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## GOVERNING BOARD DECISION ON THE ETF POLICY ON PROTECTING THE DIGNITY OF THE PERSON AND PREVENTING PSYCHOLOGICAL AND SEXUAL HARASSMENT

### THE GOVERNING BOARD OF THE ETF,

Having regard to the Treaty establishing the European Community,

HAVING regard to the Staff Regulations of Officials and the Conditions of Employment of Other Servants of the European Communities (CEOS), laid down by Council Regulation (EEC, EURATOM, ECSC) No 259/68 and in particular Articles 1d, 12 and 12a of the Staff Regulations concerning behaviour which may infringe human dignity and Article 11 of the Conditions of Employment of Other Servants,

HAVING regard to Council Regulation (EC) N° 1360/90 of 7 May 1990 establishing the European Training Foundation,

HAVING regard to Council Regulation (EC) N° 1339/2008 of 16 December 2008 (recast) and notably article 21 thereof, submitting the staff of the ETF to the rules and regulations applicable to the Officials and Other Servants of the European Communities,

WHEREAS the Staff Committee of the ETF which is to be consulted pursuant to Article 110, paragraph 1, second sentence, of the Staff Regulations has not yet been constituted as no Staff Committee has successfully been elected, it is therefore impossible at the present to comply with the requirements of that provision. The Staff Committee will be invited to give its opinion on the relevant implementing rules when it has been constituted. The Governing Board is entitled in such circumstances to approve the rules forthwith,

In agreement with the Commission pursuant to article 110 of the Staff Regulations,

Whereas:

- (1) Psychological and sexual harassment at work are serious problems which the ETF is continuing to strive to stamp out by promoting a culture free of all forms of violence in the workplace in which such harassment is unacceptable.
- (2) Steps should therefore be taken to:
  - introduce a policy of prevention of psychological harassment and sexual harassment within the context of the new Staff Regulations;
  - introduce an informal and formal procedure relating to psychological and sexual harassment;
  - take appropriate action (if necessary, disciplinary measures) in accordance with the new Staff Regulations against any person who is found guilty of psychological or sexual harassment at the end of a formal procedure,

**HAS DECIDED AS FOLLOWS:**

*Article 1*

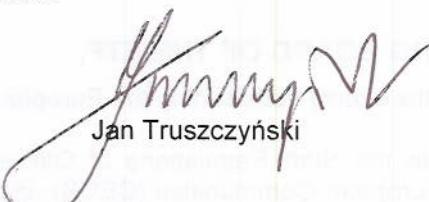
The document entitled "Policy on protecting the dignity of the person and preventing psychological and sexual harassment" annexed to this Decision is hereby adopted.

*Article 2*

This Decision shall take effect on the day of signature.

Date

**12 MAI 2010**



Jan Truszczyński

Chair of the Governing Board

# THE ETF POLICY ON PROTECTING THE DIGNITY OF THE PERSON AND PREVENTING PSYCHOLOGICAL AND SEXUAL HARASSMENT

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## 1. INTRODUCTION

The purpose of this document is to set up a policy on the prevention of harassment to take account of the new provisions in the Staff Regulations (Article 12a) and the Conditions of Employment of other Servants (article 11).

As an employer and to protect its staff, the ETF must guarantee respect for the dignity of women and men at the workplace. It has committed itself wholeheartedly to preventing such harassment and to condemning such behaviour.

The Staff Regulations were amended on 1 May 2004 and now explicitly condemn psychological and sexual harassment (Article 12a of the Staff Regulations and article 11 of the Conditions of Employment of Other Servants) while defining a common understanding of the two forms as follows:

**"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.

**"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.

In this general context, all staff working for the ETF must refrain from any form of psychological or sexual harassment.

Any conduct deemed to constitute psychological or sexual harassment is regarded by the ETF as unacceptable and will be punished regardless of the rank of the individuals formally recognised as guilty of such conduct<sup>1</sup>.

## 2. SCOPE

The goals of the ETF harassment-prevention policy are:

- To promote a culture in which psychological and sexual harassment, like other forms of violence in the workplace, are considered unacceptable and are neither tolerated nor ignored;
- To introduce a policy of prevention by raising staff awareness and providing information, training and counselling;
- To introduce effective procedures (the informal and formal procedures) to protect the dignity of each and every person working at the ETF;
- To take appropriate action (if necessary, disciplinary measures) in accordance with the Staff Regulations against any person who is found guilty of harassment.

## 3. DESCRIPTION

Psychological and sexual harassment stem from different issues but have certain similarities. In some cases, moreover, these two forms of harassment may be closely linked<sup>2</sup>.

Offensive conduct of this type often stems from abuse of power or maliciousness, and can be perpetrated by both individuals and groups. Harassment, be it psychological or sexual, may come from colleagues on an equal footing, as well as superiors and subordinates.

<sup>1</sup> See article 86 of the Staff Regulations and article 9 of Annex IX

<sup>2</sup> This is the case where sexual harassment translates into psychological harassment, for instance after rejection of a request of a sexual nature.

### **3.1. Psychological harassment**

Psychological harassment as described under article 12a of the Staff Regulations<sup>3</sup> can manifest itself in various forms, in particular by **repetitive**(ly):

- offensive or degrading comments, in particular in public, bullying, antagonism, pressure, offensive behaviour, even refusal to communicate;
- insults relating to someone's personal or professional competence;
- threatening, intimidating remarks; both oral and written
- belittling someone's contributions and achievements;
- being isolated, set apart, excluded, rejected, ignored, disparaged or humiliated by their colleagues;
- impairing their social relations;
- setting manifestly unattainable working objectives;
- not giving someone any work, or systematically giving them work which does not meet the profile of their job;
- assigning systematically someone to a job which manifestly does not meet their competences.

Such behaviour, while unacceptable, may in isolation appear of little consequence. When occurring on a regular basis, however, such conduct can cause serious harm to the person at whom it is directed.

Some kinds of behaviour may hurt certain people without constituting psychological harassment. A remark, a dispute, a clash of personalities at work, a management decision which is difficult to accept (allocation of new tasks, for instance), a duly substantiated negative performance feedback, even repeated, cannot therefore necessarily be considered psychological harassment.

### **3.2. Sexual harassment**

Sexual harassment as described under article 12a of the Staff Regulations<sup>3</sup> may take different forms (physical, verbal, written or other), and involve persons of the opposite sex and of the same sex.

The essential characteristic of sexual harassment is that it is unwanted by the recipient; it is therefore for each individual to determine what behaviour is acceptable to them and what they regard as offensive.

Sexual attention becomes sexual harassment if it is persisted in once it has been made clear that it is regarded by the recipient as offensive, although, unlike psychological harassment, a single incident may constitute sexual harassment if it is sufficiently serious<sup>4</sup>.

Anyone who is guilty of such behaviour knows or should know that it affects the dignity of women and men at the workplace. Sexual harassment is also treated as discrimination based on gender<sup>5</sup>.

A range of different types of behaviour can be considered sexual harassment, such as:

- promises of some kind of reward (favourable career moves, etc.) in return for sexual favours, or threats of reprisals if such requests are turned down;
- repetition of coarse or suggestive remarks, or sexual innuendo;
- use of crude and obscene language and gestures;
- repeated and exaggerated compliments on the appearance of a work colleague;
- physical contact, rubbing against someone, pinching, deliberate unwanted kisses;
- acts of voyeurism or exhibitionism;
- use of pornographic material.

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<sup>3</sup> See also section 1. « introduction » of this document

<sup>4</sup> For example: groping, torn clothing, etc.

<sup>5</sup> See article 12a(4) of the staff regulations

### **3.3. Consequences of conduct constituting psychological or sexual harassment**

Psychological or sexual harassment might have various consequences for the persons who suffer it or feel they are being subjected to it:

- they become isolated, tend to communicate less and social relationships tend to deteriorate;
- they make more and more mistakes, can no longer concentrate, become less productive, are demotivated leading to insufficient job satisfaction, unpredictable bad job performance, low morale, etc.;
- their professional development is hindered, career jeopardised, their very job put on the line;
- they may suffer from mental and physical health problems such as stress, anxiety, shame, demoralisation, humiliation, disorientation.
- they may suffer from psychosomatic disorders such as palpitations, breathlessness, sleep disorders, nervousness, fatigue, digestive disorders, weight problems, bursting into tears, irritability, aches and pains;
- they may suffer from psychological disorders such as fear of going to work, doubt, anger, feeling of injustice, feeling of helplessness, loss of self-confidence and low self-esteem.

Depression or increasingly serious physical and psychological disorders may, in extreme cases, lead to suicide.

In addition, the adverse consequences do not just affect one party, but also impact on other colleagues and on the institution itself.

## **4. GENERAL PRINCIPLES FOR DEALING WITH REQUESTS FOR ASSISTANCE**

### **4.1. Principle of prevention**

The policy on psychological and sexual harassment is based on an overall plan of preventive measures, comprising a number of different stages.

Specific prevention consists of developing a strategy of information and training, both individual and collective, to avoid and reduce the risk of psychological or sexual harassment, notably by detecting recurrent cases.

### **4.2. Principle of equal treatment**

As an employer and pursuant to the duty to have regard of the welfare of staff, the ETF must guarantee that its staff is treated in all circumstances with respect and dignity.

Each and every person working in the ETF, regardless of grade or contract of employment (this includes the trainees and all those working under a contract under national law), have the right to point out a situation of harassment where s/he considers herself/himself as victim or to which s/he was witness, to a confidential counsellor or to the HR Unit (leading unit for prevention of harassment issues) or to a hierarchical superior.

### **4.3. Principle of protection of the alleged victim and the possible witness**

The policy to combat harassment is a protection tool for persons employed within the ETF. In this context, the alleged victims and the possible witnesses will benefit from the ETF's protection guaranteed under article 24 of the Staff Regulations and under article 11 of the Conditions of Employment of other Servants.

Moreover, article 12a of the Staff Regulations and article 11 of the Conditions of Employment of other Servants foresee that "An official who has been the alleged victim of psychological or sexual harassment shall not suffer any prejudicial effects on the part of the institution. An official who has given evidence on psychological or sexual harassment shall not suffer any prejudicial effects on the part of the institution, provided the official has acted honestly."

#### **4.4. Principle of confidentiality**

Concerning the administration, confidentiality is guaranteed during and after the informal procedure and discretion during and after the formal procedure. Compliance with the legislation on the protection of personal data<sup>6</sup> applies within both the formal and informal procedures.

#### **4.5. Principle of the presumption of innocence**

The presumption of innocence is fully guaranteed to alleged harassers all along the procedure.

#### **4.6. Principle of promptness**

All requests for assistance by an alleged victim will be dealt with as quickly as possible. However, if an administrative inquiry is opened as part of the formal procedure, the timeframes for handling the request will be longer.

#### **4.7. Principle of precaution**

Where there are signs of psychological or sexual harassment, the ETF may separate the parties in conflict for precautionary reasons, either in case of a formal procedure, or during the informal procedure at the request of the lead unit or of a confidential counsellor or of the immediate superior according to conditions foreseen in point 6.5.

#### **4.8. Principle of information and training**

Information to staff will consist of:

- awareness campaigns comprising talks, discussions, workshops, brochures and posters explaining to staff the ETF's policy of preventing psychological and sexual harassment (understanding the different forms of violence at work, spotting problem behaviour, etc.);
- the provision of clear and precise information to help staff find out quickly and easily how to obtain support, advice and guidance and how to lodge a complaint;

The training plan to support a policy of prevention of psychological and sexual harassment comprises:

- raising staff's awareness of psychological harassment and sexual harassment issues when they join the service;
- management participation in specific training and seminars to improve awareness of psychological and sexual harassment issues and to help them manage such situations. Managers are strongly encouraged to attend such courses;
- specific training courses on psychological harassment and sexual harassment issues for staff and particular target groups as and when required;
- specific training courses, both initial and ongoing training, in the interests of the service, for all confidential counsellors.

### **5. PARTIES INVOLVED**

#### **5.1. The lead unit: the Human Resources Unit**

The Human Resources (HR) Unit is the lead unit responsible for drawing up and monitoring implementation of policy relating to psychological and sexual harassment. A contact person in the lead unit is nominated as such and s/he is an HR member of staff which staff can approach in the event of

<sup>6</sup> Regulation (EC) No 45/2001 of the European Parliament and of the Council of 18 December 2000 on the protection of individuals with regard to the processing of personal data by the Community institutions and bodies and on the free movement of such data (OJ L 8, 12.1.2001, p. 1).

psychological or sexual harassment, for information on policy and procedures and to contact the confidential counsellors on their behalf initially (see point 6.3 for details).

The contact person in the HR Unit shall, all along the procedure, be strictly bound to the duty of confidentiality, not reporting any details to any colleague.

The contact person will oversee initiatives allowing implementation of the informal procedure, and the different aspects associated with the operation of the confidential counsellor network, including allocating the cases of psychological or sexual harassment submitted to it to specific confidential counsellors. S/he will provide an overview of cases submitted to the network of counsellors, in accordance with the arrangements laid down in the Manual of procedures of confidential counsellors.<sup>7</sup>

The contact person is entitled to contact any relevant services such as the Medical Advisor to deal with a submitted case, in case of need.

## 5.2. Confidential counsellors

The appointment of confidential counsellors is based on an open call for applications and selection as detailed in Annex II.

Confidential counsellors are to be appointed on a voluntary basis, and will be for two years, renewable once. They will receive ongoing training and appropriate supervision and coaching for such counselling work.

The confidential counsellors operate within the context of the informal procedure (see point 6.3).

Confidential counsellors shall, all along the procedure, be strictly bound to the duty of confidentiality, not reporting any details to any colleague and they can not act without the consent of the alleged victim unless in case of emergency or serious health risk for one of the party involved.

The units/departments are advised to take account of the tasks of confidential counsellors and to help them carry out their work as far as possible. The arrangements for exchanges of information between confidential counsellors and the HR Unit are laid down in a Manual of procedures for confidential counsellors.

In carrying out their function and mandate confidential counsellors may not suffer any prejudice from the institution, provided that they have acted in good faith and in accordance with the Manual of procedures.<sup>8</sup>

## 5.3. Managers

Managers are in principle the first people who may be contacted by anyone encountering psychological or sexual harassment. Responsibility for actively promoting and applying the policy lies with them, since they represent the tier of management that is in direct contact with staff. It is up to them to take steps to prevent psychological or sexual harassment, raise awareness and inform their staff of existing procedures. In case they are informed about a case of harassment, they must also, in close collaboration with the various parties concerned, ensure the rapid and fair handling of any incident on this issue.

## 5.4. Staff

**Each and every person working at the ETF**, regardless of grade or contract of employment (this includes the trainees and all those working under a contract under national law), may, if they feel they are the victim of psychological or sexual harassment by a member of staff of the ETF, initiate an **informal procedure**. However, only staff covered by the Staff Regulations<sup>9</sup> and the Seconded National Experts<sup>10</sup> have access to the formal procedure, as described in point 6.4.

**Any person not covered by the Staff Regulations working under a contract under national law** and wishing to lodge a complaint concerning psychological or sexual harassment against a member of the ETF staff may do so under **national legislation**. However, they may also bring the events which are the subject of their complaint to the attention of the HR Unit. If the information provided is sufficiently serious, an administrative inquiry may be opened.

<sup>7</sup> The current version of the Manual is available on the ETF Intranet, under the HR section.

<sup>8</sup> The mandate of individual confidential counsellors may be withdrawn by the appointing authority in accordance with the procedures laid down in the Manual.

<sup>9</sup> Staff covered by the Staff Regulations refers to staff covered by the Staff Regulations and the system that applies to other servants (staff, temporary staff, contract staff, local staff).

<sup>10</sup> Following the ETF's Decision laying down rules on the secondment of National Experts to the ETF

Any person who is made aware of, or is a witness to conduct which appears to be improper according to the above descriptions has both the right and the duty to so inform whichever of the parties mentioned in this point (HR Unit, confidential counsellors, Managers) They are also obliged to cooperate in the smooth running of all enquiries carried out as part of the formal procedure.

## **6. PROCEDURES FOR DEALING WITH PSYCHOLOGICAL AND SEXUAL HARASSMENT CASES<sup>11</sup>**

### **6.1. General advice**

#### **Preamble:**

Some people are not always aware of the impact of their behaviour. If a certain type of conduct is felt to be inappropriate or embarrassing, it is advisable to make this clear. In the event of sexual harassment in particular, ambiguous behaviour should be set straight. It is important to react immediately, setting limits politely but firmly. In some cases, simply making it clear that the victim of such conduct finds it offensive and liable to undermine their performance at work or even their health could be sufficient to put an end to the situation.

If unwanted behaviour continues, a written record should be kept of all incidents: dates, circumstances, description of events, potential witnesses, personal reactions at the time and afterwards, any psychosomatic consequences.

Any person who feels they are the victim of psychological or sexual harassment is entitled to submit a request for assistance either informally or formally.

Any person accused of psychological or sexual harassment may also request information (e.g. on current policy or procedures or those to be followed) or advice from the contact person of the lead unit who may usefully advise the alleged harasser of the options for resolving the conflict, depending on the seriousness of the accusations.

#### **Informal procedure:**

As a first step, staff members are strongly advised to seek resolution of the problem through conciliation, via the informal procedure, with the assistance of a confidential counsellor.

The informal procedure can also lead to a formal procedure if it proves impossible to find a solution.

The advantage of the informal procedure over the formal procedure lies in the possibility of finding an amicable solution and possibly avoiding a formal procedure.

#### **Formal procedure:**

Anyone who feels they are the victim of psychological or sexual harassment is, however, free from the outset to initiate a formal procedure under the Staff Regulations<sup>12</sup>, involving longer timeframes, as it is the procedure under which facts shall be established.

If prior the formal procedure, there was an informal procedure which took place, it has to be noted that this passage to the formal procedure is understood to automatically involve closure of any informal procedure underway.

The advantage of the formal procedure is that it establishes the facts and, on the basis thereof, ends in the potential adoption of a penalty against a person found guilty of psychological or sexual harassment at the end of a disciplinary procedure.

11 For a summary of the rights and responsibilities of those who are victims of psychological and sexual harassment and of alleged harassers, see Annex I.

12 Or initiate a procedure under national applicable law.

## 6.2. The concept of the “victim” in the context of psychological or sexual harassment

Cases of psychological harassment are dealt with differently in the informal or the formal procedure.

At the informal level, the aim is to provide psychosocial<sup>13</sup> assistance. Here, the perception of harassment is subjective and depends on the situation as perceived by the person concerned. The goal is to bring an end to the distress generated both by a “proven” situation of psychological harassment and by a situation that is perceived as such. The key characteristic of psychological harassment in this case is that the person subject to it considers it undesirable conduct.<sup>14</sup>

As regards sexual harassment, the definition in the Staff Regulations covers the subjective perception of such behaviour (unwanted conduct).

In the informal procedure, therefore, the term “victim” refers to any person who defines themselves or identifies themselves as such. However, it is important to remember that there is a fundamental legal distinction between a person «who feels they are the victim of harassment and one who has actually suffered harassment» and is therefore recognised as a victim on the basis of proven facts, having gone through the formal procedure.

No stage of the informal procedure may prejudice the outcome of the formal procedure.

At the formal level, in line with the Staff Regulations, psychological harassment will only be considered to exist if the conduct of the alleged harasser is regarded as abusive, intentional, repetitive, sustained or systematic and intended, for instance, to discredit or undermine the person concerned. These criteria are cumulative. Objective facts will help verify whether these criteria have actually been met and if action can be taken.

## 6.3. Informal procedure

Someone who feels they are a victim of harassment may go through the informal procedure with the assistance of a confidential counsellor. Depending on the case, emergency measures may be considered. The informal procedure allows monitoring and may lead to an amicable resolution. However, it does not involve formal establishing of the facts or the application of penalties: this is done in the formal procedure (see point 6.4 below).

### 6.3.1. Role of the confidential counsellors

The first objective of the confidential counsellor is to recognise and alleviate the alleged victim's suffering by receiving them and listening to them without preconceptions and without passing judgment.

The confidential counsellor will therefore:

1. inform the alleged victim of the existing procedure and of their rights
2. accompany and guide the alleged victim, examining with them the various options and structures that will help find a satisfactory solution to the problem (directing them towards and placing them in contact with the Medical Advisor for instance).

Any action taken by confidential counsellors in the informal procedure may only be carried out with the prior agreement of the alleged victim and must remain within the framework of the mandate given them.

The confidential counsellor may meet the other party with the alleged victim's consent and play a conciliatory role in an attempt to reach an amicable solution.

13 Psychosocial assistance is an approach to alleged victims to foster resilience of communities and individuals. It aims at easing resumption of normal life,

14 See Court judgments in Cases T-549/93 D v Commission [1995] ECR-SC II-43, point 76, and T-242/97 Z v European Parliament [1999] ECR-SC II-401.

In all cases, confidential counsellors shall strive to listen carefully to the two parties, remain objective, clarify the facts and ensure good communication.

#### 6.3.2. *Timeframe*

Confidential counsellors have a period of one month within which to deal with the problem. This may be extended to two months if necessary. If no solution can be found in this period, the "case" shall be closed and the contacts between the alleged victim and the counsellors shall cease. Counsellors may propose that the alleged victim lodge a formal complaint (see point 6.4).

#### 6.3.3. *Contacting confidential counsellors*

Any person who feels they are the victim of psychological or sexual harassment may contact a confidential counsellor, by:

- contacting the lead unit (contact person in the HR Unit), in one of two ways:
  - calling the telephone number as published on ETF Intranet
  - either sending an e-mail to the address, only accessible to the contact person as published on ETF intranet
- contacting the confidential counsellor of their choice directly by consulting the list published on the ETF's Intranet (HR Unit section)

In the first case, the contact person of the HR Unit directs the alleged victim towards a confidential counsellor who possibly meets the key criteria (language, gender, department/unit etc.) specified. As a matter of principle, the confidential counsellor will be from another Unit.

### 6.4. *Formal procedure*<sup>15</sup>

Any person in the ETF<sup>16</sup> who feels they are the victim of psychological or sexual harassment are entitled under the Staff Regulations to initiate a formal procedure: either immediately, without first going through the informal procedure, or in the course of<sup>17</sup> or at the end of the informal procedure<sup>18</sup>.

The Staff Regulations explicitly condemn any form of psychological or sexual harassment by a staff member. Sexual harassment is, moreover, treated as discrimination based on gender (Article 12a (4) of the Staff Regulations).

#### 6.4.1. *Submitting a request for assistance*

A formal procedure can be initiated on the basis of a request for assistance under Article 24 of the Staff Regulations (concerning the ETF's obligation to assist its staff).

Requests for assistance must be submitted to the Appointing Authority.

#### 6.4.2. *Main steps*

When the administration has taken the appropriate steps, by ensuring that an administrative inquiry is carried out (where necessary with the support of an external party<sup>19</sup>) to establish the facts at the origin of the request and apportion any responsibility, in collaboration with the author of that request, this signifies that this request has been followed up and has not been implicitly rejected (absence of reply after 4 months).

15 Application of the Staff Regulations, Articles 24 and 90.

16 See footnote 11 for the definition of the staff concerned, to which seconded national experts should be added.

17 Proceeding to the formal procedure implicitly involves automatic closure of any informal procedure pending.

18 All staff of the Institution can also appeal to applicable national law, in which case article 25 of annex IX of the Staff Regulations applies.

19 For instance it could be a member of the IDOC (Investigation and Disciplinary Office of the Commission)

If the request is rejected, either explicitly or implicitly, the person concerned can, where appropriate, lodge a complaint under Article 90 (2) of the Staff Regulations and - if it is rejected - submit an appeal to the Court of First Instance.

Any person who feels they are the victim of sexual harassment must provide all details which might support their allegations.

In the case of psychological harassment, a degree of evidence is required. The person bringing a complaint of psychological or sexual harassment may be accompanied at the hearings by a person of their choice, provided that person cannot be called as a witness in the course of the inquiry.

At the end of its administrative inquiry a report shall be presented proposing either that the case be closed without further action or that disciplinary proceedings be opened. If it proposes the latter, the appointing authority may decide, once it has heard the person or persons concerned, to open disciplinary proceedings and apply the ensuing penalties if there is confirmation of the wrongful act.<sup>20</sup>

If the misconduct involves repeated action or behaviour, this will be taken into account in determining the seriousness of the misconduct and deciding on the appropriate disciplinary measure as well as a possible hierarchical relationship.<sup>21</sup>

If the procedure results in recognition of psychological or sexual harassment, victims may receive compensation for the damage suffered under the terms set out in the Staff Regulations (second paragraph of Article 24) where appropriate.

If the procedure ends in no action, all those who have been interviewed will be informed. If the complaint proves to have been formulated in an abusive manner or in bad faith, the appointing authority may take disciplinary measures, either on its own initiative or at the request of the wrongfully accused person.

#### *6.4.3. Role of confidential counsellors in the formal procedure*

Confidential counsellors are limited to providing support for the alleged victim. Under this procedure, and depending on the requirements of the inquiry, confidential counsellors may also be called as witnesses, to testify to facts relevant to the inquiry which they have been informed of during the informal procedure.

### **6.5. Emergency measures**

The main concern of any alleged victim of psychological or sexual harassment is to stop that harassment as quickly as possible. Where there are signs of psychological or sexual harassment, one option which may be envisaged, as an emergency, is to move one of the parties concerned (within the Unit or to another Unit). This measure may take the form of a redeployment of posts, and may involve the alleged victim (preferably with his/her agreement) or the alleged harasser (following an interview with the Director). The aim of such a measure is to separate the two parties and may be proposed to the appointing authority by confidential counsellors or requested directly by one of the parties concerned.

Emergency measures, which must take account of the needs of each particular situation, can be taken immediately. These are precautionary measures designed to put an end to a given situation. They are also intended to give the alleged victim a chance to recover. These measures may of course also be taken within the framework of the formal procedure, at the request of the alleged victim or on the initiative of the appointing authority concerned.

### **6.6. Recurrent cases**

Requests for assistance from different people involving the same individual are to be considered disturbing. These will be brought to the knowledge the appointing authority by the contact person of the lead unit. The appointing authority will decide on the most appropriate action to be taken, including launching an administrative enquiry.

Requests for assistance from the same person involving different individuals are to be handled with particular attention.

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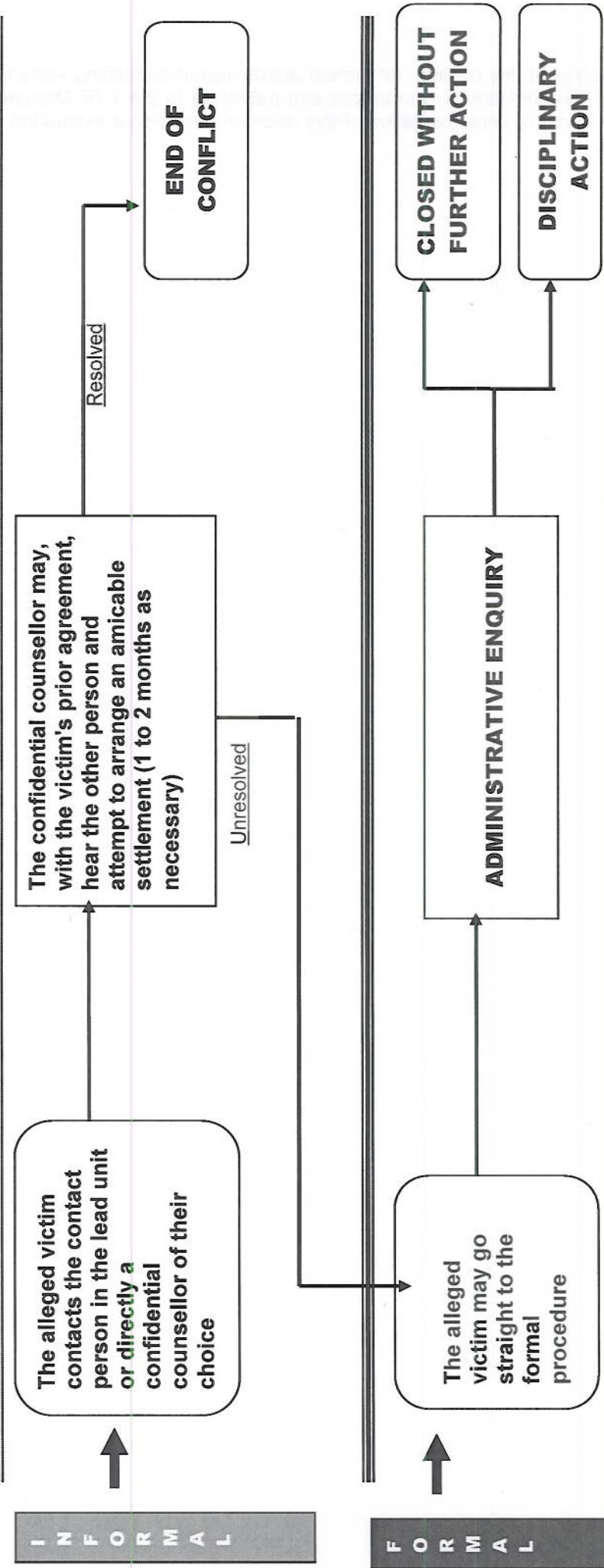
20 See Article 86 and Annex IX to the Staff Regulations.

21 See Article 10(h) of Annex IX to the Staff Regulations.

## 7. EVALUATION

The lead unit will monitor this policy. In this context, an annual activity report containing statistics will be prepared with the support of the confidential counsellors and published to the ETF Management Team by the lead unit. After two years of implementation of this decision, an ex-post evaluation and a survey of staff will be carried out.

**PSYCHOLOGICAL AND SEXUAL HARASSMENT  
OUTLINE OF PROCEDURES**



# ANNEX I

## Your rights and responsibilities

### A. If you feel you are victim of psychological harassment or sexual harassment

#### YOU ARE ENTITLED

- to be heard within the informal procedure, by contacting either the contact person in lead unit (HR Unit) or a confidential counsellor of your choice, uncritically and under the strictest confidentiality;
- to be certain that the confidential counsellor will not take any steps without your agreement;
- within the context of the formal procedure, to submit a request for assistance to the appointing authority without embarrassment or fear of reprisals or indiscretions;
- to be accompanied by a person of your choice during meetings with investigators;
- to be assured of a fair and impartial investigation;
- to be informed of the result of the investigation and, where applicable, of the measures that will be taken.

#### YOU MUST

- within a reasonable period, make the person you are accusing aware of your disapproval or unease, where necessary accompanied by a confidential counsellor;
- be sure you are keeping appropriate record of all incidents;
- cooperate with those in charge of the investigation into your complaint.

### B. If you have been accused of psychological harassment or sexual harassment

#### YOU ARE ENTITLED

- to contact, if necessary at the informal procedure stage, the contact person in the lead unit or your Manager to advise you and help you uncritically and under the strictest confidentiality;
- to be informed that an official complaint has been lodged against you, receive a copy of that complaint and have the opportunity to react to it;
- to be accompanied by a person of your choice during meetings with investigators;
- to be assured of a fair and impartial investigation;
- to be informed of the result of the investigation and, where applicable, of the measures taken.

#### YOU MUST

- keep a written record of all incidents;
- cooperate with those in charge of the investigation into the complaint against you.

## ANNEX II

### Procedure for the selection and (re)appointment of confidential counsellors

#### A. Call for expressions of interest

In order to obtain the maximum number of potential applications, and in accordance with the need to maintain a sufficient number of confidential counsellors in the network, the Human Resources Unit (HR) will issue a call for applications, published on Intranet. This call for applications will include a declaration of honour and an application form. It will set out the selection procedures and formalities and the approximate number of persons to be selected and will remain accessible for 15 working days.

Persons wishing to become confidential counsellors must:

- respond to the call for expressions of interest, within the stipulated timeframe;
- send the completed application form together with a curriculum vitae, a declaration of honour and a letter of motivation to the HR Unit;
- meet the eligibility criteria.

#### Eligibility criteria

In order to be eligible for the role of confidential counsellor, candidates must:

- have the status of temporary agent, contract or local agent within the ETF;
- have at least two years of service at the ETF to provide them with sufficient experience and knowledge of the ETF and how it operates;
- have previously participated in internal or external training in courses regarding helping relationships, communication or conflict management, or possess professional experience within or outside the ETF requiring the exercise of such skills in one of these fields.

#### Incompatibility criteria

Persons who exercise any of the following functions will not be eligible for the role of confidential counsellor:

- elected staff representatives or members of a managing body of a trade union and professional organisation;
- staff members of the HR Unit responsible for:
  - the anti-harassment prevention policy;
  - the handling of requests/complaints or appeals;
  - administrative inquiries or disciplinary procedures;
  - career guidance.
- staff members of the Legal Service.
- staff members in the Directorate.

Further, applications may not be made by persons who are subject to an administrative inquiry or disciplinary proceedings or persons who have been subject to a disciplinary sanction. Candidates must, when they submit their applications, attach a statement of honour certifying that none of the circumstances referred to above apply to them.

## B. Selection

Candidates will be selected by a panel composed by the Head of the HR Unit, the contact person for harassment issues in the lead unit, the ETF Medical Advisor and one representative of the Staff Committee. An external expert may be called to be part of the panel as technical advisor<sup>22</sup>. Selection shall be on the basis of an interview and consideration of their application forms, curricula vitae and motivation letters as well as the successful and full participation in specific training modules.

The following criteria will be taken into account:

- listening skills and empathy<sup>23</sup>, communication skills, a sense of discretion and confidentiality;
- the ability to maintain objectivity with regard to one's personal beliefs and value judgements, an aptitude for critical introspection;
- professional experience or training in one of the fields referred to in point 3.3.2;
- possible knowledge or experience in the human resources field;
- knowledge/understanding of the issue of harassment and of the ETF's policy in that area;
- the motivation to undertake the role of confidential counsellor;
- availability (in terms of investment of time).

### First stage in the selection procedure

The HR Unit will screen the applications against the eligibility and incompatibility criteria and send a list of eligible candidates to the members of the selection panel, with a copy of the application files together with an assessment grid prepared by the HR Unit on the basis of the proposals received by the selection panel. The HR Unit will convene the selection panel, organise its work and invite the candidates.

The selection panel will assess each eligible candidature and the most suitable candidates will be invited for interview. The panel will then assess candidates during interview on the basis of the selection criteria referred to above. The selection panel will work on a consensus basis. The deliberations of the panel are confidential.

Following the interviews, the selection panel will draw up a list of candidates<sup>24</sup> which it considers most suited to the role and may supplement this list with a reserve list for potential replacements. This list will be submitted to the Director who, as appointing authority, is free to accept or reject each proposed candidates.

On the basis of the decision of the Director, the HR Unit will inform candidates in writing of the outcome specifying that their mandate will not be confirmed until after successful completion of the compulsory training which they must undertake (see second stage).

22 Its role is as the one defined for technical advisor within selection procedures (ref: 09/AD-HR/AVE/-/268)

23 Empathy means: an attitude to others characterized by a genuine concern regarding them and ongoing efforts to understand what they are saying and how they feel emotionally. Personal emotional involvement and judgmental approaches must not be allowed to colour this attitude.

24 The panel will, as far as possible, ensure a gender balance and a representation of the different categories of staff.

## **Second stage in the selection procedure<sup>25</sup>**

Before<sup>26</sup> being appointed, the candidates selected will receive special and compulsory training in targeted modules and the trainer will make a report to the Director on the participants that shall be considered by the Director before the final decision on appointment is taken. This assessment will be made by the trainer and, more specifically, will concern the skills relating to the role of confidential counsellor, notably in terms of listening ability and empathy, communication skills, the ability to maintain objectivity with regard to personal beliefs and value judgements, and the capacity for critical introspection.

The HR Unit will notify the persons who fail to complete this training successfully that their mandates have not been confirmed<sup>27</sup>. A final list of confidential counsellors will be communicated to all staff and published on Intranet. The line managers of the confidential counsellors will be informed of their appointments.

## **C. Term mandate**

### **Duration of the mandate**

Confidential counsellors will be appointed for a period of two years, renewable no more than once. As this is a voluntary role, confidential counsellors may for personal reasons withdraw from office at any time during their mandates. In order to terminate their mandates, confidential counsellors must make a written request to the Director and contact the lead unit (contact person) to organise by mutual agreement the transfer of cases and files for which they have had responsibility.

### **Renewal of mandates**

Before the end of each mandate, the lead unit will meet the confidential counsellors to enable them to express their intentions as regards renewal of their mandates and provide them with feedback.

If a confidential counsellor wishes to renew his/her mandate, and if the eligibility and selection criteria are still met and the mandate has been fulfilled without any significant difficulty, the lead unit will propose automatic renewal to the appointing authority.

If a confidential counsellor does not wish his/her mandate to be renewed, s/he will communicate this in writing to the lead unit.

### **Withdrawal or not renewal of the mandate**

On the basis of the recommendation from the lead unit, and where necessary, the supervisor's, in case of inadequate behaviour<sup>28</sup> and/or infringement of the ETF policy and content of this manual as well as manifest conflict of interest, repeated conflict with the

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25 For organisational reasons, it may happen that the training and report by the trainer to the director takes place before the interviews.

26 Whenever possible

27 Information on the results of the training may, upon request, be provided to such persons by the Human Resources Unit

28 Essential behaviour refers to the regularity of participation in compulsory supervision and/or training sessions, the person's cooperation with the network and the services involved in the information procedure, the respect of confidentiality and the absence of serious criticism by alleged victims.

parties involved in the informal procedure or with members of the network, the Director may withdraw or not renew the mandate of a confidential counsellor.

The confidential counsellor will be informed in writing and must transfer any current case(s) to another confidential counsellor with the support of the lead unit (contact person).

#### **Temporary withdrawal of the mandate**

If a confidential counsellor is accused of harassment in a formal procedure, s/he must withdraw from the network while the procedure is carried out and s/he will withdraw from all cases. If, following the conclusions of the Director, a disciplinary procedure is opened; the mandate will be definitively withdrawn. Otherwise the concerned person will be reintegrated into his/her role as confidential counsellor.

In certain cases, temporary withdrawal of a confidential counsellor may be voluntary and based on personal reasons of a private nature, notably illness, long-term absence, etc. In such cases, confidential counsellors must notify the contact person of the matter in writing and ensure that ongoing cases are transmitted to it in order that it may assign them to another confidential counsellor. Except in very exceptional cases, this period of withdrawal may not exceed a total period of six months during a mandate.

#### **D. Training**

It is a requirement for confidential counsellors to participate in initial training offered by the ETF in order to be formally appointed. In addition, confidential counsellors shall strive to improve their skills on an ongoing basis through peer-to-peer exchanges and participation in supervision.

Attendance at these initial training courses and at the supervision sessions is compulsory. They will be provided by an external psychologist, and the contact person in the lead unit must take part in the sessions.

The primary objective of supervision sessions is the methodical analysis, in strictly anonymous form, of situations encountered, of the possible routes to a solution and of the errors and pitfalls to be avoided, while enabling improved objectivity to be acquired with regard to personal attitudes, judgements and emotions leading to greater clarity in taking action. Supervision sessions will also enable confidential counsellors to air their own difficulties and experiences in managing cases, in order that they may gain the benefit of advice and support in these areas.