

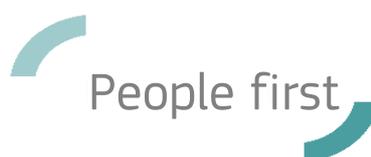
GUIDE

FOR A RESPECTFUL

WORKING ENVIRONMENT

How to identify and address harassment and other inappropriate conduct in the workplace





Guide for a respectful working environment

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Introduction

Through its 2023 decision on the prevention of and fight against psychological and sexual harassment¹ - 'the anti-harassment decision' - the European Commission reaffirms its commitment to providing a working environment that ensures the dignity and respect of all staff.

As set out in the new Human Resources strategy that was adopted in 5 April 2022 (the HR Strategy), the Commission seeks to set the example in promoting workplaces that are trust-based, inclusive, respectful, and non-discriminatory, in line with European values. Such workplaces have no place for harassment, discrimination, any other forms of divisive or inappropriate conduct, or any types of conduct that run counter to a respectful and inclusive work environment. The Commission recognises that such conduct can have significant consequences on the individual's health, well-being and motivation, on the functioning of teams, and on the organisation as a whole. In addition, heightened public awareness of sexual harassment in the world of work has emphasised the importance of having strong, appropriate, and dissuasive tools in place to fight against such conduct.

The Commission is committed to preventing such conducts and, if these occur, to dealing with them swiftly and effectively. In this respect, the Commission's actions include training and awareness-raising, advice and counselling, mediation, as well as informal and formal redress mechanisms.

Combatting harassment goes hand in hand with other elements of the HR strategy, and notably those focussing on management development, staff well-being, and the promotion of diversity, inclusion, and gender equality.

Against this background, and based on the provisions set out in the anti-harassment decision, this guide aims to:

- describe the standards of conduct that are expected at work;
- help staff to understand better what psychological or sexual harassment involves;
- explain the prevention measures and the options that are available to address harassment.

This guide is for Commission statutory staff (officials, temporary agents, contract agents and special advisors) and other persons working directly or indirectly for the Commission, such as staff employed under private law contracts, experts on secondment from national civil services (SNEs), local agents, trainees, external experts, and Junior Professionals in Delegations, who can all refer to it in addition to the specific rules regarding their particular employment situation.

A separate decision on harassment prevention applies to local agents serving in Delegations. This separate decision mirrors the approaches set out in Commission decision [p.m. legal references].

¹ [Reference to be provided] The decision on the prevention of and fight against psychological and sexual harassment.

1. Standards of conduct

1.1. Ethical obligations

The Staff Regulations of Officials (SR) and the Conditions of Employment of Other Servants (CEOS) of the European Union constitute the general legal framework that sets out the basic principles governing relations between the institutions and their staff.

The SR and the CEOS contain a comprehensive set of ethical obligations that apply to all staff members. Ethical obligations provide a framework and a context within which staff members interact in the Commission, be it with their managers, or with other colleagues. In particular, the SR and the CEOS prohibit any action or conduct – whether inside or outside the Institution – that might reflect adversely on an official’s position, as this would be contrary to Article 12 of the Staff Regulations.

The SR and the CEOS are complemented by implementing provisions, like the anti-harassment decision and the texts setting out how the Commission’s Investigation and Disciplinary Office (IDOC) operates.

The 2023 review of the Commission’s anti-harassment policy drew on the experience gained in implementing the current legal basis for combatting harassment, (Commission Decision C(2006) 1624). The 2006 decision was based on prevention, support, and redress mechanisms for staff reporting harassment. Staff members could opt to lodge a request for assistance, which could involve an administrative inquiry to establish the facts, a disciplinary procedure against the alleged harasser, and measures to protect the victim. Staff could also opt for informal mechanisms, which could involve mediation by the Mediation Service, or support from the Commission’s network of confidential counsellors.

In developing its new approach, the Commission has sought to strengthen a policy that is victim-centred, that reinforces the independence and effectiveness of the informal procedure and improves the cooperation between the different services that can be involved. In addition, the Commission has sought to offer comprehensive accompanying measures to victims of harassment. It is also important to step up actions geared at prevention, and to expand communication efforts so that those most in need know who they can turn to.

USEFUL LINKS

The Staff Regulations:

https://myintracomm.ec.europa.eu/hr_admin/en/staff-regulations/Pages/index.aspx

Commission Decision on the prevention of and the fight against psychological and sexual harassment: xxxx

Ethics and Staff Conduct:

<https://myintracomm.ec.europa.eu/staff/en/staff-conduct/Pages/index.aspx?ln=en>

1.2. A diverse and inclusive working environment

Respect and inclusion at work go hand in hand. A culture of equal opportunities, fairness and respect that safeguards the dignity of each and every person employed by the Commission is essential for a thriving, inclusive workplace. By appreciating, protecting, and fostering a diversity of backgrounds and experiences, the Commission seeks to create an inclusive organisational culture. It aims for an environment in which all feel that they are valued for their contributions and that they have the same opportunities to thrive.

The Commission's Diversity and Inclusion policy combines: (i) measures that aim to enhance diversity and inclusion to the benefit of all staff, irrespective of their status, function group, age and gender, or other individual characteristics, and (ii) measures as regards possible discrimination on the grounds of sex, race, colour, ethnic or social origin, genetic features, language, religion or belief, political or any other opinion, membership of a national minority, property, birth, disability, age, or sexual orientation.

Actions undertaken include training and communication aimed at all staff, including managers, with the goal of raising awareness of: (i) the risks stemming from unconscious bias in HR policies, and (ii) conduct that can contribute to increasing inclusion and belonging within teams.

USEFUL LINKS

Diversity and Inclusion on the Staff Matter Portal:

<https://myintracomm.ec.europa.eu/staff/en/talent-management/diversity-inclusion/Pages/index.aspx>

1.3. Standards of conduct

The following types of conduct contribute to a respectful working environment and, as such, should be encouraged:

- Treating people with courtesy and politeness in all instances, even when they have diverging opinions;
- Valuing teamwork and collaboration, for example by being supportive to colleagues and by sharing experience and knowledge;
- Speaking up when other team members are not being treated with respect in order to show that disrespectful conduct is not tolerated;
- Being constructive and solutions-oriented when communicating to others, even when delivering a difficult message, feedback, diverging opinion, or criticism.

Good management practices are an essential component of a respectful working environment that is free from violence and harassment. Examples include:

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- Inclusive and positive leadership styles are nurtured and promoted;
- Induction programmes, mentoring, or other forms of support are available to new staff and managers and other individuals who might particularly benefit from them;
- Managers ensure that their actions and decisions are clearly defined, explained, and understood by staff;
- Managers ensure that team members know that their ideas and opinions are valued;
- Managers handle difficult situations effectively, and act promptly when confronted with inappropriate conduct within their teams.

2. What psychological and sexual harassment involve

The SR contain a general obligation on staff to refrain from psychological or sexual harassment. This also applies to staff covered by the CEOS (article 11 CEOS).

Officials shall refrain from any form of psychological or sexual harassment.

Article 12(a) of the Staff Regulations

2.1. Psychological harassment

‘Psychological harassment’ means any improper conduct that takes place over a period, is repetitive or systematic and involves physical behaviour, spoken or written language, gestures or other acts that are intentional and that may undermine the personality, dignity or physical or psychological integrity of any person.

Article 12(a)(3) of the Staff Regulations

‘Psychological harassment’ describes a spectrum of intentional, repetitive and persistent conduct that causes harm to the person to whom it is directed. It can cover speech, written communication, a refusal to communicate (‘the silent treatment’), acts, and gestures. Harassment also takes place online. Offensive conduct and harassment can come from individuals and from groups.

According to the Staff Regulations, the following elements must be present at the same time in order for this improper conduct to be qualified as psychological harassment²:

- The conduct takes place over a period, is repetitive or systematic;
- The conduct involves physical conduct, spoken or written language, gestures or other acts that are intentional;
- The conduct may undermine the personality, dignity, or physical or psychological integrity of the person to whom it is directed.

Psychological harassment involves conduct that is repetitive. One-off incidents would therefore not usually be considered as psychological harassment. This said, one-off incidents can amount

² Please refer to part 2.4.2 on what does not constitute harassment, in particular in the context of management action.

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to conduct that is not appropriate at work, and can also be subject to disciplinary proceedings, and potentially, to sanctions.

Psychological harassment can cause someone harm, and can impact our physical and mental health.

In order to be considered harassment, the conduct itself needs to be intentional, even if the person responsible for the conduct does not have a harmful intention. Conduct that is accidental does not qualify as harassment³.

A non-exhaustive list of examples of an improper conduct that may qualify as psychological harassment can include:

- belittling someone or repetitively calling into question someone's professionalism or competencies, especially in public;
- deliberately excluding colleagues from meetings; this might include meetings in which they would usually be expected to participate;
- isolating someone, for instance by not including them in workplace group activities;
- hostile or inappropriate comments or messages about a colleague during meetings;
- undermining a colleague by intentionally hampering their access to information when there is a clear need to know; sabotaging someone's work;
- stalking; threats; using vulgar or insulting language; repetitive and persistent offensive or degrading comments, which may include comments about a staff member's background, clothing, appearance or age;
- sharing or forwarding messages or content of a private nature to wider audiences without the consent of the person concerned.

Please remember that in order to qualify as psychological harassment, for any of these improper conducts that are given as examples, the conduct has to occur over a period, be intentional, repetitive or systematic, and could harm a person.



³ In its judgment in case F-52/05, the Court set out that the physical behaviour, spoken or written language, gestures or other acts referred to by Article 12a(3) of the Staff Regulations must be intentional in character, which excludes from the scope of that provision reprehensible conduct which arises accidentally. It is not, on the other hand, a requirement that such acts were committed with the intention of undermining the personality, dignity or physical or psychological integrity of a person. In other words, there can be psychological harassment without the harasser's having intended, by his reprehensible conduct, to discredit the victim or deliberately impair the latter's working conditions. It is sufficient that such reprehensible conduct, provided that it was committed intentionally, led objectively to such consequences.

2.2. Sexual harassment

‘Sexual harassment’ means conduct relating to sex which is unwanted by the person to whom it is directed and which has the purpose or effect of offending that person or creating an intimidating, hostile, offensive or disturbing environment. Sexual harassment shall be treated as discrimination based on gender.

Article 12(a)(4) of the Staff Regulations

Any conduct of a sexual nature in the work sphere that is non-consensual can potentially constitute sexual harassment. Sexual harassment can include any unwanted verbal, non-verbal, or physical conduct of a sexual nature.

The following three elements are to be present concurrently for conduct to qualify as sexual harassment:

- The sexual content of the conduct;
- The fact that the conduct is unwanted by the recipient;
- The conduct has the purpose or effect of either offending the recipient or creating an intimidating, hostile, offensive or disturbing work environment.

A non-exhaustive list of examples of conducts that may be associated with sexual harassment in the work sphere, provided that the three above-mentioned elements are present, include:

- Verbal conduct:
 - Making promises of reward (such as promotion or career moves) in return for sexual favours, or threats and/or reprisals if these demands are rejected;
 - Making sexual comments about a person’s clothing, anatomy, or looks;
 - Making offensive comments about someone’s sexual orientation or gender identity;
 - Sending inappropriate obscene content or making inappropriate jokes with sexual innuendos;
 - Insistently trying to date a person who is not interested.
- Non-verbal conduct:
 - Staring in a sexually suggestive or offensive manner, or insistently looking at someone up and down;
 - Showing sexually suggestive visuals (e.g. displaying pornography);
 - Making sexual gestures with the hands or through body movements.
- Physical conduct:
 - Physical contact, including suggestive or inappropriate touching, rubbing, or caressing someone’s body or clothing.

Sexual harassment can involve people within the whole spectrum of gender identities, expressions and orientations.

There is no ban on consensual intimate or romantic relationships between Commission colleagues. Consent-based relationships and exchanges are outside the scope of the definition of sexual harassment, because it is understood that they are wanted by both parties, in contrast to the notion of 'unwanted' that is in the Staff Regulations.

2.3. Impact on individuals

The impact of harassment on individuals will vary depending on their personalities and their specific situation, and can, for instance, involve one or more of the following:

- From a psychological perspective: sadness, shame, guilt, anxiety, depression, thoughts of suicide, loss of self-esteem and self-confidence, lack of concentration and loss of decision-making ability, feeling of isolation, sleep problems, chronic fatigue.
- From a physical perspective: decreased physical strength and musculoskeletal problems, heightened risk of cardiovascular disease.

2.4. Impact on the organisation

Harassment can have the following negative effects on the working environment and the organisation:

- Increased absenteeism and associated higher workload for other team members;
- Lower morale, motivation, and performance;
- Damage to the organisational culture and reputation;
- High staff turnover and associated expenditure related to recruitment, onboarding and training;
- Costs associated with putting in place redress mechanisms;
- Expenses in terms of health insurance.

2.5. What does not constitute harassment?

Certain types of conduct do not qualify as harassment: conflicts that are work-related, management actions, and discrimination.

2.5.1. Work-related conflicts

Conflicts and differences of opinion may be part of any working life. It is difficult to pin down a precise definition of conflict, and one person's perception of a dispute, disagreement or a difficult one-off situation can differ from someone else's. Unhealthy conflict that has a negative impact

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on people can come in different forms, such as verbal abuse, a sarcastic remark, or the silent treatment. Although such conducts and incidents do not necessarily constitute harassment, they may constitute inappropriate behaviour, and may escalate if not promptly addressed and stopped. Staff are invited to address such behaviour with the persons manifesting improper conduct and/or with their line managers and hierarchy.

2.5.2. Management action

The exercise of managerial responsibilities can sometimes lead to friction and conflict between line managers and their staff members. These responsibilities usually include organising the work of teams, appointments, setting performance objectives, providing regular feedback, allocating and monitoring tasks, undertaking a performance review and deciding on promotions, managing staff absences, managing underperformance or insubordination, and dealing with transfers in the interests of the service, among others.

These tasks should be seen as part of a line manager's responsibilities, and cannot be assimilated to psychological harassment. For instance, negative feedback addressed to a team member cannot be considered as undermining his or her personality, dignity or integrity, where this is formulated in measured terms, remains restricted to the work sphere, and is not based on allegations that are unfair, or that have no connection with objective facts⁴. There are specific means of raising objections in such situations, for example through early informal discussions with line managers. Staff can also seek alternative means, for instance by using the opportunities offered for career guidance. In the case of a staff appraisal, where staff members disagree with their appraisal, they can follow the appropriate procedures that are provided for within the appraisal process and ultimately file an appeal under Article 90.

USEFUL LINKS

Appraisal & promotion (including appeals processes):

<https://myintracomm.ec.europa.eu/staff/EN/talent-management/appraisal-promotion/officials-appraisal/Pages/Exercise-2022.aspx>

⁴ In its judgment in case F-12/13, the Court set out the following: '...criticism by a hierarchical superior of work or a task carried out by a subordinate is not in itself inappropriate behaviour since, were that the case, the management of a service would be almost impossible (see, to that effect, judgment in Tzirani v Commission, F-46/11, EU:F:2013:115, paragraph 97). Likewise, it has been held that negative comments addressed to a member of staff do not thereby undermine his personality, dignity or integrity where they are formulated in measured terms and are not based on allegations that are unfair and lacking any connection with objective facts'.

2.5.3. Discrimination

The Staff Regulations, in Article 1(d), prohibit discrimination based on any of the following grounds: sex, race, colour, ethnic or social origin, genetic features, language, religion or belief, political or any other opinion, membership of a national minority, property, birth, disability, age, cognitive diversity, or sexual orientation.

It is important to distinguish between, on the one hand, an administrative practice or an administrative decision that may be perceived as discrimination, and on the other hand, a discriminatory conduct that is carried out by an individual.

Staff members, who - because of any of the grounds set out in Article 1(d) SR - consider themselves to be subject to an unfair, discriminatory or hostile practice or decision by the administration (for instance, during the recruitment process or at any other stage of their career), can lodge a complaint under Article 90(2) SR.

Staff who feel they are victims of harassment rooted in a conduct of discrimination are encouraged to make use of the options described in section 4, i.e. addressing the author of the behaviour themselves, raising the matter with the line manager, seeking the advice of the Chief Confidential Counsellor, asking the Mediation Service for mediation, or reporting the matter to IDOC.

USEFUL LINKS

Diversity and Inclusion Office:

<https://myintracomm.ec.europa.eu/staff/EN/talent-management/diversity-inclusion/Pages/index.aspx>

Complaints under Article 90(2):

<https://myintracomm.ec.europa.eu/staff/EN/staff-conduct/complaints-appeals/article-90-complaints/Pages/index.aspx>

3. Prevention

3.1. Prevention

A comprehensive approach to addressing harassment requires measures across primary, secondary and tertiary level of prevention. This approach includes actions aimed at promoting good conduct, preventing harassment from occurring in the first place, procedures to address allegations of harassment, as well as mechanisms to deal with the consequences of harassment, and to avoid any recurrence of the conduct.

It is clear that psychological or sexual harassment are best dealt with by taking steps to prevent them before they create a risk to health and safety.

3.1.1. Identifying and addressing psychosocial risks

As part of the Health and Safety at work framework, as set out in Council Directive 89/391⁵ and Commission decisions C(2006) 1623⁶ and [2023 anti-harassment decision]⁷, the Commission identifies and prevents psychosocial risks that may be conducive to harassment. It also aims at improving the physical environment of the workplace and the protection of the dignity of the person, as well as at fighting against psychological and sexual harassment. Moreover, the Commission promotes mental well-being in the context of its duty of care towards all staff employed by the Commission. A central part of psychosocial risk prevention consists in raising awareness among all staff, including managers, of the factors that may lead to development of such risks and of their consequences if not addressed.

USEFUL LINKS

Identification and prevention of psychosocial risks:

[Risk prevention page on MyIntracomm](#)

Prevention of Psychosocial Risks in the Workplace - An Introduction for Managers [\[link will be provided once the document has been updated\]](#)

⁵ Council Directive 89/391/EEC of 12 June 1989 on the introduction of measures to encourage improvements in the safety and health of workers at work.

⁶ Commission Decision C(2006) 1623 of 18 April 2006 establishing a harmonised policy for Health and Safety at Work for all Commission Staff.

⁷ [reference to be provided]

3.1.2. Training and learning

The Commission offers training opportunities on harassment prevention. These courses, which are available to staff via the EU-Learn platform, include mandatory modules on harassment prevention for newcomers, courses on harassment in the context of the working environment, as well as courses on promoting diversity and identifying and combatting discrimination at work.,

These learning opportunities help staff to analyse, understand and deal with situations of inappropriate conduct, as well as psychological and sexual harassment; learn about the effects of these types of conduct on the individual and on the working environment; and become aware of the different preventive strategies and redress options that are available.

Other areas of training in the EU-Learn catalogue that might be helpful in the context of working relations between team members include courses on clear communication, leading teams and conflict resolution.

Staff are encouraged to sign up to these courses to nurture their inter-personal skills, build a workplace culture of mutual respect while becoming aware of which behaviour may constitute psychological or sexual harassment, how to address them, and where to find help.

Training for managers

The manager is often the first person that staff turn to when they face problematic conduct from colleagues. Specific tools, guidance, training and expert support are therefore available to help them to manage staff, lead teams, promote more flexible structures, encourage a culture of inclusiveness, motivate colleagues, support the well-being of staff, and on managing conflicts and other sensitive situations, which have an impact on the entities that they manage. These tools include courses on preventing psychosocial risks, which aim to raise awareness of sources of stress, and identify solutions. There are also dedicated sessions for newly appointed heads of unit about ethical conduct, and on psychological and sexual harassment.

USEFUL LINKS

Training:

<https://eulearn.europa.eu/ilp/pages/internal-dashboard.jsf?menuId=1107&locale=en-GB&showbundlekeys=false#/?dashboardId=48908994>

4. Options available to address harassment

Reporting allegations of harassment allows the Commission to look into the matter and to take appropriate action. If incidents of harassment and/or inappropriate conduct are not reported, it is not possible to take action either to safeguard the victim, and/or reprimand the author of the conduct, which may therefore continue unchallenged. Reporting also helps the Commission to collect information that will help to identify any further support that might be required.

This section gives an overview of the different options⁸ that staff can consider when deciding how best to tackle a situation of possible harassment in the workplace. The Chief Confidential Counsellor is on hand as a first entry point to whom staff can turn, for initial advice and support about the situation that they are experiencing. At the same time, staff can always benefit from all other options of support depending on their individual needs. This might include career guidance services, mediation, coaching or the psycho-social support offered by the Medical Service.

4.1. Early intervention

Going to the person responsible for the conduct

If you think you are the target of harassment, one option to consider might be to raise the matter directly with the person concerned. Although it may not be easy to give direct feedback to that harasser, especially if there is a difference in seniority, it may be a fast and effective way of dealing with a problem. The same approach might go for calling out comments that are, for instance, racist or homophobic.

Talking to your line manager

Line managers have an overall responsibility for the well-being of the staff they manage, and are often a helpful starting point with whom you can share concerns. However, if you do not feel comfortable discussing a particular situation with your line manager, especially if they are responsible for the conduct, other channels will be more appropriate. The Chief Confidential Counsellor will be able to provide advice in these instances.

Talking to the author of the conduct or to your line manager is not a pre-condition for reaching out to the different services involved in the procedures to address harassment.

Seeking mediation

In the case of a conflict in the workplace, there is also the possibility of taking contact with the Commission's Mediation Service, who may be able to advise and support in efforts to find a solution.

⁸ [A flowchart will be included to give an overview of available options]

Role of witnesses

If you witness conduct that you consider to be harassment or other inappropriate conduct, you could go to the victim, reassure them [him/her], and tell them about the support that is available. You could also suggest that they contact the Chief Confidential Counsellor to talk through the situation. It is also possible that you are called as a witness in an IDOC inquiry, if a formal complaint is made. If this happens, you will be given full information about your rights. It is also possible to be asked to provide testimony in the context of administrative inquiries. If this is the case, it is possible for witnesses to meet IDOC staff to learn more about the formal procedure, and about their rights and responsibilities as witnesses.

4.2. Being accused of harassment

It can be surprising or shocking to be approached by someone who tells you that they are offended or upset by certain aspects of your conduct that they perceive as harassment or other inappropriate conduct, and asks you to stop behaving towards them in a particular manner. In this situation, it is recommended to remain calm, listen carefully to the concerns expressed, clarify them by asking for specific examples, and discuss how you could work together more effectively.

If you consider that your conduct might indeed have been inappropriate, stop and review what you are doing. In case you believe you are unfairly accused, you may want to talk to someone confidentially. Your own line manager may be the first person with whom to share concerns. In addition, the Chief Confidential Counsellor can help you to assess the situation and advise on possible solutions. Alternatively, you can contact the Mediation Service in case of a conflict, if you consider that mediation may be helpful.

4.3. Redress mechanisms

The Commission provides both informal and formal mechanisms to redress harassment. The following principles apply when handling reports of conduct perceived as harassment, both in the informal and in the formal procedure:

PRINCIPLE	DESCRIPTION
Victim-centred approach	Harassment can have a serious impact on individuals, including on their physical and mental health. It is therefore important to ensure that whenever incidents of harassment and/or inappropriate conduct occur, victims are able to access support quickly and take an informed decision about how best they wish to proceed.
All reports are treated seriously and impartially	The Commission services examine all instances of alleged psychological or sexual harassment appropriately. Actors and services involved in analysing allegations of harassment do so objectively and impartially, in

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	full respect of the rights of all parties concerned.
The rights of all parties guaranteed	This includes the right to the presumption of innocence and the rights of defence, as set out in the Charter of Fundamental Rights.
Confidentiality	Reports of situations potentially involving harassment are treated in confidence. This confidentiality is important to protect the dignity, as well as the rights, of all the parties involved. The confidentiality obligation can only be waived in cases where urgent action is needed to protect the person concerned.
Protection of personal data	Reports of situations potentially involving harassment are treated in full respect of the rules relating to the protection of personal data.
No retaliation	No one, whether victims or witnesses, should suffer any prejudicial effects as a result of reporting any incident of alleged harassment, provided that he or she acted reasonably and honestly.
Communication and transparency	The formal procedure under which staff members request assistance under Article 24 of the Staff Regulations gives them the right to be informed about the follow-up of the case, as well as about the final result of the investigation, and any possible disciplinary action. While that right to information has to be balanced with the need to fully observe the rules on data protection, it is an important advantage for the victims. Assistance under Article 24 also gives recourse to the legal protections afforded by Article 90(2) and the scrutiny of the Court.
One policy for staff no matter where they are posted	The Commission has staff working in different locations across the globe. Wherever staff are posted, they have access to similar mechanisms for reporting, and following up on allegations of psychological and sexual harassment.

4.3.1. Informal procedure

Introduction

The informal procedure provides a framework for an amicable resolution to a situation that is perceived as involving harassment. In contrast to the formal procedure, the informal procedure does not result in a legal qualification of the conduct. As suggested by the term “amicable resolution”, it is designed for those cases where the parties to a situation agree that they both wish to engage in a dialogue about the situation, with the goal of finding a resolution. Such dialogue can lead to an acknowledgement by the author of the harm that his/her conduct has caused.

The presence of a third party – in the form of a mediator – can be helpful in setting up and holding this dialogue. Safeguards are built into the process, as there must be a basic acknowledgement of the facts at stake. In addition, participation is voluntary.

Because they have very different aims, it is not possible to engage in a formal procedure and in an informal procedure at the same time.

How does an informal procedure work? Who is involved?

The Chief Confidential Counsellor

The Chief Confidential Counsellor (CCC) in DG HR is the first port of call if you feel you are experiencing a situation of harassment in the workplace.

Working impartially, and in full independence, the CCC can help people understand the situation, provide information about their rights, explain the procedures available to help the persons choose the best way of dealing with the issue.

The Chief Confidential Counsellor also manages the network of confidential counsellors, and can put people in contact with a confidential counsellor (see below).

The Chief Confidential Counsellor may also be asked by the DG responsible for the colleague concerned to provide support in the assessment that aims to establish whether interim measures to protect that person are needed. In this context, the CCC may facilitate the implementation of such protective measures.

The CCC is on hand to provide advice and support to managers facing issues potentially relating to harassment in their services.

The Chief Confidential Counsellor can also inform a relevant Director-General or Service about any recurrent allegations of harassment within that Directorate-General or Service. Moreover, this sort of intervention can be helpful in identifying appropriate support measures, including targeted outreach events.

The confidential counsellors

The confidential counsellors are trained staff volunteers who provide colleagues with impartial support in situations of allegations harassment at work. They exercise their mandate under the responsibility of the Chief Confidential Counsellor. The discussion with the confidential counsellor will be an opportunity for you to explain in full the situation that is preoccupying you and to reach an informed decision about how best you wish to tackle the issue. As explained in section 4.1, the confidential counsellor can notably help prepare you to give direct feedback to the author of the unwanted conduct. However, the confidential counsellors cannot contact the other party themselves. Any conciliation or mediation can only be carried out by the Mediation Service.

The Mediation Service

If at any stage of the informal procedure, you decide that you would like a third party to reach out to the alleged harasser, you can contact the Commission's Mediation Service.

The Mediation Service acts as a facilitator and intermediary in disputes that may arise in the context of working relations, and assist and support the staff concerned in their efforts to find an amicable resolution. It carries out its work independently. It is equipped with tools enabling it to carry out mediation activities. It may request information that it needs for its work from any of the Commission's services. The Mediation Service can make recommendations for the resolution of a dispute in a specific case, as well as general recommendations to prevent recurring conflictual situations.

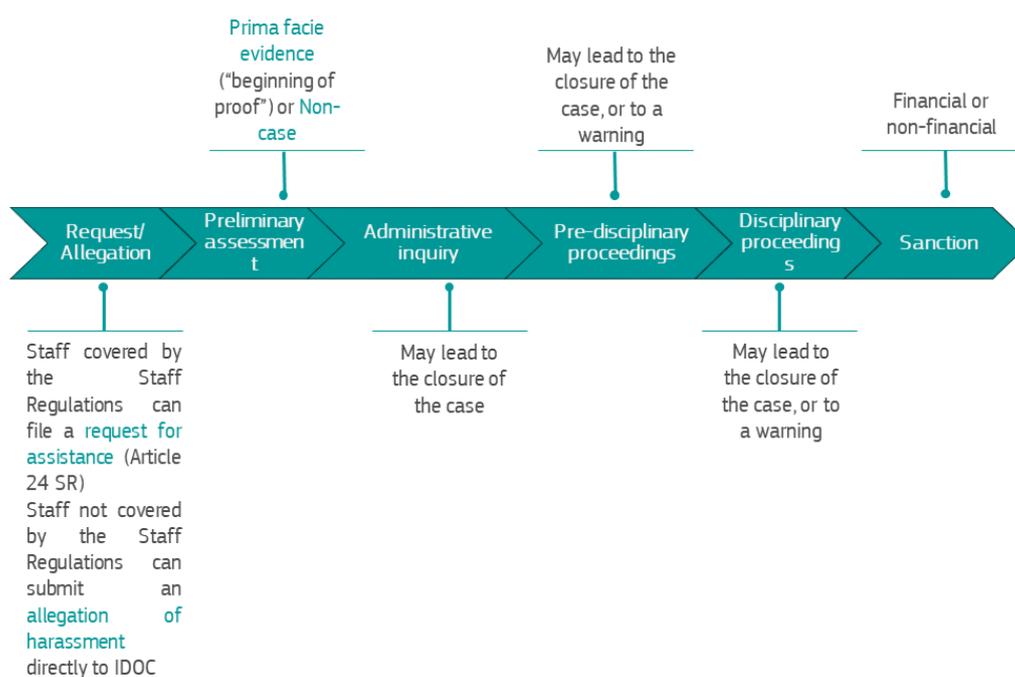
4.3.2. Formal procedure

Introduction

A formal procedure aims to establish whether harassment - as defined by the Staff Regulations - has taken place, and if this is the case, allows the appointing authority to take appropriate action. This may include imposing sanctions on the author of the conduct. A formal procedure may involve an administrative inquiry to establish the facts, as well as a disciplinary procedure. A formal procedure can be initiated no later than 10 years after the alleged conduct ended.

It may happen that, in the course of the formal procedure, victims find themselves experiencing feelings of anger, fear, self-doubt or emotional withdrawal, as they relate the events that they have gone through. In that case, they can contact the Chief Confidential Counsellor, or psychosocial team in the Medical Service to seek moral or psychological support. However, it has to be borne in mind that these actors will not intervene in the formal procedure, except the situation where the victim decides to ask the Chief Confidential Counsellor to give an opinion on the first assessment of the evidence (see below for further details).

The formal procedure involves the following steps:



Filing a request for assistance

For **staff covered by the Staff Regulations and CEOS** (officials, temporary agents, contract agents and special advisors), the first step to start a formal procedure is to file a request for assistance. Article 24 of the Staff Regulations describes the grounds for these requests for assistance. When they submit their request, staff should describe the situation they have experienced, and provide any evidence, as well as the names of colleagues who would be willing to provide testimony. **Persons working at the Commission who are not covered by the Staff Regulations** (example: trainees) can submit an allegation of harassment directly to IDOC.

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The CCC and DG HR services (for instance IDOC) can explain the different stages of the process⁹. They can also explain about the type of supporting evidence that can be submitted.

First assessment of the evidence

A preliminary assessment allows the appointing authority to decide whether the evidence constitutes a 'beginning of proof', or *prima facie* evidence, of sexual harassment or psychological harassment.

Prima facie evidence is a legal term to mean that the alleged victim has enough evidence to prove something by pointing to basic facts, but that the proof can be refuted. It might include, for instance, written evidence like emails, text/SMS messages, WhatsApp messages, notes, etc.; it can also include the name of witnesses. Medical certificates, on their own, cannot be considered as *prima facie* evidence, as the Court has issued rulings that state that, while a certificate can attest to a person's state of health, they cannot link that state of health to the actions of a particular individual; they can nevertheless be included in the documents that are submitted. This notion of *prima facie* evidence, or beginning of proof, is explained to the staff member who requests assistance.

The burden of supplying *prima facie* evidence lies with the complainant.

In assessing allegations of psychological harassment and sexual harassment, the case law benchmark on a 'beginning of proof' of harassment is applied.

As part of the preliminary examination of the facts, the Appeals & Case Monitoring unit in DG HR may hear the victim and the witnesses proposed by the victim. The unit may also contact the actors or services responsible for human resources in the Directorate-General or Service of the victim and of the alleged harasser in order to obtain their assessment of the situation and all elements relevant to the case.

Moreover, to enable a holistic assessment of the case, the Appeals & Case Monitoring unit may ask for an assessment of the situation by a psychologist or psychiatrist from the Medical Service. Such an assessment may also be requested by the victim.

If the appointing authority considers rejecting a request for assistance, it must give the victim an opportunity to comment on a summary of the draft decision before that decision is taken.

At that moment, the victim may ask the Chief Confidential Counsellor to provide his or her opinion on the procedural aspects of the preliminary examination, based on the summary of the draft decision. The opinion of the Chief Confidential Counsellor will specify whether and for what reasons certain procedural elements of the preliminary examination might require further attention. The Chief Confidential Counsellor will provide his or her opinion to the victim and to the Appeals & Case Monitoring unit. Such an opinion will be independent of any potential comments provided by the victim and can be requested only once.

Replies to the requests for assistance (Article 24 SR) and any subsequent complaints (Article 90 SR) are issued after consulting the Legal Service, and are subject to the scrutiny of the Courts.

⁹ <https://myintracomm.ec.europa.eu/staff/EN/staff-conduct/complaints-appeals/Pages/request-for-assistance.aspx>

USEFUL LINKS

Assistance under Article 24 SR:

<https://myintracomm.ec.europa.eu/staff/EN/staff-conduct/complaints-appeals/Pages/request-for-assistance.aspx>

If the appointing authority decides to reject the request for assistance, it will inform the victim of the reasons of the rejection. At the same time, as part of its duty to care, the appointing authority will provide the victim with information about other options that might be helpful in addressing his or her situation, including the possibility to turn to the Chief Confidential Counsellor. He or she may provide additional support to the victim following the preliminary examination of the case, as well as detailed advice on the options available to victims outside the formal procedure.

Administrative inquiries

Where there is evidence that a breach of the Staff Regulations may have taken place, the appointing authority may decide to **open an administrative inquiry**. Inquiries are carried out by the IDOC, on a mandate from the appointing authority. Inquiries are essentially fact-finding exercises that will help the appointing authority to decide whether to take a case further. This might mean, that at the end of the inquiry, the AA can decide to close the process, or can decide to open a pre-disciplinary procedure.

Pre-disciplinary procedure

If, following an administrative inquiry, the appointing authority decides to pursue the case further, the next stage is called the pre-disciplinary procedure. This is when the alleged harasser has an opportunity to comment on all the evidence of the case (i.e. on the inquiry report and its annexes), to which s/he has access for the first time during the formal procedure. At the end of this stage, the appointing authority can decide to close the case, to issue a warning, or to open a disciplinary procedure.

Disciplinary procedure

Following this stage, the appointing authority may then decide to pursue the case further by opening a disciplinary procedure. Where a disciplinary procedure leads to a sanction, the victim is informed. The IDOC annual report includes information about cases that have led to sanctions¹⁰.

Staff not covered by the SR and CEOS

In cases where the author of the conduct is not covered by the Staff Regulations and CEOS, the case can still be brought to IDOC and the appointing authority may take measures appropriate to the case. This might include opening an administrative inquiry, and drawing the appropriate

¹⁰ <https://myintracomm.ec.europa.eu/staff/EN/staff-conduct/idoc/Pages/manual-reports.aspx>

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consequences at the end of the inquiry. This avenue is without prejudice to the possibility for staff to file a complaint to the national authorities.

USEFUL LINKS

For more information on the procedures, please refer to the IDOC guide on disciplinary procedures:

<https://myintracomm.ec.europa.eu/staff/EN/staff-conduct/idoc/Pages/manual-reports.aspx>

5. Support by the Medical Service or the Security Duty Officer

In parallel with the redress mechanisms, you can also turn to other services for specific support. This might include the Medical Service, where a psychosocial team is on hand to support staff who may be facing difficult situations at work. The psychosocial team works on a confidential basis and includes experts in social work, psychology, psychiatry, and nursing.

If you have been a victim of violence, threats, intimidation, or physical assault, you should report this to the Security Duty Officer in your location (see below).

Remember that this number is on the reverse side of your staff badge.

USEFUL LINKS

Further information on the psycho-social team:

<https://myintracomm.ec.europa.eu/staff/en/health/psychosocial-support/Pages/index.aspx>

Security Duty Officers:

- From BXL call 22222 (+32 2 29 22222)
- From ISPRA call 9999 (+39 0332 78 9999)
- From LUX call 33333 (+352 4301 33333)

https://myintracomm.ec.europa.eu/corp/security/EN/crisis/Sec_at_work/Pages/Violence-and-harassment.aspx

6. Interim protective measures

In some cases, it may be necessary to address the issue raised immediately. This might be the case even in the absence of a formal or informal procedure. Victims can make a request for interim protective measures, as can the other party in a dispute. These measures can also be recommended by one of the support services contacted as part of the informal or formal procedure or can be decided by the appointing authority directly. The Chief Confidential Counsellor can provide support in assessing request for interim measures. The appointing authority should hear the persons concerned before any measure is taken that concerns them. The fact that interim protective measures are taken shall not prejudice any final decision about whether harassment did or did not take place.

The application of interim protective measures will be detailed in guidance established by the Directorate-General of Human Resources and Security.

