of Procedure of 20 February 2002, in particular those concerning the conditions for the exercise of powers, the Commission empowered the Commissioner in charge of Personnel and Administration to exercise, on its behalf, the powers conferred on the Commission by virtue of Article 110 paragraph 1, second sentence, of the Staff Regulations of Officials of the European Union as far as the adoption of implementing measures for the Agencies for giving effect to the Staff Regulations is concerned,

¹ OJ L 56, 4.3.1968, p. 1.

- (4) Certain Agencies have put forward draft implementing rules for agreement by the Commission. An in-depth examination has led to the conclusion that these draft rules follow, to a large extent, the relevant provisions laid down by the Commission for its own staff. Deviations from the Commission provisions are limited to the specificities of these Agencies,
- (5) The Staff Committee of the European Centre for the Development of Vocational Training (CEDEFOP) which is to be consulted pursuant to Article 110, paragraph 1, second sentence, of the Staff Regulations has not yet been constituted and it is therefore impossible at the present to comply with the requirements of that provision. The Staff Committee of this will be invited to give its opinion on the relevant implementing rules once it has been constituted and due regard will be had to any such opinion. The Commission is entitled in such circumstances to approve the rules forthwith.
- (6) The Staff Committee of the ENIAC Joint Technology Initiative (ENIAC) which is to be consulted pursuant to Article 110, paragraph 1, second sentence, of the Staff Regulations has not yet been constituted and it is therefore impossible at the present to comply with the requirements of that provision. The Staff Committee of this will be invited to give its opinion on the relevant implementing rules once it has been constituted and due regard will be had to any such opinion. The Commission is entitled in such circumstances to approve the rules forthwith.

HAS ADOPTED THIS DECISION:

Article 1

The Commission gives the agreement to the implementing rules of Agencies to the Staff Regulations, as listed in Annex I and detailed in Annex III.

Article 2

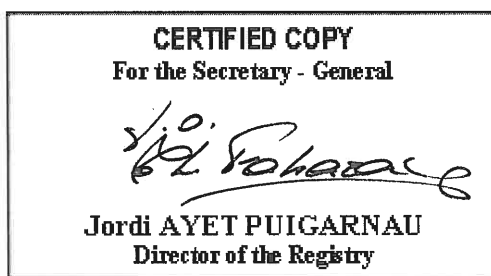
This Decision is addressed to the Agencies listed in Annex II.

Article 3

This Decision shall take effect on the day following its adoption.

Done at Brussels, 22.3.2012

For the Commission
Maroš ŠEFČOVIČ
Vice-President



Annex I

European Institute for Gender Equality (EIGE)

- Decision on the policy on protecting the dignity of the person and preventing psychological harassment and sexual harassment, as submitted to the Commission on 09.12.11

European Centre for the Development of Vocational Training (CEDEFOP)

- General implementing provisions for the appraisal for the director of the CEDEFOP, as submitted to the Commission on 08.12.11

- Decision laying down the general provisions for implementing the certification procedure (article 45a of the Staff Regulations), as submitted to the Commission on 08.12.11

- Decision laying down the rules for implementing the attestation procedure, as submitted to the Commission on 08.12.11

ENIAC Joint Technology Initiative (ENIAC)

- ENIAC decision on the policy on protecting the dignity of the person and preventing psychological harassment and sexual harassment, as submitted to the Commission on 09.12.11

- ENIAC decision setting up a Staff Committee, as submitted to the Commission on 09.12.11

SESAR Joint Undertaking (SJU)

- Decision of the Administrative Board of the SJU on general provisions for implementing Article 43 of the Staff Regulations and Articles 15 and 87 of the Conditions of Employment of Other Servants of the European Union, as submitted to the Commission on 08.12.11

Translation Centre for the Bodies of the European Union (CdT)

- Dispositions générales d'exécution relatives au perfectionnement professionnel, as submitted to the Commission on 12.12.11

Annex II

European Institute for Gender Equality (EIGE)

Švitrigailos g. 11M,
LT-03228 Vilnius
Lithuania

European Centre for the Development of Vocational Training (CEDEFOP)

Europe 123,
GR - 570 01 Thessaloniki (Pylea),
Greece

European Nanoelectronics Joint Technology Initiative (ENIAC)

Avenue de la Toison d'Or 56-60
1060 Brussels

SESAR Joint Undertaking (SJU)

Avenue de Cortenberg 100
B-1040 BRUXELLES

Translation Centre for the Bodies of the European Union (CDT)

1, rue du Fort Thüngen
L-1499 Luxembourg

Annex III



The European Institute for Gender Equality

Decision on the policy on protecting the dignity of the person and preventing psychological harassment and sexual harassment

THE MANAGEMENT BOARD OF EUROPEAN INSTITUTE FOR GENDER EQUALITY,

HAVING REGARD to the Treaty establishing the European Union¹,

HAVING REGARD to the Council Regulation 2006 of 12 December 2006 establishing the European Institute for Gender Equality (hereafter referred to as "EIGE" or "the Institute"),

HAVING REGARD to the Staff Regulations of Officials and Conditions of Employment of Other Servants of the European Union, laid down by Council Regulation (EEC, EURATOM, ECSC) No 259/68, and in particular to Articles 1d, 12 and 12a of the Staff Regulations concerning behaviour which may infringe human dignity and Article 11 of the Conditions of Employment of Other Servants,

After consultation with the Staff Committee and in agreement with the European Commission pursuant to Article 110 of the Staff Regulations,

Whereas:

(1) Psychological harassment and sexual harassment at work are serious problems which EIGE shall strive to prevent by promoting a culture free of all forms of violence in the workplace in which such harassment is unacceptable.

(2) Both psychological harassment and sexual harassment stem from different issues but have certain similarities. An informal procedure common to these two forms of harassment should therefore be opened through the network of confidential counsellors and arrangements laid down applicable to the common formal procedure under Articles 24 and 90 of the Staff Regulations.

(3) Steps should therefore be taken to:

- a. introduce a common policy of prevention of psychological harassment and sexual harassment within the context of the Staff Regulations;

¹ Council Regulation (EEC, Euratom, ECSC) No 259/68 (OJ L 56, 4.3.1968, p. 1). Regulation as last amended by Regulation (EC, Euratom) No 1558/2007 of 17 December 2007, which entered into force on 1 May 2004.

b. introduce an informal and formal procedure relating to psychological and sexual harassment;

c. take appropriate action in accordance with the Staff Regulations against any person who is found guilty of psychological or sexual harassment at the end of a formal procedure;

HAS DECIDED AS FOLLOWS:

Article 1

The "Policy on protecting the dignity of the person working and preventing psychological harassment and sexual harassment at work" annexed to this Decision is hereby adopted.

Article 2

This decision shall take effect on the day following its adoption.

Done in Vilnius on ,

For The European Institute for Gender Equality

ANNEX

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ANNEX

THE EUROPEAN INSTITUTE FOR GENDER EQUALITY'S POLICY ON PROTECTING THE DIGNITY OF THE PERSON AND PREVENTING PSYCHOLOGICAL HARASSMENT AND SEXUAL HARASSMENT

1. Introduction

As an employer and to protect its staff, the European Institute for Gender Equality (EIGE) must guarantee respect for the dignity of women and men at the workplace. EIGE shall foster a sound and non-discriminatory working environment, in which the dignity and respect of individuals under all circumstances shall be protected.

EIGE's policy to prevent harassment is a protection tool for persons employed by the Institute. In this context, the victims and the possible witnesses will benefit from EIGE's protection guaranteed under Article 11 of CEOS and Article 24 of the Staff Regulations.

The policy will promote the development of an organisational culture in which every member of staff feels personally bound to respect and protect the dignity of her/his colleagues. In a professional environment in which different languages and culture coexist, generating numerous interactions, such phenomena of violence may take different forms and be perceived in a variety of ways.

However any conduct which does not respect the dignity of the person will not be tolerated.

EIGE will take the necessary steps to prevent and punish, under the Staff Regulations and the relevant EU legislation, any conduct that prejudices the dignity of its staff in the workplace and undermines its reputation². Any contact deemed to constitute psychological or sexual harassment is regarded by EIGE as unacceptable and will be punished regardless of the rank of the individuals formally recognised as guilty of such conduct³.

2. Policy goals

This policy is in line with the anti-harassment policy adopted by the European Commission and the approach taken by other EU Agencies. The goals of this harassment-prevention policy are:

- to promote a culture in which psychological and sexual harassment, like other forms of violence in the workplace, are considered unacceptable and are neither ignored nor tolerated;
- to introduce a policy of prevention by raising staff awareness and providing information;
- to introduce effective and appropriate procedures (the informal and formal procedure) to protect the dignity of the person working at EIGE;
- to take appropriate action (if necessary, disciplinary measures) in accordance with the Staff Regulations against any person who is found guilty of psychological harassment or sexual harassment.

² See Article 12 and 12a of the Staff Regulations.

³ See Article 86 of the Staff Regulations and Article 9 of Annex IX.

3. Description of harassment

Psychological harassment and sexual harassment stem from abuse of power or maliciousness and can be perpetrated by both individuals and groups. Harassment, be it psychological or sexual, may come from colleagues as well as from superiors or subordinates.

3.1 Psychological harassment

Psychological harassment⁴ is described under Article 12a of the Staff Regulations⁵ and Article 11 of CEOS.

Psychological harassment refers to 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.

It may be manifested in various forms as for instance:

- offensive or degrading comments, in particular in public, bullying, antagonism, pressure, offensive behaviour, even refusal to communicate;
- insults relating to someone's personal or professional competence;
- insulting or threatening remarks, both oral and written;
- belittling someone's contributions and achievements in an unjustified way;
- being isolated, set apart, excluded, rejected, ignored, disparaged or humiliated within the Institute;
- impairing the social relations;
- setting systematically unrealistic working objectives or deadlines contrary to the job description, not giving someone any work, or systematically giving them work which does not meet their profile;
- assigning systematically someone to a job which manifestly does not meet their competences.

Psychological harassment, while unacceptable, may in isolation appear of little consequence. When occurring on a regular basis, however, such conduct can cause serious harm to the person at whom it is directed.

Some kinds of behaviour may hurt certain people without constituting psychological harassment. A remark, a dispute, a clash of personalities at work, a management decision which is difficult to accept (allocation of new tasks, for instance), a duly substantiated negative appraisal, even repeated, cannot therefore necessarily be considered psychological harassment.

3.2 Sexual harassment

Sexual harassment is also described under Article 12a of the Staff Regulations⁶ and Article 11 of the CEOS.

⁴ The terms used to describe psychological harassment vary from country to country (mobbing, bullying, workplace violence, psychological harassment, etc.).

⁵ See section 1 of this document.

⁶ See section 1 of this document.

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 may take different forms (physical, oral, written or other), and involve persons of the opposite sex and of the same sex. The essential characteristic of sexual harassment is that it is unwanted by the recipient. It is therefore for each individual to determine what behaviour is acceptable to them and what they regard as offensive.

Sexual attention becomes sexual harassment if it is persistent once it has been made clear that it is regarded by the recipient as offensive. Unlike psychological harassment, a single incident may constitute sexual harassment if it is sufficiently serious⁷. Anyone who is guilty of such behaviour knows or should know that it affects the dignity of women and men at the workplace. Sexual harassment is also treated as discrimination based on gender⁸. It is the unwanted nature of the conduct which distinguishes sexual harassment from friendly behaviour, which is welcome and mutual.

A range of different types of behaviour can be considered sexual harassment, such as:

- promises of some kind of reward (favourable career moves, etc.) in return for sexual favours, or threats of reprisals if such requests are turned down;
- repetition of coarse or suggestive remarks, or sexual innuendo/invitations;
- use of crude and obscene language and/or gestures;
- repeated and exaggerated compliments on the appearance of a colleague;
- physical contact, rubbing against someone, pinching, deliberate unwanted kisses;
- acts of voyeurism or exhibitionism;
- use of pornographic material.

4. Consequences of conduct constituting psychological harassment or sexual harassment

Psychological harassment or sexual harassment might have various consequences for the persons who suffer it or feel subjected to it:

- they become isolated and social relationships tend to deteriorate;
- they make more and more mistakes, can no longer concentrate, become less productive, are demotivated, etc.;
- their professional development is hindered, career jeopardised;
- they suffer mental and physical health problems such as stress, anxiety, shame, demoralisation, humiliation, disorientation etc.;
- they may even suffer from somatic disorders, depression or increasingly serious physical and psychological disorders, which may, in extreme cases, lead to suicide.

The adverse consequences do not just affect the victims, but may also impact on other colleagues and on the Institute itself: loss of expertise, staff transfers, fall in productivity, absenteeism, harming the image of the Institute etc.

⁷ For example: groping, torn clothing, etc.

⁸ See Article 12a (4) of the Staff Regulations.

5. General principles for dealing with requests

In both the formal and informal procedures, all requests for assistance by a person complaining of psychological harassment or sexual harassment will be dealt with as quickly as possible. However, if an administrative inquiry is opened as part of the formal procedure, the timeframes for handling the request are longer. Confidentiality is guaranteed during and after the informal and formal procedures.

Compliance with the legislation on the protection of personal data⁹ applies within both the formal and informal procedures. Two essential assumptions should also be underlined:

- the presumption of innocence is fully guaranteed to alleged harassers throughout the procedure;
- Article 11 of the Conditions of Employment of Other Servants and Article 12a of the Staff Regulations foresee that, "An official who has been the victim of psychological or sexual harassment shall not suffer any prejudicial effects on the part of the institution. An official who has given evidence on psychological or sexual harassment shall not suffer any prejudicial effects on the part of the institution, provided the official has acted honestly."

In addition the following principles are useful and relevant:

5.1 Principle of prevention

The policy on psychological harassment and sexual harassment is based on an overall plan of preventive measures, comprising different stages. Specific prevention consists of developing a strategy of information and training, both individual and collective, to avoid and reduce the risk of psychological or sexual harassment, notably by detecting recurrent cases.

5.2 Principle of equal treatment

As an employer and pursuant to the duty to have regard to the welfare of staff, EIGE must guarantee that its staff is treated in all circumstances with respect and dignity. Each and every person working at EIGE regardless of grade or contract of employment (this includes trainees and all those working under a contract under national law), have the right to point out a situation of harassment where she/he considers herself/himself as victim (or to which she/he was witness), to a confidential counsellor or a member of the HR Section.

5.3 Principle of protection of the victim and the possible witness

The policy to address harassment is a protection tool for persons working at EIGE. In this context, the victims and the possible witnesses will benefit from the Institute's protection guaranteed under Article 24 of the Staff Regulations and under Article 11 of CEOS.

Moreover, Article 12a of the Staff Regulations and Article 11 of CEOS foresees that "An official who has been the victim of psychological or sexual harassment shall not suffer any prejudicial effects on the part of the institution. An official who has given evidence on psychological or sexual harassment shall not suffer any prejudicial effects on the part of the institution, provided the official has acted honestly."

5.4 Principle of confidentiality

⁹ Regulation EC No 45/2001 of the European Parliament and of the Council of 18 December 2000 on the protection of individuals with regard to the processing of personal data by the Community institutions and bodies and on the free movement of such data (OJ L 8, 12.1.2001, p. 1)

Concerning the administration, confidentiality is guaranteed during and after the informal procedure as well as during and after the formal procedure. Compliance with the legislation on the protection of personal data¹⁰ applies within both the formal and informal procedures.

5.5 Principle of the presumption of innocence

The presumption of innocence is fully guaranteed to alleged harassers all along the procedure.

5.6 Principle of promptness

In both the formal and the informal procedures, all requests for assistance by a person complaining of psychological harassment or sexual harassment will be dealt with as quickly as possible. However, if an administrative inquiry is opened as part of the formal procedure, the timeframes for handling the request will be longer.

5.7 Principle of precaution

Where there are signs of psychological or sexual harassment, EIGE may separate the parties in conflict for precautionary reasons, either in case of a formal procedure, or at the request of the counsellor or at the request of the immediate superior according to conditions foreseen in section 7.3 of this Annex.

5.8 Principle of information and training

Information to staff will consist of:

- awareness sessions explaining the policy of preventing psychological and sexual harassment and enabling an understanding the different forms of violence at work, spotting problem behaviour, etc.), and
- the provision of clear and precise information to help staff find out quickly and easily how to obtain support, advice and guidance and how to lodge a complaint;

This information will address to three distinct audiences:

- management so as to enhance the preparation needed to manage situations where psychological and sexual harassment is taking place.
- staff to heighten awareness and sensitivity to psychological harassment and sexual harassment issue .
- appointed confidential counsellors in the interests of the service and as part of the Institute's commitment to create the necessary institutional support.

¹⁰ Regulation (EC) No 45/2001 of the European Parliament and of the Council of 18 December 2000 on the protection of individuals with regard to the processing of personal data by the Community institutions and bodies and on the free movement of such data (OJ L 8, 12.1.2001, p. 1).

6. Parties involved

6.1 Administration Unit

The Administration Unit is responsible for drawing up and monitoring implementation of policy relating to psychological and sexual harassment. The contact persons in the HR Section provide the central service which staff can approach in the event of psychological or sexual harassment, for information on policy and procedures or may contact the confidential counsellors. The contact person in the unit shall, all along the procedure, be bound to the duty of confidentiality.

This service will oversee initiatives allowing implementation of the informal procedure, and the different aspects associated with the operation of the confidential counsellor network, including allocating the cases of psychological or sexual harassment submitted to it to specific confidential counsellors. It will provide an overview of cases submitted to the network of counsellors, in accordance with the arrangements laid down in the Manual of Procedures of Confidential Counsellors.¹¹

The Administration Unit is entitled to contact any relevant external services to deal with a submitted case.

6.2 Confidential counsellors

The confidential counsellors operate within the context of the informal procedure. Units are advised to take account of the tasks of confidential counsellors and to help them carry out their work as far as possible (by giving them access to meeting rooms, for instance). In carrying out their function and mandate confidential counsellors may not suffer any prejudice from the Institution, provided that they have acted in good faith and in accordance with the Institute's Manual of procedures.¹²

6.3 The network of confidential counsellors

The network is the key forum for meeting and for exchanges of good practice and points of view of its members in accordance with the arrangements laid down in the Manual of procedures. It offers a framework for reflection and effective action. It is also intended to provide an operational response contributing to the implementation of specific rules to stamp out psychological harassment or sexual harassment. It plays a role in evaluating, monitoring and, where necessary, modifying procedures.

6.4 EIGE's Director, Heads of Unit, HR staff and team leaders

EIGE's Director, Heads of Unit, HR staff and team leaders are in principle the first people who may be contacted by anyone encountering psychological or sexual harassment. Responsibility for actively promoting and applying the new policy lies with them, since they represent the tier of management that is in direct contact with staff. It is up to them to take steps to prevent psychological or sexual harassment, raise awareness and inform their staff of existing procedures. They play a role in any transfers of staff that may be required. In case they are informed about a case of harassment, they must also, in close collaboration with the various parties concerned, ensure the rapid and fair handling of any incident or complaint on this issue.

¹¹ The Manual is based on the Commission's Manual of Procedures.

¹² The mandate of individual confidential counsellors may be withdrawn by the appointing authority in accordance with the procedures laid down in the Manual.

7. General procedures for dealing with cases of harassment

7.1 General advice

Some people are not always aware of the impact of their behaviour. If a certain type of conduct is felt to be inappropriate or embarrassing, it is advisable to make this clear. In the event of sexual harassment in particular, ambiguous behaviour should be set straight. It is important to react immediately, setting limits politely but firmly. In some cases simply making it clear that the victim of such conduct finds it offensive and liable to undermine their performance at work or even their health, could be sufficient to put an end to the situation.

If unwanted behaviour continues, a written record should be kept of all incidents: dates, circumstances, description of events, potential witnesses, personal reactions at the time and afterwards, any psychosomatic consequences.

Any person who feels they are the victim of psychological harassment or sexual harassment is entitled to submit a request for assistance either informally or formally. As a first step, staff are strongly advised to seek resolution of the problem through conciliation, via the informal procedure, with the assistance of a confidential counsellor. Anyone who feels they are the victim of psychological harassment or sexual harassment is, however, free from the outset to initiate a formal procedure under the Staff Regulations¹³, involving longer timeframes.

The informal procedure can also lead to a formal procedure if it proves impossible to find a solution. Passage to the formal procedure is understood to automatically involve closure of any informal procedure underway. The advantage of the informal procedure over the formal procedure lies in the possibility of finding an amicable solution and possibly avoiding a formal procedure.

The advantage of the formal procedure is that it establishes the facts and, on the basis thereof, ends in the potential adoption of a penalty against a person found guilty of psychological harassment or sexual harassment at the end of a disciplinary procedure.

Any person accused of psychological harassment or sexual harassment may also request information (e.g. on current policy or procedures or those to be followed) or advice from Human Resources section of the Institute that may enable the alleged harasser to understand the options for resolving the conflict, depending on the seriousness of the accusations.

7.2 Informal procedure

At the informal level, the aim is to provide initial assistance. Here, the perception of psychological harassment is subjective and depends on the situation as perceived by the person concerned. The goal is to bring an end to the distress generated both by a "proven" situation of psychological harassment and by a situation that is perceived as such. The key characteristic of psychological harassment in this case is that the person subject to it considers it undesirable conduct.

As regards sexual harassment, the formal definition in the Staff Regulations covers the subjective perception of such behaviour (unwanted conduct).

In the informal procedure, therefore, the term "victim" refers to any person who defines herself/himself or identifies herself/himself as such. However, it is important to remember that there is a fundamental legal distinction between someone "who feels the victim of harassment

¹³ Or initiate a procedure under national applicable law.

and one who has actually suffered harassment" and is therefore recognised as a victim on the basis of proven facts, having gone through the formal procedure. No stage of the informal procedure may prejudice the outcome of the formal procedure.

The informal procedure allows monitoring and may lead to an amicable resolution. However, it does not involve formal recording of the facts or the application of penalties: this is done in the formal procedure (see point 4.3 below) only. The advantage of the informal procedure lies in the possibility of finding an amicable solution and possibly avoiding a formal procedure. It foresees the involvement of two trained EIGE confidential counsellors who are EIGE staff members appointed formally, on a voluntary basis, for a two-year renewable mandate by the Director. Before being appointed, the confidential counsellors will receive special training in targeted modules. They will subsequently receive ongoing training for such counselling work. The appointment of confidential counsellors reflecting a gender balance, is based on appointment by the Institute's a Director following consultation with the Staff Committee.

The Director and the Heads of Units are advised to take account of the tasks of confidential counsellors and to help them carry out their work as far as possible (by giving them access to meeting rooms, for instance). In carrying out their function and mandate confidential counsellors may not suffer any prejudice from the Institute, provided that they have acted in good faith and in accordance with the procedures. Confidential counsellors may be contacted directly.

The first objective of the confidential counsellor is to recognise and alleviate the victim's suffering by receiving her/him and listening without preconceptions and without passing judgment. EIGE's confidential counsellor will inform the victim of the existing procedure and of her/his rights and shall provide initial guidance through the various options and structures that will help to find a satisfactory solution to the problem. Any action taken by the confidential counsellor in the informal procedure may only be carried out with the prior agreement of the victim and must remain within the framework of the mandate given them.

The confidential counsellor may also meet the other party and play a conciliatory role in an attempt to clarify the facts and to reach an amicable solution. In all cases, confidential counsellors shall strive to listen carefully to the two parties, remain objective, clarify the facts and ensure good communication.

Confidential counsellors shall attempt to deal with each case within a period of four to maximum six weeks. If no solution can be found, counsellors may propose that the victim lodge a formal complaint.

The informal procedure is a preventive measure which allows for acknowledgement and support to staff members, conciliation and an amicable settlement. Depending on the case, emergency measures may be considered.

Confidential counsellors shall take notes during consultations and shall be bound by professional secrecy. The notes shall be kept for record purposes should the claim be transformed into a formal complaint.

7.3 Emergency measures

The main concern of any victim of psychological harassment or sexual harassment is to stop that harassment as quickly as possible. Where there are signs of psychological or sexual harassment, one option which may be envisaged is to shift one of the parties concerned. This measure may

take the form of reassignment of tasks or relocation within the Institute in the interests of the service, and may involve the victim (preferably with her or his agreement) or the alleged harasser (following an interview with the Director or a Head of Unit as appropriate). Such a measure is intended to separate the two parties and it may be proposed to the Director or the Heads of Units by a confidential counsellor or requested directly by one of the parties concerned.

Emergency measures, which must take account the needs of each particular situation, can be taken immediately. These are precautionary measures designed to put an end to a given situation. They are also intended to give the victim a chance to recover. These measures may of course also be taken within the framework of the formal procedure, at the request of the alleged victim or on the initiative of the Appointing Authority concerned.

7.4 Recurrent cases

Requests for assistance from different people involving the same individual are to be considered disturbing. These will therefore be brought to the knowledge of the Human Resources officer and the Director of the Institute. The Appointing Authority will decide on the most appropriate action to be taken and, where appropriate, launch the procedures provided for in Annex IX to the Staff Regulations.

7.5 Formal procedure

At the formal level, in line with the Staff Regulations, psychological harassment and sexual harassment are considered to occur if the conduct of the alleged harasser is regarded as abusive and/or intentional and/or repetitive and/or sustained and/or systematic and intended, for instance, to discredit or undermine the person concerned. These behavioural patterns are cumulative. Objective facts will help verify whether these behavioural patterns have been identified and if action needs to be taken.

A formal procedure can be initiated on the basis of a request for assistance under Article 24 of the Staff Regulations addressed to the Director, who is responsible for initiating the procedure. The procedure can be initiated either immediately, without first going through the informal procedure, or at the end of the informal procedure where the situation has not been resolved through conciliation.

When the Director has taken the appropriate steps, by ensuring that an inquiry is carried out to establish the facts at the origin of the request in collaboration with the author of that request, this signifies that this request has been followed up and has not been implicitly rejected (absence of reply after four months)¹⁴. If the request is rejected, either explicitly or implicitly, the person concerned can, where appropriate, lodge a complaint under Article 90 (2) of the Staff Regulations and - if it is rejected - submit an appeal to the Court of First Instance.

In the formal procedure, confidential counsellors are limited to act in any way, involving other actors or to providing support for the victim. Under this procedure, and depending on the requirements of the inquiry, confidential counsellors may also be called as witnesses, to testify to facts relevant to the inquiry which they have been informed of during the informal procedure.

The Director can instruct the Head of Administration or the Human Resources officer to carry out an administrative inquiry to determine the facts of the case and apportion any responsibility. Any

¹⁴ See Article 90 (1) of the Staff Regulations.

person who feels she/he is a victim of sexual harassment must provide all details which might support her/his allegations.

In the case of psychological or sexual harassment, a degree of evidence is required. The person bringing a complaint of psychological harassment or sexual harassment may be accompanied at the hearings by a person of their choice, provided that the person cannot be called as a witness in the course of the inquiry. At the end of the administrative inquiry a report will be presented, proposing either that the case is closed without further action or that disciplinary proceedings are opened. If the latter is proposed, the Director may decide, once she/he has heard the person or persons concerned, to open disciplinary proceedings and apply the ensuing penalties if there is confirmation of the wrongful act¹⁵.

If the misconduct involves repeated action or behaviour this will be taken into account in determining the seriousness of the misconduct and deciding on the appropriate disciplinary measure as well as a possible hierarchical relationship¹⁶.

If the procedure results in recognition of psychological harassment or sexual harassment, victims will, where appropriate, receive compensation for the damage suffered under the terms set out in the Staff Regulations (second paragraph of Article 24).

If the procedure ends in no action, all those who have been interviewed will be notified about the decision by the Human Resources officer. If the complaint proves to have been formulated in an abusive manner or in bad faith, the Director of EIGE may take disciplinary measures, either on her/his own initiative or at the request of the wrongfully accused person.

¹⁵ See Article 86 and Annex IX to the Staff Regulations.

¹⁶ See Article 10(h) of Annex IX to the Staff Regulations.

Appendix A

Your rights and responsibilities

If you feel you are a victim of psychological or sexual harassment you are entitled to:

- be heard within the informal procedure, by contacting either the Human Resources officer or one of EIGE's confidential counsellors impartially and confidentially;
- be certain that the confidential counsellor will not take any steps without your agreement;
- submit a request for assistance within the context of the formal procedure without embarrassment or fear of reprisals or indiscretions;
- be accompanied by a person of your choice during meetings with investigators;
- be assured of a fair and impartial investigation;
- be informed of the result of the investigation and, where applicable, of the measures to be taken.

You must:

- within a reasonable period, make the person you are accusing aware of your disapproval or unease, where necessary accompanied by a confidential counsellor;
- keep a written record of all incidents;
- co-operate with those in charge of the investigation into your complaint.

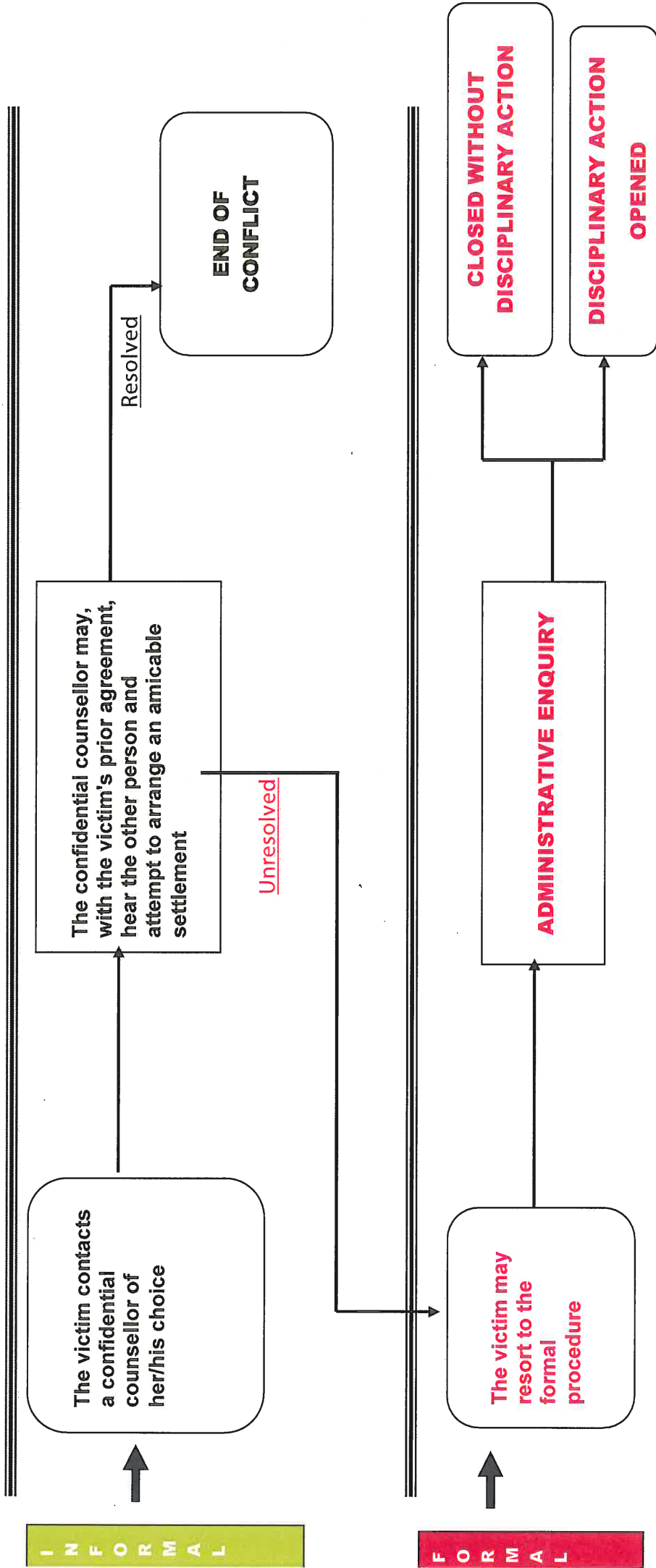
If you have been accused of psychological or sexual harassment you are entitled to:

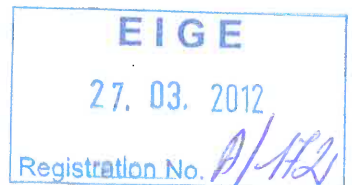
- contact, if necessary at the informal procedure stage, a member of the Human Resources Section or a confidential counsellor to advise you and help you uncritically and under the strictest confidentiality;
- be informed that an official complaint has been lodged against you, receive a copy of that complaint and have the opportunity to react to it;
- be accompanied by a person of your choice during meetings with investigators;
- be assured of a fair and impartial investigation;
- be informed of the result of the investigation and, where applicable, of the measures to be taken.

You must:

- keep a written record of all incidents;
- not directly contact/confront the person filing the complaint;
- co-operate with those in charge of the investigation into the complaint against you.

Appendix B
Outline of procedures





EUROPEAN COMMISSION

SECRETARIAT-GENERAL

Brussels, 23.3.2012
SG-Greffe(2012) D/ 5089

EIGE
Švitrigailos g. 11M,
LT-03228 Vilnius
Lithuania

NOTIFICATION PURSUANT TO ARTICLE 297 OF THE TFEU

Subject: COMMISSION DECISION OF 22.3.2012

For the Secretary-General

J.O.
Valérie Drezet-Humez
Valérie DREZET-HUMEZ

Encl. : C(2012) 1931 final

EN

