

*(To be filled out in the EDPS' office)*

**REGISTER NUMBER: 1130**

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**NOTIFICATION FOR PRIOR CHECKING**

**DATE OF SUBMISSION: 16/07/2013**

**CASE NUMBER: 2013-0874**

**INSTITUTION: EDA**

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

**INFORMATION TO BE GIVEN**

1/ NAME AND ADDRESS OF THE CONTROLLER

Jan-Paul Brouwer, Head of Human Resources Unit - rue des Drapiers 17-23 – 1050 Bruxelles

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

The HR Unit.

3/ NAME OF THE PROCESSING

Procedure following alleged psychological or sexual harassment.

4/ PURPOSE OR PURPOSES OF THE PROCESSING

Personal data processing carried out by EDA in the context of the informal and formal procedure to prevent psychological or sexual harassment. The purpose of the data processing, the implementation modalities and the role of parties involved in the procedure are described in a policy document available to all staff on the EDA Intranet Page (**see annex 1**).

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<sup>1</sup> OJ L 8, 12.01.2001.

5/ DESCRIPTION OF THE CATEGORY OR CATEGORIES OF DATA SUBJECTS

**In the informal procedure:**

- each and every person working at EDA, regardless of grade or contract of employment (this includes the trainees and all those working under a contract under national law) in the situation of he/she being identified or defined as an alleged victim of harassment by a member of staff of EDA;
- any person aware of a situation of harassment in so far as he/she is involved in the procedure;
- the alleged harasser is also considered as a data subject in so far as he/she is involved in the informal procedure.

**In the formal procedure:**

- staff identified or defined as an alleged victim of harassment by a member of staff of EDA (only staff covered by the EDA Staff Regulations have access to the formal procedure);
- the alleged harasser (only staff covered by the EDA Staff Regulations have access to the formal procedure);
- any person aware of a situation of harassment in so far as he/she is involved in the procedure.

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

Personal data processed in the context of the anti-harassment procedure may comprise:

- Objective (“hard”) data collected necessary to properly administer the case;
- Subjective (“soft”) data, collected by the External Prevention Advisor, based on statements and reflecting facts and perceptions of the alleged victim, of any person aware of a situation of harassment and of the alleged harasser (provided the victim provided the Advisor with a prior consent to contacting the latter). As far as relevant and necessary for the specific purpose of the case, data processed may comprise data qualified as sensitive in Article 10 of Regulation (EC) N° 45/2001 (i.e. data revealing racial or ethnic origin, political opinions, religious or philosophical beliefs and data concerning health or sex life).

The collection of “soft” data does not follow systematic rules as to the type of data processed and it is not possible to determine a priori the type of data collected. In accordance with Article 4 of Regulation (EC) N° 45/2001, data collected should anyway be adequate, relevant and not excessive in relation to the case handled. This analysis must be conducted on a case-by-case basis.

The above concepts are highlighted in the general privacy statement (see **Annex 2**).

7/ INFORMATION TO BE GIVEN TO DATA SUBJECTS

The EDA decision n°12/22 adopting general implementing provisions on the policy for protecting the dignity of person and preventing psychological and sexual harassment is available to all staff on the EDA HR Intranet Portal (**see annex 1**). A specific note on processing of personal data in the context of the alleged psychological or sexual harassment is available on the EDA HR Intranet (**see annex 2**).

8/ PROCEDURES TO GRANT RIGHTS OF DATA SUBJECTS

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

The data subject can exercise his/her right of access to and rectification of personal data regarding him or her, processed in the context of the anti-harassment procedure at EDA, by contacting the Head of the HR Unit.

9/ AUTOMATED / MANUAL PROCESSING OPERATION

The data processing operation is manual.

10/ STORAGE MEDIA OF DATA

Data storage by means of paper filing in locked cupboards of:

- the External Prevention Advisor;
- the HR Unit;
- the Investigation Team.

11/ LEGAL BASIS AND LAWFULNESS OF THE PROCESSING OPERATION

EDA Staff Regulations Art. 13 for Temporary Agents and Art. 103 for Contract Agents.  
EDA decision n°12/22 adopting general implementing provisions on the policy for protecting the dignity of person and preventing psychological and sexual harassment.

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

The hierarchical superior of the alleged victim, the Head of HR unit, the External Prevention Advisor/Mediator, the Corporate Services Director, the Chief Executive, the Deputy Chief Executive, the Investigation Team, the Internal Auditor, the College of Auditors, OLAF, the Court of Justice of the European Union, the European Ombudsman and any National Court.

13/ RETENTION POLICY OF (CATEGORIES OF) PERSONAL DATA

The External Prevention Advisor and the Investigation Team shall not keep personal data on a case for a period longer than three months following its closure. Personal data should be either destroyed or returned to the data subject who provided them;

- The Human Resources Unit holds the historical memory of anti-harassment procedures for maximum five years from the opening of the procedure. Five years is the period considered necessary for the Human Resources Unit to evaluate the harassment prevention Policy, to reply to any legal questions and to identify multiple or recurrent cases. Files may be retained for a further five years period in case an administrative or legal action is pending (e.g. with the European Ombudsman or the Court of the European Union).

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

Within 10 working days from the date a duly substantiated request is made.

14/ HISTORICAL, STATISTICAL OR SCIENTIFIC PURPOSES

Not applicable.

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

Not applicable.

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,*

↑ Article 27.2.(b)

*Processing operations intended to evaluate personal aspects relating to the data subject, including his or her ability, efficiency and conduct*

17/ COMMENTS

None.

PLACE AND DATE: BRUSSELS, 16 JULY.2013

DATA PROTECTION OFFICER: ALAIN-PIERRE LOUIS

INSTITUTION OR BODY: EDA

Annexes:

Annex I: EDA decision n°12/22 adopting general implementing provisions on the policy for protecting the dignity of person and preventing psychological and sexual harassment.

Annex II: Note on processing of personal data in the context of the alleged psychological or sexual harassment.