

(To be filled out in the EDPS' office)
REGISTER NUMBER: 998

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NOTIFICATION FOR PRIOR CHECKING

DATE OF SUBMISSION: 16/05/2013

CASE NUMBER: 2013-0518

INSTITUTION: EEAS

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

INFORMATION TO BE GIVEN²

1/ NAME AND ADDRESS OF THE CONTROLLER

Controller: [the Mediator, Ms. Cristina Allegra, SCHU 2/53](#)

Delegated controller: [the law officer of the Mediation Service, Ms Geneviève Chaumont, SCHU 2/54](#)

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

[Mediation Service, attached for administrative purposes to the Chief Operating Officer](#)

3/ NAME OF THE PROCESSING

Name:

[Activity of the Mediation Service within the EEAS](#)

Description:

The Mediation Service intervenes when a case is submitted to it by an individual or an EEAS department. Such cases include individual decisions by the Administration, and any other question where a staff member feels dissatisfied with working conditions or the working environment. The Mediation Service may also intervene where there are problems in relations at work or where an affront is made to the dignity of a person in the context of work, namely psychological harassment and/or sexual harassment.

It provides impartial advice to each official, servant or department that consults it. It may hear other persons involved in a particular case. It may also request information from any EEAS department concerned.

The Mediation Service acts as a facilitator and conciliator between the administration and EEAS staff. It makes recommendations and gives opinions, but has no decision-making powers.

All those activities imply the collection, the processing and the retention of personal data.

¹ OJ L 8, 12.01.2001.

² **Please attach all necessary backup documents**

4/ PURPOSE OR PURPOSES OF THE PROCESSING

The purpose of the processing is to help overcome, in individual cases, any difficulty that may arise in the context of working relations or concerning the rights and obligations of staff. This includes disputes on rights and obligations, relational problems at work and cases where an affront to the dignity of the person is alleged in the context of work.

5/ DESCRIPTION OF THE CATEGORY OR CATEGORIES OF DATA SUBJECTS

Potential data subjects are any person working at the EEAS, including staff in delegations under the responsibility of the Head of Delegation, regardless of their status or employment contract.

The categories of data subjects are:

- persons who contact the Mediation Service (persons "*in difficulty*");
- persons who have been complained about; e. g. alleged harassers;
- witnesses or other persons somehow involved.

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

Administrative files on cases contain information on the:

- name, first name, age, gender;
- department;
- grade;
- contact addresses, telephone, e-mail;
- date on which the person contacted the Service;
- nature of the problem (statutory rights and obligations/relational conflict);
- type of intervention (advice, action, mediation);
- case history;
- departments contacted;
- solutions put forward and the results yielded by mediation;
- messages, e-mails and all other paper or electronic documents on the case in question sent or received by the members of the Mediation Service.

Depending on the circumstances of the case, special categories of data pursuant to Article 10 of the Regulation, i.e. data revealing racial or ethnic origin, political opinions, religious or philosophical beliefs or trade-union membership or data concerning health or sex life, may be processed.

The processing of these sensitive data pursuant to Art. 10(2)(a) of the Regulation is subject to the express consent of the "person in difficulty" concerned.

The Mediation Service does not compile files on persons other than those involved in a case. That does not, however, preclude the possible appearance, in certain situations, of other persons' data in the file of the case concerned.

7/ INFORMATION TO BE GIVEN TO DATA SUBJECTS

The "*person in difficulty*" is referred, when contacting the Mediation Service, to the privacy statement available on the Intranet. The processing of data can be partially covered by Article 20[(1)] (a) and (c) of the Regulation.

The Service informs other data subjects whose names come up in the course of work on a particular case (e.g. colleagues involved in a workplace conflict, the data subject's superiors) only with the prior consent of the "*person in difficulty*". According to point 3.8 of the opinion on the notification for prior checking received

from the Data protection officer of the European Commission on the "Mediation Service of the European Commission" of 18 May 2009 (Case 2009-010), where the Mediation Service processes data relating to persons other than the "person in difficulty", "in deciding whether or not those persons should be informed, the Service must take account, on a case-by-case basis, of Article 20[(1)] (a) and (c) of the Regulation on exceptions and restrictions to the application of Articles 11 and 12 of the Regulation".

If and when deemed appropriate, data subjects other than the "person in difficulty" will also be referred to the Privacy Statement available on the intranet.

The Privacy Statement could also be provided in paper form to the data subjects (be them the "person in difficulty" or other individuals involved) in order to ensure that they are fully aware of their rights.

Making initial contact with the presumed offender and informing him or her on the data processing can only be realised with the express consent of the presumed victim. Priority is given, at all stage of the procedure, to the search for conciliation. As soon as the person in question is contacted, the Privacy Statement shall be delivered to him/her. Nevertheless, depending on the psychological state of the victim, as for reaching conciliation could take a certain amount of time, therefore the information should be reported. This is an exception which derives from Article 20 - 1 points c) and e).

The Privacy Statement is available on the Mediation Service's page on the EEAS intranet site at the following address (Link to be updated due to the launching of the EEASzone, the new intranet site of the EEAS):
<http://intradel/eeas/node/7709> (from EEAS buildings)
<https://intradel.ec.testa.eu/eeas/node/7709> (from KO + JL buildings)

8/ PROCEDURES TO GRANT RIGHTS OF DATA SUBJECTS (Rights of access, to rectify, to block, to erase, to object)

The data subjects may exercise their right to access their personal data and the right to correct any inaccurate or incomplete personal data, as well as to request the removal of their personal data upon request to the Mediation Service (Mailbox: EEAS MEDIATOR at EEAS-MEDIATOR@eeas.europa.eu).

9/ AUTOMATED / MANUAL PROCESSING OPERATION

Data are collected manually.

10/ STORAGE MEDIA OF DATA

Documents are stored in electronic form in a specific database for the administration of files operated exclusively by the Mediation Service.

Paper files are in addition to the electronic files and do not always contain the same documents. The complete file is the sum total of the data held in the paper file and in the electronic file.

11/ LEGAL BASIS AND LAWFULNESS OF THE PROCESSING OPERATION

Mandate of the EEAS Mediation Service of 25 October 2012

Commission Decision of 26 April 2006, on the European Commission policy on protecting the dignity of the person and preventing psychological harassment and sexual harassment, made applicable to the EEAS by the Decision of the Chief Operating Officer of 29 November 2011 to extend the application of certain Commission rules developing the provisions of the Staff Regulations and of the Conditions of Employment of Other Servants to the EEAS.

Lawfulness of processing

According to Article 5(a) of Regulation (EC) No 45/2001, processing must be «*necessary for the performance of a task carried out in the public interest on the basis of the Treaties establishing the European Communities or other legal instruments adopted on the basis thereof or in the legitimate exercise of official authority vested in the Community institution*».

The mediation procedure is part of a policy based on prevention and on the reintegration and management of staff, which constitutes performance of a task carried out in the public interest on the basis of legislative acts adopted on the basis of the Treaties establishing the European Union and in the legitimate exercise of official authority vested in the EU institution.

Good administrative practices in the framework of the Treaty of Lisbon and the Council Decision of 26 July 2010 establishing the organisation and functioning of the European External Action Service (2010/427/EU) – available on http://www.eeas.europa.eu/background/docs/eeas_decision_en.pdf

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

The main recipient of the data is the EEAS's Mediation Service.

The Mediation Service may decide, in order to fulfil its mediation mandate, to transmit certain data to other entities of the EEAS (the EEAS departments responsible for dealing with the file or the complaint; or the persons who have been complained about) or to services responsible for Commission staff in delegations.

13/ RETENTION POLICY OF (CATEGORIES OF) PERSONAL DATA

Personal data (paper files and data in the electronic database) are kept by the Service for five years after the closure of a case.

13 A/ TIME LIMIT TO BLOCK/ERASE ON JUSTIFIED LEGITIMATE REQUEST FROM THE DATA SUBJECTS (Please, specify the time limits for every category, if applicable)

The EEAS will respond within 15 working days, in accordance with the administrative code of good conduct, to any request and if it is considered justified, the relevant correction or deletion will be performed within one calendar month. The Mediation Service will support any request to which its activities are associated. The electronic mailbox of the EEAS MEDIATOR is: EEAS-MEDIATOR@eeas.europa.eu

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.

Data may be kept in anonymous form for longer periods than mentioned in point 13 under Article 4(1)(e) of Regulation (EC) N° 45/2001 for statistical purposes.

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

Not applicable for the Mediation Service.

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

AS FORESEEN IN:

↑ Article 27.2.(a)

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

The processing of personal data by the Mediation Service may require the processing of data concerning health and suspected offences, offences, criminal convictions and security measures;

↑ Article 27.2.(b)

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

The processing of personal data by the Mediation Service may require processing operations intended to evaluate personal aspects relating to the data subject.

↑ 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 for mediation.

↑ Article 27.2.(d)

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

The Mediation Service has no decision-making power of its own but provides advice to the individual and services turning to it.

↑ Other (general concept in Article 27.1)

N/A

17/ COMMENTS

N/A

PLACE AND DATE: BRUSSELS, 14. 05. 2013

DATA PROTECTION OFFICER: MS. CARINE CLAEYS, EEAS DPO _____

INSTITUTION OR BODY: EUROPEAN EXTERNAL ACTION SERVICE (EEAS)

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EDPS OPINION

OF DATE:

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