



EUROPEAN RESEARCH EXECUTIVE AGENCY

**RECORD OF PERSONAL DATA PROCESSING ACTIVITY**

*In accordance with Article 31 of the Regulation (EU) 2018/1725 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<sup>1</sup> ('the Regulation'), individuals whose personal data are processed by the European Research Executive Agency ('REA' or 'the Agency') in any context whatsoever are to be protected with regard to the processing of personal data and the Agency has to keep records of their processing activities.*

Record No: 28  
 Created on (date): **November 2022**  
 Last update (date):

**NAME OF THE PROCESSING ACTIVITY**

Processing of personal data for the anti-harassment policy

**GROUND FOR THE RECORD (TICK THE RELEVANT ONE):**

- Regularization of a data processing activity already carried out
- Record of a new data processing activity prior to its implementation
- Change of a data processing activity.

**IDENTIFICATION OF THE DATA CONTROLLER**

European Research Executive Agency (REA)

<sup>1</sup> Regulation (EU) 2018/1725 of the European Parliament and of the Council 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, and repealing Regulation (EC) No 45/2001 and Decision No 1247/2002/EC (OJ L 295/39 of 21.11.2018).

# 1. MANDATORY RECORD UNDER ARTICLE 31 OF THE REGULATION

(PART I - PUBLISHABLE VERSION FOR EXTERNAL PUBLICATION)

## 1.1. Contact details of controller

The controller is the European Research Executive Agency (REA or the Agency), represented by its Director. For organisational reasons, the role of the data controller has been entrusted by the Director to the delegated controller and is exercised by the Head of Unit REA.D.2 "People and Workplace." The data controller may be contacted via the functional mailbox: [REA-HARASSMENT@ec.europa.eu](mailto:REA-HARASSMENT@ec.europa.eu)

## 1.2. Contact details of the Data Protection Officer (DPO)

REA DPO: [REA-DATA-PROTECTION-OFFICER@ec.europa.eu](mailto:REA-DATA-PROTECTION-OFFICER@ec.europa.eu)

## 1.3. Name and contact details of joint controller (where applicable)

N/A

## 1.4. Name and contact details of processor (where applicable)

N/A

## 1.5. Purpose of the processing

The processing aims at preventing and remedying cases of alleged harassment within the Agency during the informal procedure.<sup>2</sup> The informal procedure aims at helping and protecting the alleged victim at an early stage.<sup>3</sup>

The personal data is collected and processed with the following aims:

- to support and protect the alleged victim;
- to be able to refer cases to the relevant services;
- to provide efficient and proper administration of cases to be solved as soon as possible;
- to guarantee confidentiality and create conciliation;
- to prevent cases;
- to review request for help and any need for psychological support;
- to identify recurrent cases and provide references for disciplinary actions where applicable;
- to provide data for the formal procedure and to reply to the Ombudsman or legal authorities at the national or European level in the case that the complaint leads to a formal procedure.

The records are available on the REA public registry [https://rea.ec.europa.eu/public-central-register-data-protection-records-rea\\_en](https://rea.ec.europa.eu/public-central-register-data-protection-records-rea_en)

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<sup>2</sup> This processing does not cover the selection of Confidential Counsellors, which are covered by another record, nor the formal procedure per se, which is not handled by the Agency. Another record covers the administrative inquiries. The selection of Confidential Counsellors is necessary in order to implement the anti-harassment policy as defined by Commission Decision C(2006)1624/3, also foreseen by the Staff Regulations and the Conditions of Employment of Other Servants and the EU Charter of Fundamental Rights, and therefore to protect the dignity of the person.

<sup>3</sup> Alleged victims may also initiate the formal procedure under Article 24 of the Staff Regulations (Council Regulation (EEC, Euratom, ECSC) No 259/68), which may be processed by IDOC. This processing activity is covered by the Record on administrative investigations and disciplinary proceedings (Ares(2021)4671776)

## 1.6. Legal basis for the processing

Article 5(1) (a) (b), (d) and (e) of the Regulation:

Art. 5.1(a): processing is necessary for the performance of a task carried out in the public interest or in the exercise of official authority vested in the Union institution or body.

This includes also the processing of personal data necessary for the management and functioning of the Agency in line with Recital 22 of the Regulation. In this regard, processing of data is necessary to manage the personnel of the institution. The Staff Regulations for Officials of the European Communities and the Conditions of Employment of Other Servants of the European Communities: Articles 1 (d), 12, 12 (a), Article 24 and Articles 11 and 81 of the CEOS. Article 12 (a) of the Staff Regulations provides that "officials shall refrain from any form of psychological or sexual harassment".

Art. 5.1(b): processing is necessary for compliance with a legal obligation to which the controller is subject:

- European Commission Implementing Decision 2021/173, establishing the European Research Executive Agency<sup>4</sup>;
- Council Regulation (EC) No 58/2003 of 19 December 2002 laying down the statute for Executive Agencies to be entrusted with certain tasks in the management of Community programmes<sup>5</sup>;
- Commission Decision C(2021) 952 delegating powers to the European Research Executive Agency with a view to the performance of tasks linked to the implementation of Union programmes in the field of Research and Innovation, Research of the Fund for Coal and Steel and Information Provision and Promotion Measures concerning Agricultural Products<sup>6</sup>;

Art. 5.1(d): the data subject (alleged victim/harasser) has given consent to the processing of his or her personal data for one or more specific purposes:

- to transmit personal data of the alleged victim to the recipients (competent authorities);
- to keep the data of the alleged harasser in the in the archives of the Anti-Harassment Coordinator;
- to transmit the opening and closing files containing personal data of the alleged victim, the alleged harasser or of other persons implicated to the Anti-Harassment Coordinator.
- to take personal notes with the consent of the alleged victim by the Confidential Counsellor, which are not intended to be disclosed.

Art. 5.1(e): processing is necessary in order to protect the vital interests of the data subject If, in exceptional cases, data are to be treated without the explicit consent of the person in his/her interest, the legal basis will be Article 5(e): the processing is necessary to protect the vital interest of the data subject.

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<sup>4</sup> [OJ L 50, 15.2.2021, p. 9–28](#)

<sup>5</sup> [OJ L 11, 16.1.2003, p. 1–8](#)

<sup>6</sup> [C\(2021\) 952](#)

- EU Charter of Fundamental Rights: Articles 1 and 31(1)<sup>7</sup>;
- Staff Regulations on officials of the European Communities and the Conditions of employment of other servants of the European Communities: Articles 1 (d), 12, 12 (a), Article 24 and Articles 11 and 81 of the CEOS. Article 12 (a) of the Staff Regulations provides that "officials shall refrain from any form of psychological or sexual harassment";
- Commission Decision C(2006)1624 on the European Commission policy on protecting the dignity of the person and preventing psychological harassment and sexual harassment<sup>8</sup>;
- Memorandum of Understanding for the setting up of a network of Confidential Counsellors<sup>9</sup>;
- Decision SC(2010)14 of the REA Steering Committee of 19 October 2010 on the application by analogy of the implementing rules of the Staff Regulations and in particular Commission Decision C(2006) 1624/3 of 26/04/2006 on prevention of harassment)<sup>10</sup>.

### **1.7. Categories of data subjects**

Seconded officials, temporary agents, contractual agents, interim staff, trainees and project applicants/beneficiaries or experts, visitors, any persons potentially concerned, who could be alleged harasser, alleged victim, witness or other person implicated.

### **1.8. Categories of personal data**

- Administrative data of the alleged victim and alleged harasser: personal number, name (surname at birth, current surname, forename), professional address (street, postcode, place, country), phone number (office and mobile), email address, unit/department, office number, date and place of birth, gender, nationality.
- The names of witnesses or other persons implicated may be provided by the alleged victim.
- Relevant data for the harassment case collected through the Confidential Counsellors or directly from the alleged victim including his/her working and personal situation of and of other implicated persons (witness, alleged harasser). In particular, sensitive data relating the physical or psychological harassment, or other sensitive personal data may be processed (depending on the case).
- The name of the Confidential Counsellor and the administrative unit or sector which are indicated on the opening and closing forms.

### **1.9. Retention time (time limit for keeping the personal data)**

REA applies the principles and retention periods indicated in the Common-Level Retention List<sup>11</sup> for European Commission Files by analogy:

The Anti-Harassment Coordinator shall keep the files (both opening and closing files) for a period of no more than ten years (C.R.L 12.3.2)<sup>12</sup> after the outcome of the

<sup>7</sup> [OJ C 326, 26.10.2012, p. 391–407](#)

<sup>8</sup> [C\(2006\)1624](#)

<sup>9</sup> [Draft minutes 2nd Inter-Executive Agency Gender Working Group \(europa.eu\)](#)

<sup>10</sup> [SC\(2010\)14](#)

<sup>11</sup> [SEC \(2019\) 900/2](#)

informal procedure. This period is necessary to evaluate the policy, reply to legal questions and identify possible recurrent cases. If at the date of the expiration of the initial five years, there are ongoing legal or administrative proceedings, these files are kept for consultation purposes until the rights for appeal expire. The Confidential Counsellor does not keep any personal data beyond the time limit necessary for him or her to accomplish his/her task. According to the Manual of Procedures, the Confidential Counsellor does not keep data for more than three months after having finished his/her tasks and closure of the case (file closing form)<sup>13</sup> except in duly justified cases.

When the term expires, the documents sent by the alleged victim (i.e. the opening and closing form) are returned to him or her or transmitted to the Anti-Harassment Coordinator with the alleged victim's explicit consent in line with the security measures described below. If the alleged harasser has not been informed of the existence of an informal procedure, no data relating to him/her shall be kept in the archives of the Anti-Harassment Coordinator.

Is any further processing for historical, statistical or scientific purposes envisaged? **Yes**

At the end of each year, anonymous statistical data are collected and analysed to enable an assessment to be made of developments in the situation and, where appropriate, to adapt the action to be taken, notably as regards prevention. Confidential Counsellors are responsible for completing an anonymous statistical form for each case handled, even if only in a brief and informal manner. The form is sent to the Anti-Harassment Coordinator of the Agency where the alleged victim works once a case has been closed.

#### **1.10. Recipients of the data**

Data will only be transmitted to the competent bodies (below mentioned as recipients) when the procedure is launched and with the prior explicit consent of the person, where required.

Transmission without explicit prior consent can only occur in exceptional cases covered by Article 5.1 (e) of the Regulation, i.e. when necessary to ensure the protection of the alleged victims (vital interest).

#### **Recipients within REA**

- Confidential Counsellors;
- Anti-Harassment Coordinator;
- REA Director;
- In case of audits or legal or administrative proceedings, REA's Internal Control, Legal Sector, DPO

#### **External recipients**

Authorised staff with a need-to-know from other services of EU Institutions and bodies (Medical Service, Legal Service, Security Directorate, DG HR).

In addition, data may be disclosed public authorities, which are not regarded as recipient but may receive personal data in the frame of a particular inquiry in accordance with Union and Member State law, namely:

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<sup>13</sup> [Manual of Procedures, § 6.6](#)

- The European Court of Justice (ECJ) or a national judge as well as the lawyers and the agents of the parties in case of a legal procedure;
- IDOC in line with Commission Decision of 12 June 2019 laying down general implementing provisions on the conduct of administrative inquiries and disciplinary proceedings - C(2019)4231 and Commission Decision (EU) 2019/165 of 1 February 2019, Internal rules concerning the provision of information to data subjects and the restriction of certain of their data protections rights in the context of administrative inquiries, pre-disciplinary, disciplinary and suspension proceedings;
- The competent Authority Empowered to Conclude Contracts in case of a request or a complaint lodged under Articles 90 of the Staff Regulations;
- The European Anti-Fraud Office (OLAF) in case of an investigation conducted in application of Regulation (EC) No 883/2013;
- The Internal Audit Service (IAS) of the Commission within the scope of the tasks entrusted by Article 118 of the Financial Regulation and by Article 49 of the Regulation (EC) No 1653/2004;
- The European Court of Auditors (ECA) within the tasks entrusted to it by Article 287 of the Treaty on the Functioning of the European Union of the EC Treaty and Article 20, paragraph 5 of Regulation (EC) No 58/2003;
- The European Ombudsman (EO) within the scope of the tasks entrusted to it by Article 228 of the Treaty on the Functioning of the European Union;
- The European Data Protection Supervisor (EDPS) in accordance with Article 58 of Regulation (EC) 2018/1725;
- The European Public Prosecutor's Office (EPPO) within the scope of Article 4 of Council Regulation (EU) 2017/1939 of 12 October 2017 implementing enhanced cooperation on the establishment of the European Public Prosecutor's Office.

The transmission will be restricted to the information necessary for the competent entity to carry out its task.

#### **1.11. Transfers of personal data to third countries or international organisations**

Not applicable.

#### **1.12. High-level description of security measures**

Access to data is only possible via restricted access on an individual need to know basis and through User-ID and password. Personal data is stored on the servers of the European Commission or REA, which abide by strict security measures implemented by DG DIGIT to protect the security and integrity of the relevant electronic assets.

##### **Organisational measures:**

- To guarantee security of confidential data provided to Confidential Counsellors and the Head of Anti-Harassment Coordinator. The opening form and the closing form should be in paper-copy in envelopes marked as 'Private and confidential'.
- All transfer of the opening and closing form other than to the recipient is forbidden.

- All notes taken during meetings and other documents compiled in a given case are kept in a locked safe protected with a pin code. The REA Local Security Officer (LSO) has a procedure for the re-set of the pin code. The LSO procedure will require the authorisation of the Confidential Counsellor or the Anti-Harassment Coordinator. This concerns the time when the documents are held by the Confidential Counsellor as well as when all documents have been sent to the Anti-Harassment Coordinator. Where documents are stored on an electronic medium, data shall be protected by password or kept on an encrypted disk, to prevent unauthorised access of third parties.
- Transfer of the opening and closing form between the Confidential Counsellor and the Anti-Harassment Coordinator, should be delivered by hand in an envelope marked "staff matters and confidential".
- For the purposes of policy monitoring, and to avoid single cases being recorded twice, the Anti-Harassment Coordinator allocates a unique number (comprising digits and letters) to files, which it will forward to the Confidential Counsellor responsible for a case. From this point onwards, with a view to preserving confidentiality, the files will be identified solely by their numerical codes and no names will be included in file references.
- Recipients of data transfer are reminded of their obligation of confidentiality and to use the personal data only for the purposes for which they have been transmitted and that the principle of confidentiality applies to all personal data.
- A Code of Ethics of Confidential Counsellors and persons seeking assistance has been adopted.

**Technical measures:**

All communication between the Anti-harassment Coordinator and the Confidential Counsellor shall be made through an anonymised number code. All written exchanges must be made in envelopes marked as "private and confidential". Data may also be kept in an encrypted disk by the Confidential Counsellors and the Anti-Harassment Coordinator. The use of encrypted messages (i.e. SECEM) shall also apply.

All data in electronic format that are processed during this processing activity are stored either on the servers of the European Commission or of REA, the operations of which abide by the European Commission's security decisions and provisions established by the Directorate of Security for this kind of servers and services. Access to data is granted only to REA staff specified in 1.10 and on a need to know basis.

**1.13. Data Protection Notice**

A Data Protection Notice (DPN) relevant to this data processing is available in the [REA public register of records](#) and it is transmitted by the data controller to the data subjects, where applicable.