

# Draft rules of procedure for the institutions of the European Civil Service in terms of harassment

*(updated following WG Harassment meeting of 9.11.18)  
Adopted by the Federal committee on 16-2-2019*

## Introduction

**The Dubrovnik Congress instructed the USF Federal Committee** to "draft a set of rules, inspired by the most progressive legislation on the subject, on how to deal with complaints of intimidation and harassment". To this end, the CF/USF has created a Harassment/Psychosocial Risk WG to respond to this mandate and address any issues related to this subject that may arise at the CF/USF.

## **Preamble: Definition of moral harassment & sexual harassment**

still to be decided/choose a definition within the WG, to be validated in CF

## Principles

- . **Non-impunity** - zero tolerance
- . **Presumption of innocence**
- . Prevention: mandatory nature
- . Independence of the actors
- . More transparency without compromising confidentiality

## Implementation of the project

- . Awareness-raising at all levels
- . Improving on how the complaint is handled and how the complainant is taken care of
- . Strengthening the role of actors
- . Strengthening coordination between the different actors
- . Inter-institutional coordination
- . Strengthening the role of the Prevention and Protection at Work Committees (or equivalent)
- . **Examination of the relevance of mediation or conciliation**
- . Protection against reprisals
- . Naming and Shaming
- . Special case of decentralized agencies and offices
- . Special attention paid to the most vulnerable agents

. Involvement of the European Ombudsman

## Details of the recommendations

**(Text discussed and worked at the meeting of the Harassment/PSR WG on 29.09.18)**

**Non-impunity - zero tolerance:** the institution's senior managers will have to convey the message of zero tolerance and non-impunity through their harassment declarations/acts, even if it means removing some information from confidentiality. If harassment is recognized, sanctions will be necessary.

**Respect for the presumption of innocence**  
(disciplinary sanction in case of abuse)

### **Prevention: mandatory nature**

Prevention must be mandatory in all institutions.

. Provision should be made for an independent monitoring mechanism

. It will be necessary to provide a dedicated and independent service and staff: e. g. creation of an Internal Service for Prevention and Protection at Work as provided for by Belgian law, which will have the mandates, resources and staff (including occupational psychologist) to coordinate the fight against these risks. It must be absolutely independent of the DGs and have the power to recommend all collective or individual measures to be implemented. Among its functions, with the frank support of the Organization's senior management, the launch of a prevention plan based on a risk analysis

. A Prevention Plan with an interim and regular evaluation system should be provided for

### **Independence of the actors**

The various actors involved in harassment cases must be able to carry out their mission in complete freedom and independence.

### **More transparency without compromising confidentiality**

Institutional health protection actors and parties involved in the procedure would have access, even if it meant anonymising them, to certain statements in the procedure.

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### **Awareness-raising at all levels**

. All interlocutors, from top management to the average agent, should be made aware of the problem and invited to observe a respectful attitude towards everyone and to alert whoever is entitled in the event of harassment observed

. training at an early stage of recruitment, in particular for managers and all staff with an HR role (socio-medical team, HR staff, staff representatives, etc.)

. Clear (e.g. clear and documented brochure including: what is H and what is not H) and exhaustive information on the structure put in place should be available

- Possibly, create a publication line on the subject

. have studies produced by recognised and neutral bodies on psycho-social risks, produce figures so that the respective public institutions cannot contest and take the problem seriously.

- . Launching media events, e. g:
  - Film screening and debate during a dedicated day
  - launch of a major initiative, based on the 2004 European Framework Agreement on work-related stress, which had led to various initiatives
  - push for a ministerial conference or "Etats généraux".
  - use the opportunity of an international day (e.g. Kindness Day/Dignity Day) to undertake targeted anti-harassment actions

### **Improving the care of the complainant**

The complainant must be put at the centre of the procedure. It will be necessary :

- . review existing formal and informal procedures to shorten the time required to implement them.
- . it will be a matter of seeking more systematically alternative means of settlement to changing the complainant's service or taking sick leave; the possibility of quickly extracting the alleged harasser from a service where he is experiencing a situation that puts his health at risk should, however, be maintained - taking into account that for some "harassed" people, such a measure may be considered as a "double penalty".
- . improve the medical examination process, with the possibility of seeking an opinion from an external doctor if necessary and a third medical opinion in the event of disagreement between the occupational doctor and the consulting doctor
- . provide paper/online documentation to clearly inform the complainant of the device available to him/her
- . provide for the possibility for the plaintiff to seek compensation from the court
- . create confidential contact points, in particular for first listening and orientation (e.g. Hotline run by people, including lawyers with extensive experience in harassment:
  - . accompany the complainant during interviews, hearings - possibly by a lawyer
  - . provide for the possibility of discussion groups
  - . provide for the destruction of the medical file at the end of the procedure
  - . and finally, very importantly, to do everything possible to give the complainant every opportunity for a successful reintegration into the workplace at the end of the procedure.

### **Strengthening the role of actors**

*Creation (or strengthening) of the role of Harassment Counselors*

Advisors should be experienced in this area. Independence in the performance of their duties is essential. Their role must be strengthened, as they must have the power to take appropriate action if the head of the institution concerned fails. They would lighten the complaint procedure for the complainant, as they would be responsible for this formality. They would have a proactive role in verifying whether an isolated complaint does not conceal a collective problem.

- . More restrictive selection of trusted persons, whose activities as trusted persons will have to be monitored by professionals (psychologist, other) - grant them time on their working time for this function, offer them training, provide them with more discreet places

### **Strengthening coordination between the different actors**

- . Harassment Prevention Advisors
- . occupational physicians,
- . trusted persons
- . control doctors
- . representatives of the protection/hygiene & safety committees

. Mediation service/ Mediator

They should be able to coordinate in total freedom and independence, to do so they should have meeting places where they can express their opinions. Information should be able to flow between them, in complete confidentiality

### **Inter-institutional coordination**

It should be promoted and encouraged, in particular through occasional meetings between the actors of the various institutions (e. g. ETUC, EPSU), in order to assess the impact of the measures put in place and exchange on best practices

### **Strengthening the role of the Prevention and Protection at Work Committees (or equivalent)**

The CPPT or equivalent:

- . should be able to receive the results of the RPS analysis
- . should be able to be represented within the Coordination of RPS on the collective or individual preventive measures resulting from it.
- . should be able to have anonymized information related to all forms of RPS,
- . its members should be trained and consulted in advance on any measures taken to manage psycho-social risks (including personal choice of trust)
- . should be able to be overseen by a neutral body in order to guarantee its independence (CES???)

### **Examination of the relevance of mediation or conciliation**

If appropriate, every effort should be made to promote fair mediation or conciliation between the parties to avoid aggravation of the conflict (taking into account the possible power imbalance between an alleged harasser determined in the face of a weakened harasser)

It should be possible for staff to be kept more informed of closed and ongoing cases, even if this means anonymising certain elements. This would give them greater confidence in existing arrangements

### **Protection against reprisals**

It is certainly important to empower witnesses (colleagues, hierarchy) - to encourage them not to remain passive, because that is consent, but it is essential for that purpose that both the complainant and the witnesses or persons involved in the proceedings, at whatever level, obtain guarantees against any reprisals.

### **Naming and Shaming**

- . launching actions to make situations in the institutions public could be undertaken, for example without the framework of a "European Harassment Observatory".
- . create a complaints register: Complaints should be recorded, anonymized, in a register, maintained by SIPP.
- . make public the costs of harassment through specific examples
- . make public the figures of malaise (absenteeism, long illnesses, turnover, suicide, etc.)  
E.g.: online platform where the figures would be made public by institution - either the organisations concerned are highlighted if the figures are "good", or it will make them "bad publicity".
- . consider, unlike shaming, "praising", by highlighting managers (the "manager of the month") who have managed their team effectively in a climate of well-being



### **Special case of decentralized agencies and offices**

Special attention should be paid to agencies which, because of their small structure or distance from headquarters, are sometimes more vulnerable and have fewer resources to implement the policies decided by the parent organization. In the event of a dispute, the law most advantageous to the complainant (local or institutional) would be applied.

### **Special attention paid to more vulnerable agents**

(e.g. contractual status, disability, illness, difficult personal situation, etc.) or potential targets of harassment (employee representatives)

**Involvement of the European Ombudsman:** In view of his mission, it would be appropriate to include the action of the European Ombudsman in any mechanism: *"The European Ombudsman is an independent and impartial body which can hold the institutions and agencies of the European Union to account and which promotes good administration. The European Ombudsman assists individuals, companies and organisations experiencing problems with the European Union administration by investigating complaints about maladministration by the European Union institutions and bodies, as well as by examining, on his own initiative, broader systemic issues."* It should be noted, however, that it apparently only intervenes at the level of the EU institutions, and therefore not for our non-Community organisations (?)

### **References used :**

Devices/proposals referenced

- . Belgian law of September 2014
- . existing arrangements at the Commission
- . existing mechanism at the Council of the EU
- . existing mechanism in Parliament
- . existing system at EEAS
- . existing arrangements at the Council of Europe
- . Proposals of the Commission's CPPT
- . existing mechanism at the European University Institute
- . Working documents studied within the Federal Committee (JP Escanilla, S. Saint-Marc)
- . French law
- . Existing PCA device - pending