

Record of Personal Data Protection of Personal Data Processing Activity, pursuant to Article 31 of Regulation (EU) 2018/1725¹

NAME OF PROCESSING OPERATION: Implementation of the informal procedure within the framework of the EBA’s policy on protecting the dignity of the person and preventing psychological and sexual harassment

I. GENERAL INFORMATION

1) Contact Details of Controller(s)

Name: European Banking Authority (EBA) represented by the Executive Director/Acting Executive Director

Email Address: ExecutiveOffice@eba.europa.eu

2) Contact Details of Processor

Who is actually conducting the processing?

The data is processed by: Head of the Human Resources, The Harassment Prevention Coordinator and the confidential counsellors at the EBA are identified as co-controllers of the data processing operation

Department/Unit: Human Resources

Email Address: Harassment Prevention Coordinator - Harassment.Prevention.Coordinator@eba.europa.eu

The Confidential Counsellors are appointed for a maximum of two years, renewable for a maximum 2 times. Their names and email address are provided on the intranet.

II. DESCRIPTION & PURPOSE OF PROCESSING

3) Description of Processing

¹ 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

Individuals considering themselves a victim of psychological and/or sexual harassment may request assistance by contacting a Confidential Counsellor, the Harassment Prevention Coordinator (hereinafter Coordinator) or the Head of HR. The Confidential Counsellors or Coordinator will guide and accompany the alleged victim (hereinafter after party 1) examining with him/her various options and structures to try and help the individual find a satisfactory solution to the problem.

In this respect personal data are processed for two different goals:

- 1) In the context of the selection procedure for the confidential counsellors in accordance with the EBA's Policy on protecting the dignity of the person and preventing psychological harassment and sexual harassment, as adopted by Decision EBA DC 178 of 4 April 2017 of the EBA's Management Board of , the collection of personal data aims at best evaluating the candidates' aptitude and competences regarding their specific tasks to conduct informal procedures.
- 2) In the context of cases of alleged harassment being dealt with by the network of confidential counsellors under the informal procedure or by HR, the data is collected to provide support and protection to party 1, to be able to carry out efficient and proper administration of cases, attempt conciliations when possible, put in place preventive measures, identify recurrent or multiple cases and monitor the impact and effectiveness of the policy.

4) Purpose of processing

Why are the personal data being processed?

Specify the rationale and underlying reason for the processing

- Staff administration
- Relations with external parties
- Procurement, finance and accounting
- Administration of membership records
- Auditing
- Information administration

Other (please give details): Personal data processing is carried out by the EBA in the context of the informal procedure to prevent psychological or sexual harassment. The purpose of the data processing, the implementation modalities and the role of parties involved in the informal procedure are described in the Manual for informal procedures within the framework of the EBA's policy on protecting the dignity of the person and preventing psychological and sexual harassment.

5) Lawfulness of Processing

Article 5 of Regulation (EU) 2018/1725

A. Legal Basis justifying the processing:

- Articles 5(a), 5(b) and 5(d) of Regulation (EU) 2018/1725 (EUDPR)
- Staff Regulations of Officials (SR) and the Conditions of Employment of Other Servants of the European Communities (CEOS): Articles 1d, 12, 12a, 24 of SR and Articles 10, 11, 80 and 81 of CEOS.
- The Decision of the EBA's Management Board on the policy on protecting the dignity of the person and preventing psychological harassment and sexual harassment (EBA DC 178 of 04 April 2017).

B. Processing is necessary:

- for the performance of a task carried out in the public interest
- for compliance with a legal obligation to which the Controller is subject
- for the performance of a contract to which the data subject is party or in order to take steps at the request of the data subject prior to entering into a contract
- in order to protect the vital interests of the data subject or of another natural person

Or

- Data subject has given his/her unambiguous, free, specific and informed consent

III. CATEGORIES OF DATA SUBJECTS & PERSONAL DATA

6) Categories of Data Subjects

Please tick all that apply and give details where appropriate

EBA Temporary Agents or Contract Agents

SNEs or trainees

Visitors to the EBA

If yes, please specify:

Providers of good or services: Consultants, interims and those working under a contract for the EBA under national law

Complainants, correspondents and enquirers

Relatives and associates of data subjects

Other (please specify):

7) Categories of personal data

Please tick all that apply and give details where appropriate

(a) General personal data:

The personal data contains:

Personal details: See below

Education & Training details: See below

Employment details: See below

Financial details

Family, lifestyle and social circumstances disclosed by the parties of the informal procedure

Other (please give details) :

1) Concerning the selection of the confidential counsellors: General personal data: first name and surname, job title, EBA's email address, phone number, employment details, nationality, gender education and training details regarding soft skills appropriate for the profile.

2) Concerning personal data processed in the context of the informal procedure: The opening and closing forms of the procedure require the name, team/unit/function, category/grade c; In accordance with Article 4 of Regulation (EU) 2018/1725, data collected should be adequate, relevant and not excessive in relation to the case handled. This analysis must be conducted on a case-by-case basis by the Confidential Counsellor involved.

(b) Special categories of personal data:

The personal data reveals:

- Racial or ethnic origin
- Political opinions
- Religious or philosophical beliefs
- Trade union membership
- Genetic or Biometric data
- Data concerning health, sex life or sexual orientation

The data may also relate to personal data revealing racial or ethnic origin, political opinions, religious or philosophical beliefs, or trade union membership, data concerning health or data concerning a natural person's sex life or sexual orientation only if strictly necessary for the performance of the informal procedure, in compliance with Article 10(2) of the Regulation (EU) 2018/1725.

The collection of soft data (subjective data) does not follow systematic rules as to the type of data processed; it is not possible to determine a priori the type of data collected. Yet the collection must comply with data protection principles. The data collected by the confidential counsellors must be adequate, relevant and not excessive in relation to the fight against harassment. This analysis must be conducted on a case by case basis by the counsellors.

Important Note

If you have ticked any of the sensitive data boxes contact the Data Protection Officer before processing the data further.

IV. CATEGORIES OF RECIPIENTS & DATA TRANSFERS

8) Recipient(s) of the data

To whom is the data disclosed?

- Managers of data subjects
- Designated EBA staff members
- Relatives or others associated with data subjects
- Current, past or prospective employers
- Healthcare practitioners

Education/training establishments

Financial organisations

External contractor

Other (please specify): Taking account of the principle of confidentiality to be strictly adhered to by all parties involved in the informal procedure, the following persons receive personal data in a structured way:

- The Coordinator in the informal procedure, solely with regard to the opening and closing forms;
- Confidential Counsellors, in charge of the core activity in the informal procedure and therefore keeping any information provided by Party 1 in strict confidentiality
- Parties to the informal procedure as permitted by the Parties of the informal procedure and in compliance with the informal procedure.

Recipients should be reminded that they may process the data only for the purposes as stipulated by internal procedure and in compliance with Data Protection Regulation.

- During the informal procedure, personal data may be transferred from the Confidential Counsellor to the Harassment Prevention Coordinator (and/or Head of HR depending on whether administrative support is needed or not).
- During the informal procedure, personal data may be made available from one confidential counsellor to another after agreement of the victim, due to a conflict of interest of the confidential counsellor with regard to the case handled, his/her prolonged leave, or his/her withdrawal from the mandate as informal counsellor.
- The Confidential Counsellors and Harassment Prevention Coordinator may have to share some information with the Executive Director, Head of the HR Unit as stipulated by the informal procedure, especially for the purpose of identifying multiple or recurrent harassment cases;
- If a case passes to the formal procedure, the Harassment Prevention Coordinator forwards the file closing forms and a copy of the file containing the documents relevant for the purposes of the handling of the formal complaint or the enquiry to the Head of the HR Unit;
- If a case passes to the formal procedure, the Harassment Prevention Coordinator forwards the file closing forms and a copy of the file containing the documents relevant for the purposes of the handling of the formal complaint or the enquiry to the Head of the HR Unit.

9) Data transfer(s)

Is the data transferred outside the EBA?

Within the EBA or to other EU Institutions/Agencies/Bodies

The Appointing Authority (Executive Director) and/or the Head of Human Resources, for the sole purpose of identifying multiple or recurrent harassment cases;

As for the transfer of personal data, the necessity of the data to be transferred must be evaluated on a case by case basis.

Recipients should be reminded that they may process the data only for the purposes for which they were transferred.

- In case of control or dispute (in particular a complaint or an appeal), the data may be requested for instance by the European Ombudsman, Court of Justice of the European Union, or the European Data Protection Supervisor. This transfer will be restricted to the information necessary for the competent entity to carry out its task.

 To other recipients within the EU

As for the transfer of personal data, the necessity of the data to be transferred must be evaluated on a case by case basis.

Recipients should be reminded that they may process the data only for the purposes for which they were transferred.

Personal data may following an evaluation be transferred to competent national judicial authorities in the context of legal action. This transfer will be restricted to the information necessary for the competent entity to carry out its task.

 To third countries

If yes, please specify:

a) the country:

b) whether suitable safeguards have been adopted:

Adequacy Decision of the European Commission²

Standard Contractual Clauses

Binding Corporate Rules

Administrative Arrangements between public Authorities

 To international organisations

If yes, please specify the organisation and whether suitable safeguards have been adopted:

² Third countries for which the European Commission has issued adequacy decisions are the following: https://ec.europa.eu/info/law/law-topic/data-protection/data-transfers-outside-eu/adequacy-protection-personal-data-non-eu-countries_en

<p>Important Note</p> <p>If no safeguards have been put in place, please contact the DPO before processing the data further.</p>

V. RETENTION PERIOD & SECURITY MEASURES

10) Retention period (see Note 7)
<p>A. How long will the data be retained and what is the justification for the retention period?</p> <div style="border: 1px solid black; padding: 10px; margin: 10px 0;"> <p>The Confidential Counsellors may not keep any personal data beyond the time needed to deal with a case and shall under no circumstances retain personal data for longer than three months following its closure. On closing a case, the confidential counsellors gives the completed opening and closing forms and anonymous statistical form to the Coordinator. At this time the closing form is sent to the Coordinator after having informed party 1 except when party 2 was never informed about the informal procedures. The same time period applies where one confidential counsellor take over the case from another.</p> <p>The Coordinator will hold the historical memory of informal procedures. A central file will be kept with opening and closing forms on each case for a maximum of five years from the start date of the informal procedure when the name of party 2 appears on the closing form, unless party 1 specifies otherwise. It will not contain the names of party 2 who were not informed of the informal procedure or where party 1 has stated that they do not wish the name of party 2 to appear. In these cases no personal data is kept for longer than three months following the closure of a case. They will not contain the names of alleged harassers who were not informed of the informal procedure. Five years is the period considered necessary for the Harassment Prevention Coordinator to evaluate the policy, reply to any legal questions and to identify multiple or recurrent cases. Files may be held for a further five years if there is an administrative or legal procedure (requests from the Ombudsman, the General Court, other judicial bodies) necessitating their consultation. Statistical data is being held without limit in an anonymous format.</p> </div>
<p>B. For further processing envisaged beyond the original retention period for historical, statistical or scientific purposes, please specify whether the personal data will be anonymised:</p> <p><input checked="" type="checkbox"/> No</p> <p><input type="checkbox"/> Yes</p>

11) Storage media & security of processing

A. Please indicate how and where the data processed are stored
(e.g. Share Point / cloud):

To guarantee security of confidential data provided to confidential counsellors and the Coordinator, all written exchanges must be in hard copy in sealed envelopes marked “private and confidential”.

Transmission of documents between the confidential counsellors and the Harassment Prevention Coordinator must be delivered by hand in a sealed envelope marked “staff matters” and “confidential”.

Equally, electronic documents should be given by hand on a device (USB, disk) which is not accessible to third parties.

Where party 1 is not employed by the Agency where the confidential counsellor is employed, the transmission of the opening and the closing forms shall be made by courier in a double sealed envelope with the markings “staff matter” and “personal” and addressed to the coordinator of the Agency where party 1 is employed.

The transmission of the anonymous statistical form to the Coordinator of the Agency where party 1 is employed shall be made by secured e-mail.

B. Technical & Organisational Security measures adopted:

- Controlled access to ICT-system/controlled access codes
- Restricted access to physical location where data is stored
- Pseudonymisation and Encryption
- Back-up
- Audit trails
- Confidentiality agreement/clause
- Test the effectiveness of security measures adopted
- Training of staff

Other (please specify):

Consultation of the Data Protection Officer and Deputy Data Protection Officer

Email Address: dpo@eba.europa.eu

Date of consultation: 17/11/2020

Date of approval of processing: 23/11/2020

Privacy statement available at: available internally

Date of insertion in Register: 23/11/2020

Guidance Notes

Note 1

Enter here the name of the processing operation involving personal data (e.g. staff recruitment, business continuity contact list)

Personal data is any information relating either directly or indirectly to a living identified or identifiable person. This information may, for example, be the name, date of birth, a telephone number, biometric data, medical data, professional details, etc.

Processing means any operation or set of operations which is performed upon personal data, whether or not by automatic means, such as collection, recording, organisation, storage, adaptation or alteration, retrieval, consultation, use, disclosure by transmission, dissemination or otherwise making available, alignment or combination, blocking, erasure or destruction.

Note 2

In case of more than one controller (i.e. joint processing operations), all controllers need to be listed.

Note 3

Enter any details of the processing operation that are not clear from the name of the operation entered above.

Note 4

Personal data must only be collected for specified, explicit and legitimate purposes and not further processed in a way incompatible with those processes.

Note 5

The data subject is an identified or identifiable natural person who is the subject of the personal data.

Note 6

According to Article 10 of Regulation (EU) 2018/1725, the processing of personal data revealing racial or ethnic origin, political opinions, religious or philosophical beliefs, trade-union membership, as well as of genetic and biometric data, and data concerning health and sex life or sexual orientation, is generally prohibited but exemptions may apply.

Note 7

Personal data should be kept for no longer than is necessary for the purposes for which the data were collected or for which they are further processed.