

**From:** [REDACTED]  
**To:** [REDACTED]  
**CC:** European Data Protection Supervisor  
<EDPS@edps.europa.eu>; [REDACTED]  
**Sent at:** 19/11/19 17:30:53  
**Subject:** RE: Follow-up on the EDPS recommendations on EIB -  
Dignity at Work - case number 2015-0633

Dear [REDACTED],

Please find below, inline, the EIB (Personnel) replies:

**Recommendation 16 - data protection statement**

- It seems like the last paragraph under section 11 is linked to section 10 instead of section 11;
- The fact that restrictions of data subjects rights should be based on the EIB internal rules is mentioned both in the beginning of the data protection statement (section 1) and in section 13.

Please find attached the amended Dignity At Work Data Protection statement. It now includes the recommendations above. This updated version will also be published in MyPortal.

**Recommendation 21 - internal guidance**

It is not completely clear how the EIB has implemented this recommendation. I would suggest to add sentence under M5 (\*\*) stating "*please ensure that only personal data that is relevant and necessary for the Mediation procedure should be shared with the other party/parties*", as a reminder to the case handlers.

This sentence has been added to the guidance - pls. refer to the attached new version of the guidance.

**Recommendation 24 - Ensure the implementation of the 'Manuel des procédures - Archives de la direction du Personnel' as to the systematization of the destruction of D@W-related documents in personal files.**

Please clarify how the information in the document "PERSONNEL Archives - Procedures Manual" is linked to this recommendation. Are the D@W-related documents covered by the table under 5.1.2 - Destruction (page 14)?

- Ø Yes, the D@W-related documents are covered by the table under 5.1.2 Destruction (page 14). They are part of the "CFC / Career Personal Data (red)". As this file contains multiple documents the longest retention period is reflected in this table. Of course, the D@W-related documents will be destroyed as per their retention schedule.

Or is this detailed in Annex VIII *Process outline - Destroy physical records in personal files*? And what about electronic files, are they also covered by this manual?

- Ø Please also find attached Annex VIII *Process outline - Destroy physical records in personal files*. This is a flowchart describing the process and of course, as you can see in the title of the document, the D@W-related documents are included in that process.

And what about electronic files, are they also covered by this manual?

- Ø Yes, we confirm that this manual covers both physical and electronic documents.

In case you need any further clarification or information please do not hesitate to contact the DPO.

Best regards

[REDACTED]



[REDACTED]

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**From:** [REDACTED]  
**Sent:** Thursday 24 October 2019 15:46  
**To:** [REDACTED]  
**Cc:** European Data Protection Supervisor <EDPS@edps.europa.eu>; [REDACTED]  
**Subject:** RE: Follow-up on the EDPS recommendations on EIB -Dignity at Work - case number 2015-0633

Dear [REDACTED],

Thank you for providing the documents in relation to our comments on the follow-up of the inspection at the EIB. We have a few additional comments in relation to our recommendations, please see as follows:

**Recommendation 16 - data protection statement**

- It seems like the last paragraph under section 11 is linked to section 10 instead of section 11;
- The fact that restrictions of data subjects rights should be based on the EIB internal rules is mentioned both in the beginning of the data protection statement (section 1) and in section 13.

**Recommendation 21 - internal guidance**

It is not completely clear how the EIB has implemented this recommendation. I would suggest to add sentence under M5 (\*\*) stating "*please ensure that only personal data that is relevant and necessary for the Mediation procedure should be shared with the other party/parties*", as a reminder to the case handlers.

**Recommendation 24 - Ensure the implementation of the 'Manuel des procédures - Archives de la direction du Personnel' as to the systematization of the destruction of D@W-related documents in personal files.**

Please clarify how the information in the document "PERSONNEL Archives - Procedures Manual" is linked to this recommendation. Are the D@W-related documents covered by the table under 5.1.2 - Destruction (page 14)? Or is this detailed in Annex VIII *Process outline - Destroy physical records in personal files*? And what about electronic files, are they also covered by this manual?

Many thanks in advance!

Kind regards,



**Legal Officer - Supervision & Enforcement**



**European Data Protection Supervisor**

Postal address: Rue Wiertz 60, B-1047 Brussels

Office address: Rue Montoyer 30, B-1000 Brussels

[@EU\\_EDPS](#) [www.edps.europa.eu](http://www.edps.europa.eu)

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**From:** [Redacted]  
**Sent:** 18 October 2019 12:39  
**To:** [Redacted]  
**Cc:** European Data Protection Supervisor <[EDPS@edps.europa.eu](mailto:EDPS@edps.europa.eu)>; [Redacted]  
**Subject:** FW: By 18.10.2019 - FW: Follow-up on the EDPS recommendations on EIB - Dignity at Work - case number 2015-0633  
**Importance:** High

Dear [Redacted],

Please find here the EIB replies to EDPS in your message below (they are highlighted so they can be easily spotted) together with the attachments. The changes in the attachments are tracked in order to facilitate your review.

Attached:

- Data Protection statement
- Internal Guidance Mediation Procedure
- Archives Procedure Manual
- EIB Retention of Documents and Records
- Data Protection Record

In case you need any further clarification or information please do not hesitate to contact me.

Best regards and have a nice weekend

[Redacted]

[REDACTED]

[REDACTED]  
[REDACTED]  
[REDACTED]

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**From:** [REDACTED]  
**Sent:** Thursday 10 October 2019 09:14  
**To:** [REDACTED]  
**Cc:** [REDACTED]  
[REDACTED] European Data Protection Supervisor  
<[EDPS@edps.europa.eu](mailto:EDPS@edps.europa.eu)>  
**Subject:** RE: Follow-up on the EDPS recommendations on EIB -Dignity at Work - case number 2015-0633

Dear [REDACTED],

We still haven't heard from you in relation to our questions and comments below. Since it was almost one month ago we sent you this email, please get back to us with the requested information as soon as possible and at the latest by the end of next week, i.e. **18 October 2019**.

Kind regards,  
[REDACTED]

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**From:** [REDACTED]  
**Sent:** 13 September 2019 11:43  
**To:** [REDACTED]  
**Cc:** [REDACTED]  
[REDACTED] European Data Protection Supervisor <[EDPS@edps.europa.eu](mailto:EDPS@edps.europa.eu)>  
**Subject:** Follow-up on the EDPS recommendations on EIB -Dignity at Work - case number 2015-0633

Dear [REDACTED],

Many thanks for your email and the documentation provided in relation to the follow-up of the recommendations made by the EDPS. I will comment on the different documents separately under the specific recommendation it concerns, but also I have some general comments and questions in relation to the record, please see below.

### **Recommendation 13**

The EDPS has received the new Dignity at Work Policy, with the mediation phase included. This recommendation is therefore closed.

### **Recommendation 16**

The data protection notice provided does not seem to be updated in light of Regulation 2018/1725 (with the exception of references to the Regulation), specifically in light of Articles 14, 15 and 16 thereof. It does not distinguish

between the personal data processed for the different procedures, doesn't include contact details to the controller nor the DPO, the different retention periods are not specified etc. The reference under point (vii), where it is mentioned that the data subjects right of access to and rectify their personal data by contacting [...] once the formal procedure has been launched, is not correct since these rights apply independently where in the procedure the data subject request access or rectification. Neither does this paragraph refer to other rights of the data subject nor the mediation procedure. The data protection statement should therefore be updated to cover all the required information included in Article 15 and 16 of the Regulation. Since all the information about the procedures is included in the record provided (however, please see my comments in relation to the record below), I assume that parts of it could easily be used to update the data protection notice. I would also suggest that you include a link to the record in the notice, if the data subjects want to read more about the processing operation. The recommendation could therefore be closed provided that the data protection notice is updated in line with Articles 14, 15 and 16 of Regulation 2018/1725.

- Please see the attached Dignity At Work Data Protection Notice

### **Recommendation 17**

This recommendation can be closed provided that the updated data protection notice is published on the EIB intranet for all EIB staff and made also available to any third party covered by the Dignity at Work Policy.

- Will be published early next week; as of now this version will be provided to third parties.

### **Recommendation 18**

The record states (under i) *Information to be given to the data subject*) that all data subjects have access to or will be provided with the related privacy notice [...]. It is however not clear from the internal guidance when the persons concerned will be provided with the data protection notice. I suggest this to be added under M1 when replying to the alleged victim or the accused person (by including a link to the data protection notice in the email) and under M5 when informing the other party/parties of the request/suggestion. This recommendation could therefore be closed subject to the inclusion of when the information to data subjects should be provided into the internal guidance, also in relation to the formal procedure.

- Please find attached, the updated "Internal Guidance Mediation Procedure". As visible from the track changes, a link to the Data protection statement will be included in the recommended emails. The same will be applied to the "Internal Guidance Formal Procedure as well as to any correspondence with the counterparties in the process.

### **Recommendation 19**

The EIB has adopted their internal rules on restrictions under Article 25 of the Regulation (after consulting the EDPS based on Article 41(2) of the Regulation, with case number 2019-0201). The internal rules cover the processing of personal data in relation to activities set out in the Dignity at Work Policy and state that, when information to the data subjects is restricted, the reasons for the restriction should be documented and apply as long as the reasons justifying it remain applicable. This recommendation is therefore closed. Regarding your Article 25 consultation, please be reminded that the EDPS made specific recommendations in relation to the data protection notice to be included in the

updated version.

### **Recommendation 21**

The internal guidance doesn't specify what information is to be shared with the other party/parties by the MO (under M5), except information about the request/suggestion. This recommendation could be closed provided that only data that is relevant and necessary for the Mediation procedure is shared with the other party/parties. This is without prejudice to any EDPS assessment or decision in any specific case. In addition, the alleged victim or accused person should be informed on what information will be provided to the other party/parties and about his/her right to object under Article 23 of the Regulation.

Implemented, as per your recommendations. Please see M5 of the attached "Internal Guidance Mediation Procedure".

### **Recommendation 22**

Since the Dignity at Work Policy includes the specific retention periods for the different procedures, this recommendation can be closed.

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### **Recommendation 23-24**

These recommendations remains open since the EIB has not provided the documents requested.

Regarding your comment on the Archives procedures manual, its confidentiality and whether the EDPS consider it necessary to receive this document, please see our following comment.

In line with investigative powers of the EDPS set out in Article 58(1) of Regulation (EU) 2018/1725, the EDPS has the power to:

- order the controller and the processor to provide any information it requires for the performance of his or her tasks;
- obtain, from the controller and the processor, access to all personal data and to all information necessary for the performance of his or her tasks;
- obtain access to any premises of the controller and the processor, including to any data processing equipment and means, in accordance with Union law.

This entails that, in accordance with and the EDPS' inspection procedures and practices, the inspection team have access to any relevant information, regardless of the medium on which it is stored, falling within the scope of the inspection as well as to any paper files or documentation related to the concerned data processing operations and means. If necessary, this information may be collected and removed for further review at EDPS offices.

It is up to the mandated inspectors to assess and decide which personal data and/or information they require for the performance of their task, as well as which premises of the controller and the processor, including any data processing equipment and means, to access.

Confidentiality of business, trade or commercial secrets or of other information cannot be a reason to refuse to disclose that information to the EDPS and the mandated inspectors in the context of an inspection. The confidentiality of privileged information (attorney-client, medical secret, trade secret,...) and protection of EU classified information will be given appropriate due care and accessed in line with EDPS' rules, procedures and practices.



More concretely please find here attached:

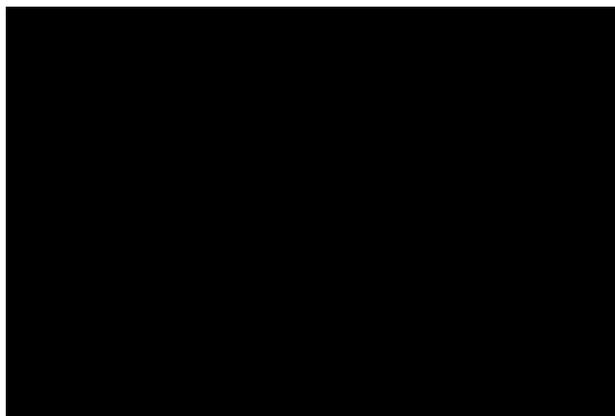
- The New Dignity at Work Policy
- The Data Protection Statement for data subjects
- The Internal Guidance – Mediation procedure
- A document with the EDPS's comments and the incorporated EIB's responses
- The newly provided record notified to the DPO register (with the retention periods for personal data)
- A screen shot of the relevant publication on the EIB Internal website

The Archives procedures manual is mentioned in the EIBs response but it is marked as confidential. In case the EDPS deems necessary the DPO will provide you with the document or relevant parts of it after following the internal procedure.

I am copying also the EIF DPO here because the Dignity at Work Policy is on a Group level (EIB and EIF).

In case you need any clarification please do not hesitate to contact the DPO.

Best regards



.....

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## Dignity At Work Data Protection statement for data subjects

As defined in Article 1.3 of the Dignity at Work Policy, the Persons working for the EIB being the data subjects in the context of the Policy are hereby informed that:

1. personal data submitted will be processed in accordance with e.g. (EU) 2018/1725 of 23 October 2018 on the protection of natural persons with regard to the processing of personal data by the Union institutions, bodies, offices and agencies and on the free movement of such data.
2. within the scope of the Dignity at Work Policy, the Director General of Personnel shall act as the “Controller” according to the definition given in Article 3(8) of Regulation (EU) 2018/1725; the Controller can be reached at the following address: [dignityatwork@eib.org](mailto:dignityatwork@eib.org).
3. the purpose of the processing of personal data is the implementation of a procedure for ensuring Dignity at Work within the Bank, in particular by protecting all Persons working for the EIB against any form of harassment in the workplace;
4. within the scope of the Dignity at Work Policy, the following procedures in the context of which personal data are processed are established: a) a network of Occupational Psychologists and Confidential Counsellors b) a Mediation Procedure c) a Formal Procedure,
5. in the context of the Dignity at Work procedures as described above, the categories of data processed are as follows:

### Data collected and exchanged in the course of communication with the Occupational Psychologists and the Confidential Counsellors:

- the name and position of the Alleged Victim and potentially of the Accused Person

### Data collected and exchanged in the course of the Mediation Procedure:

- personal data on the data subjects (Accused Person and/or Alleged Victim) collected in the context of the Mediation Procedure - the name and position of the Alleged Victim and of the Accused Person; data shared during the Mediation by the Alleged Victim and the Accused Person,

### Data collected and exchanged in the course of the Formal Procedure:

- the name and position of the Alleged Victim and of the Accused Person
- personal data on the data subjects (Accused Person and/or Alleged Victim) related to the factual background of the alleged Harassment, namely the relevant events, situations and/or incidents, including their dates, places, reactions and effects
- personal data on the data subjects (Accused Person and/or Alleged Victim) related to the documented outcome of the Mediation Procedure (if any) personal data on the witnesses that will support the Alleged Victim’s complaint – i.e. their names and a brief explanation on why those persons can help establishing the facts as well as personal data from the witnesses (if applicable)
- any other relevant personal data on the data subjects (Accused Person and/or Alleged Victim) that might be contained in a supporting document or evidence
- personal data on the data subjects (Accused Person and/or Alleged Victim) contained in the final report issued by the Dignity at Work Panel describing the findings of the Inquiry and concluding whether or not the denounced facts qualify as Harassment for the purpose of the Policy.

Personal data on the data subject, which may include special categories of data within the meaning of Article 10.1 of Reg. (EU) 2018/1725, processed lawfully according to

Article 5 of this Regulation. The Dignity at Work Panel may use personal data for the sole purpose of establishing the facts leading to their recommendation.

6. in the context of the procedures under the Dignity at Work, the categories of recipients of data are as follows:

- Mediators appointed by DG Personnel;
- Confidential Counsellors (as described by Confidential Counsellors notification);
- Occupational Psychologists;
- Dignity at Work Secretariat – authorized staff that is part of the Personnel Directorate for the EIB to ensure the administration of the Formal Procedure related to the Dignity at Work Policy;
- Legal Consultant (in cases when the Dignity at Work Secretariat is outsourced)
- authorized staff that is part of the Personnel Directorate ensuring the administrative follow up of the Mediation Procedure;
- Members of the Dignity at Work Panel as appointed by DG Personnel;
- DG Personnel;
- EIB President and staff authorized by him;
- Authorized staff within the EIB Office of the Chief Compliance Officer (OCCO) in case of potential conflict of interest cases;
- Authorized staff within the EIB Inspectorate General in case of investigation;
- Authorized staff within another EIB Directorate in case Personnel is considered as conflicted to handle a Dignity at Work complaint;
- the parties involved – i.e. the Alleged Victim, the Accused Person and Witnesses.

7. they may decline to answer questions or requests for additional information made to them in the context of the Formal Procedure. However, any failure to reply might prevent or impede proof of the alleged harassment or the absence of the alleged harassment;

8. they have a right of access to, a right to request from the Controller rectification or erasure of data concerning them. Under certain conditions, they have the right to ask that their personal data are deleted or that its use is restricted. Where applicable, they have the right to object to the processing of their personal data, on grounds relating to their particular situation, at any time, and the right to data portability.. These rights may be exercised at any stage of the Mediation, by contacting the Controller, or at any stage of the Formal Procedure by contacting the Dignity at Work Panel or the Dignity at Work Secretariat in the Personnel Directorate.. The Dignity at Work Panel or the Dignity at Work Secretariat will consider their request, take a decision and communicate it to them without undue delay;

9. the legal basis of the processing operation are:

the EIB Staff Regulations, the EIB Code of Conduct, the EIB Management Committee decision of 5 March 2019 approving the Dignity at Work Policy, the Dignity at Work Policy, the EIB Decision of 26 February 2019 laying down internal rules concerning the processing of personal data by the Personnel Directorate of the European Investment Bank in relation to the provision of information to data subjects and the restriction of certain of their rights pursuant to Article 25 of Regulation 2018/1725 (hereinafter the "[Internal Rules](#)"), Article 5(1)(a) of Regulation 2018/1725;

10. all data collected and exchanged in the course of the Dignity at Work procedures shall be adequate, kept secure and confidential, processed only for the purposes related to the implementation of the Dignity at Work Policy, not transferred to unauthorised third parties and not kept for longer than necessary for processing and for further formal action, including legal redress;

11. the relevant retention periods for each type of procedure under the Dignity at Work Policy, are as follows:

Preliminary assessment not leading to the launching of an ex officio Formal Procedure (Article 9.4 of the Policy)

Two years, from the adoption of the decision that no Formal Procedure will be launched *ex officio*, for all documents and personal data collected during the preliminary assessment carried out by DGP in case s/he becomes aware of serious allegations of Harassment.

Mediation Procedure (Article 19.1 of the Policy)

Three years, commencing on the day of the conclusion of the Mediation Procedure, for all documents retained as part of the Mediation Procedure by the Mediator and Personnel. The documents will be stored in a special electronic or paper folder clearly marked as strictly confidential. At the expiry of the retention period, all relevant data must be destroyed.

Formal Procedure (Article 35 of the Policy)

All documents, including the Complaint or the Note and any relevant supporting documents or evidence, submissions by the Accused Person and any relevant supporting documents or evidence, the Final Report and electronic communications of the Dignity at Work Secretariat with the Alleged Victim and/or the Accused Person pertaining to the Formal Procedure up to and including the Final Decision will be kept in a special file marked strictly confidential with strictly limited access within the EIB Personnel Directorate for a period of five years from the day on which the parties are informed in writing of the Final Decision. They may be stored for periods longer than five years after conclusion of the case, if relevant to judicial procedures or other inquiries.

Hearings (Article 30 of the Policy)

The hearings may be recorded by audio means, provided that all participants to the hearing in question have been previously informed. The recordings shall be made available to the Panel Members for the purpose of enabling them to conclude their assessment.

The recordings shall be kept for a period of six months after the delivery of the Dignity at Work Panel's recommendation to the EIB President, in a special file marked "strictly confidential" and with strictly limited access in the electronic document management system within the EIB Personnel Directorate. The recordings will be destroyed following the expiry of the retention period. Longer retention periods could be applied in exceptional and duly justified cases, subject to agreement of the DPO.

Where one of the parties so requests, a copy of the recording of their individual hearing shall be provided to them.

Investigations (Article 31 of the Policy)

The electronic files, telecommunication electronic traffic data and recorded data collected during the investigation and relevant to the needs of the Inquiry can be kept by the Dignity at Work Panel for a maximum retention period of six months from the Final Decision. They may be stored for periods longer than six months after conclusion of the case, if relevant to judicial procedures or other inquiries. This would include where files are transferred to other competent authorities or bodies for determination. In such instances, the DPO will be informed accordingly. After the Final Decision is communicated to the parties, the parties may have access to their personal data collected during the investigation in line with the applicable rules adopted by the competent service, in case any restrictions laid down in the Internal Rules were applied.

Personal File (Article 34 of the Policy)

- A copy (paper and/or electronic) of the decision dismissing a Complaint as inadmissible shall be placed in the personal file of the Alleged Victim.
- A copy (paper and/or electronic) of the Final Decision, along with the Final Report, shall be placed in the personal file of the Alleged Victim and the Accused Person. If the Final Decision concludes that no Harassment was found, the Accused Person may request that it is not placed in or removed from his/her Personal file. .
- The retention period for the documents placed in the personal file of the staff members is 3 years after staff member's departure from the Bank.

12. an exception to the confidentiality of data shall apply when this is necessary to safeguard the prevention, investigation, detection and/or prosecution of criminal offences. In this case, the Director General of Personnel shall inform the Alleged Victim and/or the Accused Person of the possible transmission of data to the competent national authorities unless this may risk undermining the prevention, investigation, detection and/or prosecution of criminal offences. In this case the Alleged Victim and/or the Accused Person will be informed at a later stage in accordance with the Internal Rules;

13. they will also have access to all evidence which designates their person and to personal data in order to ensure their completeness and accuracy and have the right to obtain from the Controller the rectification without delay of inaccurate or incomplete personal factual data;

14. the provision of information, right of access data related to him/her, rights of rectification, erasure and of restriction of processing and the communication of personal data breaches to the data subject may be restricted in accordance with the Internal Rules, if this is necessary to protect other persons involved in the Procedures or to safeguard the effectiveness of the procedure;

15. any unjustified breach of the provision about data protection may be sanctioned under the Disciplinary Procedure of the EIB;

16. they have the right to consult the EIB Data Protection Officer and have recourse to the European Data Protection Supervisor at any time.

17. the EIB Data Protection Officer can be reached at the following address: [dpo@eib.org](mailto:dpo@eib.org)

18. more information about the processing operation under that Dignity at Work Policy can be found at the [RECORD of Processing of Personal Data regarding the Dignity at Work Policy](#)









