



## **Decision No 5-2026 on the European Court of Auditors' policy for ensuring a respectful and harassment-free workplace**

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### **THE EUROPEAN COURT OF AUDITORS,**

HAVING REGARD TO the Charter of Fundamental Rights, and more precisely Article 31(1), which states that 'every worker has the right to working conditions which respect his or her health, safety and dignity';

HAVING REGARD TO the Staff Regulations of Officials of the European Union (Articles 1d, 12a and 24) and the Conditions of Employment of Other Servants of the European Union (Article 11), as laid down by Council Regulation (EEC, Euratom, ECSC) No 259/68 and as last amended by Regulation (EU, Euratom) No 1023/2013 of the European Parliament and of the Council of 22 October 2013 ('the Staff Regulations');

HAVING REGARD TO Council Decision (EU) 2023/1075 of 1 June 2023 on the conclusion, on behalf of the European Union, of the Council of Europe Convention on preventing and combating violence against women and domestic violence (the Istanbul Convention) with regard to the institutions and public administration of the Union;

HAVING REGARD TO the Code of Conduct for the Members and former Members of the Court;

HAVING REGARD TO the European Parliament resolution of 16 December 2021 on MeToo and harassment – the consequences for the EU institutions (2021/2986(RSP));

HAVING REGARD TO the Staff Committee's opinion No 07/2025;

HAVING REGARD TO the Joint Committee on Equal Opportunities' (COPEC's) opinion No 02/2025;

HAVING REGARD TO the Court's deliberations at its meeting of 5 February 2026 on the basis of DEC 017/26;

WHEREAS the previous decision on the European Court of Auditors' policy for ensuring a respectful and harassment-free workplace<sup>1</sup> contained a clause providing that the policy should be evaluated every three years;

WHEREAS the ECA's HR strategy for 2026-2030, identifies 'respect' as one of our main values, and sets as one of its main goals to cultivate a thriving work environment;

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<sup>1</sup> Decision No 50-2022, December 2022.

WHEREAS the Violence and Harassment Convention (No 190) of the International Labour Organization refers to all forms of harassment occurring in the course of, linked with or arising out of work; it thus extends beyond the workplace and includes work-related facilities and communications, including telework, travel and social activities, and commuting to and from work, taking account of the fact that inappropriate or disrespectful conduct in those contexts may also have harmful effects extending to the sphere of work;

WHEREAS maintaining a respectful and psychologically safe working environment, through awareness raising and prevention, early detection and resolution of conflict, and promoting respect and dignity, are essential for preventing harassment;

WHEREAS any type of inappropriate or disrespectful conduct should be prevented or addressed, whether or not it can be qualified as discrimination or harassment;

**HAS DECIDED:**

Article 1

The ECA strives to create a working environment in which dignity, respect, trust and care are paramount. To prevent any kind of harassment, the ECA commits to a culture of respect, taking an inclusive, integrated and non-discriminatory approach. Should any allegation of harassment prove to be founded, however, the ECA will show zero tolerance. It will protect and support victims and witnesses, sanction the harassers, and offer rehabilitation measures to everyone involved.

Article 2

To this end, the ECA hereby adopts the policy for ensuring a respectful and harassment-free workplace that is set out below. The policy details the procedures to be followed in the event of alleged harassment, and forms an integral part of this Decision.

Article 3

This Decision repeals and replaces ECA Decision No 50-2022 on ECA's policy for a respectful and harassment-free workplace.

Article 4

This Decision shall take effect on the day following its adoption.

Done at Luxembourg, 13 February 2026

For the Court of Auditors



Tony Murphy  
*President*



EUROPEAN  
COURT  
OF AUDITORS

# **The ECA's policy for ensuring a respectful and harassment-free workplace**

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## 1. The ECA's commitment

**01** The ECA strives to create a working environment in which dignity, respect, trust and care are paramount. To prevent any kind of harassment, the ECA commits to a culture of respect, taking an inclusive, integrated and non-discriminatory approach. Should any allegation of harassment prove to be founded, however, the ECA will show zero tolerance. It will protect and support victims and witnesses, sanction the harassers, and offer rehabilitation measures to everyone involved.

## 2. General aspects

**02** Under this policy, the **approach** adopted by the ECA is an inclusive, integrated and non-discriminatory one, where:

- an “inclusive approach” involves adopting a broad range of measures that give everyone at the ECA the right to a respectful and harassment-free workplace. Furthermore, information, tools and training must be available in accessible formats, so that they are truly inclusive;
- an “integrated approach” is one in which several areas are covered: human resources, occupational health and safety, legal services, data protection, etc., including the need for measures at several levels such as prevention and protection, enforcement and remedies, and training, guidance and awareness-raising;
- a “non-discriminatory approach” involves addressing all forms of harassment, regardless of power relations, including any harassment based on gender, ethnicity, race, disability, sexual orientation, age, religion or beliefs.

### 2.1. Principles

**03** Every person working at the ECA<sup>1</sup> should endeavour to foster an atmosphere of trust, support and mutual respect. ECA Members and staff in managerial positions in particular must establish and maintain a working environment that discourages any behaviour which undermines the dignity of persons who are subject to their authority, and respond quickly and effectively where such harmful behaviour occurs.

**04** The ECA recognises that harassment may constitute a violation of human rights or abuse, as well as a threat to equal opportunities, both of which are unacceptable and incompatible with a respectful workplace.

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<sup>1</sup> Members of the ECA, members of the ECA's staff (including special advisors, active seniors, trainees and seconded national experts), and any person employed by a service provider (including agency staff and other staff working on the ECA's premises).

**05** The ECA promotes a working environment based on equality and non-discrimination, where every person has the right to be protected against offensive, abusive, harmful or inappropriate behaviour.

**06** The ECA has put in place several channels for counselling and the informal resolution of interpersonal conflicts, as well as a mechanism for lodging formal complaints and imposing sanctions. It is for alleged victims to decide whether they want to choose the **informal procedure** (where they may seek support from a confidential counsellor or opt for a mediation procedure) or the **formal procedure** (which seeks to establish the facts and adopt the appropriate measures).

**07** Irrespective of which option is chosen by the alleged victim, the ECA will make every effort to protect the interests of all parties involved and restore a satisfactory working environment, paying particular attention to avoiding secondary victimisation, which “occurs when the victim suffers further harm not as a direct result of the criminal act but due to the manner in which institutions and other individuals deal with the victim”<sup>2</sup>. Secondary victimisation may be caused by, for instance, a victim’s repeated exposure to the harasser, repeated questioning about the same facts, the use of inappropriate language, or insensitive comments made by people who come into contact with the victim.

**08** In all proceedings and interactions, the following principles and the fundamental rights of all the parties involved must be upheld: confidentiality, the presumption of innocence, the right to be heard, the right to defence, impartiality, objectivity and proportionality.

## 2.2. Definition of a respectful and harassment-free workplace

**09** Respect is one of the ECA’s most important values, as expressed in the Secretariat-General’s 2026-2030 Strategy Development Plan<sup>3</sup>: “Respect is central to everything we do. We are dedicated to fostering a respectful work environment, where everyone feels heard, valued, and appreciated. By implementing diversity and inclusion policies and encouraging open communication, we strive to provide equal opportunities to all staff, regardless of their role or background. Furthermore, we are committed to maintaining a harassment-free workplace by establishing policies and mechanisms to identify and address harassment and continuously implementing actions for early detection, raising awareness, and providing support in this area.”

<sup>2</sup> EIGE, <https://eige.europa.eu/thesaurus/terms/1358>.

<sup>3</sup> Staff Notice 118/25, Secretariat-General’s 2026-2030 Strategy Development Plan.

**10** A respectful and harassment-free workplace is one that allows all its participants, irrespective of their role, function, age, gender, sexual orientation, race or ethnic origin, political or religious beliefs, ability or disability, to thrive, contribute their best, give and receive respect and appreciation for who they are, be valued, feel safe and be treated with fairness.

### 2.3. Definition and examples of harassment

**11** Harassment can take different forms, and it is therefore impossible to provide one single, all-encompassing definition. However, the relevant binding definition of harassment at the ECA is that laid down in Article 12a of the Staff Regulations, as further interpreted in the case-law of the Court of Justice of the EU:

- Article 12a of the Staff Regulations defines **psychological harassment** as “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 12a of the Staff Regulations defines **sexual harassment** as “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”;
- According to the case-law of the Court of Justice, harassment is behaviour that is undesirable and creates an atmosphere of intimidation, isolation and hostility or humiliation. For acts to be considered as psychological harassment, an impartial and reasonable observer, of normal sensitivity and in the same situation, should consider the behaviour or act in question to be excessive and open to criticism.

**12 Psychological harassment** refers to a range of unacceptable types of behaviour and practices that includes the following:

- systematic and repetitive acts;
- acts targeting a specific individual or group of individuals;
- acts whose purpose or effect is to harm others by undermining their rights or dignity, impairing the conditions in which they work, jeopardising their professional future by creating an intimidating, hostile, degrading, humiliating, offensive or ostracising environment, or causing harm to their physical or mental health.

Intent to harm on the part of the perpetrator is not necessary for an act to constitute harassment; only the actions – but not their effects – must be intentional and not purely accidental.

Psychological harassment may take various forms, for example:

- of a subordinate by a superior or *vice versa*;
- between colleagues, auditees, service providers, active seniors, etc. in any combination;
- the scapegoating of an individual within a group.

Examples of recurrent behaviour that could constitute psychological harassment are as follows:

- inappropriate or offensive comments (whether in private, i.e. face-to-face, or in public), bullying, hostility, pressuring, antagonism, or refusing to communicate;
- intimidation, whether spoken or unspoken, written or physical;
- spoken or written insults or threats, in particular regarding one's personal or professional qualities;
- spreading false rumours;
- disparagement of a person's contributions and achievements;
- isolation, separation, exclusion or rejection from a group, withholding information, belittlement and humiliation;
- systematic assignment of tasks or objectives that do not match a person's grade or job description;
- over-monitoring (excessive monitoring).

It is important to distinguish between harassment, and the legitimate action taken by Members of the ECA, its staff in their capacity as line managers, the Appointing Authority, and other staff and officials performing their duties in accordance with the Staff Regulations, and which should not be seen as harassment, such as:

- work allocation;
- conclusions reached or decisions taken by a line manager or the Appointing Authority on a matter for which they are responsible;
- monitoring staff absences and working time;
- setting performance requirements (objectives and actions to be accomplished) that correspond to a person's job description;
- assessment of performance in terms of efficiency, ability, and conduct in the service;
- disciplinary measures;
- the exercise by an official or member of staff of their duties under Articles 21a to 22b<sup>4</sup> of the Staff Regulations.

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<sup>4</sup> <https://eur-lex.europa.eu/legal-content/EN/TXT/HTML/?uri=CELEX:01962R0031-20140501&from=EN#toclid39>.



It is important to note that while certain types of behaviour in the workplace do not actually constitute harassment, they can nevertheless be inappropriate and must be avoided, either because they undermine professional dignity, are unethical, or are damaging to the working environment.

**13** While interpersonal conflicts in the workplace – which can occur in the course of conventional working relationships, and which could be seen as an inherent part thereof – do not necessarily constitute harassment, but they must be resolved in a timely and constructive way to prevent their aggravation and possible escalation to a case of harassment. In such circumstances, staff are encouraged to seek support from, for example, their management, a confidential counsellor, or a mediator, even if there is no suggestion of harassment. By virtue of their position, managers have a key role in establishing and maintaining a satisfactory working environment, and should therefore be offered and attend training in this regard.

**14 Sexual harassment** is any sexual behaviour or language that is unwanted, unwelcome, unreturned, offensive or causes harm. Whether or not there is intent on the part of perpetrator, it is irrelevant; what matters is the effect that their behaviour has on the victim.

In a broader sense, any unwelcome or offensive conduct towards a person because of their sex or gender, or which affects a person of a particular sex or gender disproportionately, is considered gender-based harassment.

Sexual or gender-based harassment can occur in a number of ways, such as on the part of a superior towards a subordinate, vice versa, and towards or by a colleague, visitor, active senior, auditee, external service provider, etc.

Examples of sexual or gender-based harassment are:

- offensive remarks and gender-derogatory nicknames;
- demeaning, discriminatory or insulting conduct that conveys a negative attitude towards a particular gender, and is based on gender stereotyping;
- promises of reward (e.g. a favourable career move) for acceding to sexual requests, or threats of reprisal for refusing them;
- coarse or suggestive remarks and sexual innuendo;
- crude and obscene language and gestures, offensive comments, sexual comments, repeated unwanted stories, and inappropriate jokes;
- repeated overblown compliments, or criticism of a colleague's personal appearance;
- repeated and unwanted non-work-related invitations;
- intentional and inappropriate physical contact, brushing against someone, pinching, and unwanted kissing;
- voyeurism or exhibitionism in the workplace;
- using pornography in the workplace.

**15** Any act of **sexual assault** is a criminal act and calls for urgent action. Such acts may have legal consequences. It is extremely important that incidents of this nature are reported to the security service and/or Appointing Authority as soon as possible, so that the national police force and/or judicial authorities may be contacted immediately, where necessary, and the requisite administrative measures are taken.

**16** Psychological and sexual harassment can take place either on or off the ECA's premises, on mission, while commuting, during internal or external training sessions, at ECA events, at work-related social activities, and generally at any time and any place where a person acts in a professional capacity or finds themselves in a work-related context.

**17** Harassment can also take the form of **online (cyber) harassment**, where such acts are perpetrated through work-related ICT communications (emails, chats, text messages, videos, file or message deletions, the abusive use of someone's identity, comments on the intranet, etc.).

**18** Where allegations of psychological or sexual harassment are made in bad faith, they can be damaging to those against whom they are levelled and contribute to a deteriorating atmosphere in the workplace. The allegations may themselves constitute psychological harassment.

## 2.4. Other definitions

**19** The following definitions will apply for the purposes of this policy.

- **Alleged victim:** any person who feels they are the victim of psychological or sexual harassment in the workplace; the alleged victim may be a Member of the ECA, a member of the ECA's staff (including special advisors, active seniors, trainees and seconded national experts), a person employed by an ECA service provider (including those working on the ECA's premises and agency staff), or an auditee.
- **Alleged harasser:** a person against whom allegations of psychological or sexual harassment in the workplace have been levelled; this person may be a Member of the ECA, a member of the ECA's staff (including special advisors, active seniors, trainees and seconded national experts), a person employed by an ECA service provider (including those working on the ECA's premises and agency staff), or an auditee.
- **Mediator:** a qualified person to whom the alleged victim and the alleged harasser or persons facing a workplace conflict agree to refer their dispute with a view to finding an amicable resolution.
- **Confidential counsellor:** a person who has received special training and whose name appears on a list drawn up by the Secretary-General.

- **Investigator:** a person, internal or external to the ECA, appointed by the Appointing Authority to investigate, whether alone or with others, the evidence for and against a charge of harassment in connection with which a request for assistance has been made. Investigations must proceed in accordance with the ECA's provisions for conducting administrative investigations.
- **Witness and bystander:** a witness is someone who personally and directly sees or hears an event or has knowledge of a fact and is able to provide evidence, including a testimony; a bystander, although physically present at the event, was not involved in it or might not have noticed it, and cannot provide evidence.
- **Workplace conflict:** means any interpersonal situation of disagreement in the context of a working relationship, including in external meetings, on mission or during other events related to a professional context, resulting from opposing interests, job-related views and ideas, or personalities, which affects the psychological and physical wellbeing of the staff member concerned or the work climate.

### 3. Prevention measures

**20** Disrespectful behaviour and harassment may not only have a huge impact on an individual's engagement, but also a lasting negative effect on a team's morale. If not properly addressed, it can also affect trust in the ECA and its workplace culture, potentially leading to reduced performance and reliability at all levels.

The ECA is therefore determined to guarantee a respectful working environment and prevent harassment by focusing on increased awareness raising, providing training, and leading by example, which are paramount to achieving and maintaining an institutional culture of respect, dignity and trust.

#### 3.1. Raising awareness

**21** The ECA's will maintain up to date the intranet webpage specifically related to this policy, providing detail about the decision and offering various reader-friendly and easy-to-understand communication materials (including visual tools, guides and flyers) in an accessible format.

**22** The Secretariat-General will also run regular communication and awareness-raising campaigns on topics related to respect, dignity, trust, etc. to foster a safe, healthy and harmonious workplace culture, and reinforce positive behaviour and attitudes.

**23** The Secretariat-General will organise regular events with the different players involved in this policy (confidential counsellors, mediators, the Legal Service, the Human Resources department, the Medical Service, etc.), to raise ECA staff awareness of these services and the role they play.

**24** Managers should be encouraged to address topics related to preventing harassment and ensuring a respectful workplace during their team meetings, so that they create a culture of open exchange and information sharing – in this way, teams will feel that these topics form part of their professional lives.

## 3.2. Training

**25** The ECA’s training courses will include:

- mandatory induction training on a respectful workplace, combating harassment, and the ECA’s ethical guidelines, which is provided for all newcomers (including trainees);
- mandatory training on the ECA’s policy on a respectful workplace, combating harassment, and ethics training courses, which is provided for newly appointed Members;
- mandatory training on a respectful workplace, and combating harassment for newly appointed managers;
- regular career-long training for all staff on topics such as preventing harassment, resolving conflict, non-violent communication, constructive feedback, combating sexist behaviour, ethics, etc. – it will be strongly recommended that staff attend at least one such training course every three years;
- regular, interactive (workshop format) exchange opportunities for line, middle and senior managers on the topics mentioned;
- mandatory and specific initial (“inception”) training for newly appointed confidential counsellors and mediators;
- annual refresher training for confidential counsellors and mediators.

## 3.3. Role models

**26** ECA Members and staff in managerial positions should be held to the highest standards of conduct and lead by example to ensure a respectful and harassment-free workplace. Moreover, staff who have a formal role in preventing and combating harassment (such as senior and middle managers, confidential counsellors and mediators) or who hold a position that by its nature confers greater visibility (heads of team, project managers, heads of task, ethical advisors, mentors, trainee supervisors, front-office staff, protocol staff) should also act and behave in an exemplary manner.

**27** While “setting the tone” at the upper levels of the ECA is key, it is very important to disseminate the message to all line managers, as they have the highest amount of contact with staff and can promote respect by setting a good example.

**28** All managers are expected to foster an inclusive, respectful workplace that is free from any form of harassment and, through their actions and behaviour, set a good example to others.

## 4. Early warning and detection, and the principle of non-retaliation

**29** As mentioned above, every person working at the ECA must do their best to foster an atmosphere of courtesy, trust, support and mutual respect. Similarly, it is the duty of any person working at the ECA who witnesses or has knowledge of behaviour that may reasonably be perceived as disrespectful, or which could qualify as harassment, to act by encouraging the alleged victim to seek support. If the behaviour witnessed is deemed to be particularly serious or harmful, the witness may also choose to inform a person of trust (line manager, confidential counsellor, mediator, medical officer, member of the Staff Committee, member of COPEC), who will then contact the alleged victim and offer support, or, if applicable, act in accordance with Article 22a of the Staff Regulations (whistleblowing).

**30** There are many people at the ECA who can spot early signs of disrespectful behaviour or potential harassment, whom alleged victims or staff who witness questionable behaviour can contact. Such contact points within the ECA include line managers, the Medical Officer, HR staff, members of the Staff Committee, members of COPEC, members of the Legal Service, confidential counsellors, mediators and ethical advisors. Line managers also play a crucial role in detecting and tackling conflictual relationships, spotting early signs of distress or tensions, and noting and addressing undesirable behaviour within their team.

**31** These colleagues are regularly trained in how to address issues at the earliest possible stage and avoid any escalation or worsening of the situation.

**32** When any of the above-mentioned colleagues is notified of disrespectful behaviour or presumed harassment, the person providing the information must identify themselves, act in good faith, and provide accurate, valid and first-hand information.

**33** A person who, in good faith, has provided information concerning allegedly disrespectful behaviour or presumed harassment is to be protected against retaliation. Any form of retaliation against such a person, whether or not a member of the ECA's staff, is prohibited and may result in disciplinary action.

## 5. Addressing potential harassment

**34** Harassment cases should be handled as quickly and efficiently as possible.

**35** In many cases, the alleged harasser is not aware that their behaviour may be perceived as a form of harassment. Therefore, as a first step, any person who considers that they are a victim of disrespectful behaviour or alleged harassment is encouraged to try to resolve their concerns with the alleged harasser immediately. The alleged victim should make their concerns known in an open and honest manner, and make it clear as far as possible that the conduct should cease.

**36** If the alleged victim does not feel at ease addressing the issue with the alleged harasser or if the situation does not improve after this initial step, the alleged victim may seek help, through either the **informal** (confidential counsellors, mediation) or **formal procedure**.

**37** The informal and formal procedures are **open to everyone**, irrespective of the type of contract or working relationship the person has with the ECA: Members of the ECA, any member of the ECA's staff (including trainees and seconded national experts), any staff employed by an ECA service provider (including those working on the ECA's premises and agency staff), and auditees.

**38** All those having a role in the various procedures are bound by the rules of confidentiality, ethical behaviour, objectivity and impartiality throughout the proceedings and thereafter. They should also avoid any situations that carry with them a real or perceived conflict of interest.

### 5.1. The informal procedure of support from confidential counsellors

**39** Any person who considers themselves to be the victim of disrespectful behaviour or harassment may contact a **confidential counsellor** of their choice, either internal or external; confidential counsellors' names and contact details are on the ECA's intranet.

**40** The confidential counsellor should aim to react<sup>5</sup> to any request for assistance in the shortest possible time, and no later than **five** working days from when the request is submitted. If that particular counsellor is unavailable or unable to help (e.g. because of an absence from work or a conflict of interest), they should invite the colleague in need of assistance to contact a different counsellor.

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<sup>5</sup> An out-of-office reply is also considered a reaction, following which the alleged victim can either wait until the confidential counsellor returns, or contact a different counsellor.

**41** The role of the confidential counsellor is to provide advice to those seeking assistance and inform them of the various support options in place. The confidential counsellor must try to fully understand the issue and help the alleged victim to find the most appropriate way to tackle it.

**42** The ECA's confidential counsellors

- are active or retired colleagues who, in addition to performing their standard duties, act as confidential counsellors on a part-time and **voluntary** basis. They receive their mandate from the Secretary-General, and are trained to take on this role.
- form a **network** of staff of different categories, grades, nationalities, etc.
- take action solely within the framework of the **informal procedure**, and only with the express consent of the person who contacted them.
- meet, listen to, help, support, inform and accompany those seeking assistance in a situation of perceived **psychological or sexual harassment**.
- explore the situation in **confidential interviews** with those who consult them, and look into the types of action the perceived victims of harassment can take, as well as proposing potential solutions to their problems.
- guarantee the **confidentiality** of any information they receive in order to protect the person who feels that they are a victim of harassment.
- in cooperation with the Professional Training team, organise **awareness-raising activities and provide training** aimed at generic or targeted audiences and relating to the ECA's policy in this area and their role.

**43** The ECA's network of confidential counsellors comprises four to six **internal**, and up to two **external**, counsellors.

**44** The ECA's Secretary-General appoints confidential counsellors for a **six-year term**, following the selection procedure detailed in Annex 1. The ECA will replace half of the counsellors every three years to renew the network, while at the same time maintaining a connected network with all of its experience. Confidential counsellors may **reapply for the role, but no less than a year after their mandate has expired**. Should a confidential counsellor wish to withdraw from the role prior to the end of their term for any reason, they are free to do so<sup>6</sup>.

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<sup>6</sup> A written notification to the Director of Human Resources, Finance and General Services will suffice.

**45** The ECA network of confidential counsellors meets **once a year** with the ECA's Director of Human Resources, Finance and General Services to provide **an entirely confidential and anonymous** update on the extent to which staff use the service.

**46** One or more members of the network will attend the meetings of the **interinstitutional network of confidential counsellors**. Those who attend these interinstitutional meetings will relay the content of the discussions to the ECA network members who were not present.

## 5.2. The informal procedure (mediation)

**47** Mediation is a voluntary<sup>7</sup> and informal procedure with the purpose of finding an amicable solution to a strained situation between two or more parties, as effectively and quickly as possible, so that calm working relations can be resumed.

**48** The role of mediators and mediation is not to assess guilt or fault, nor to provide legal advice or take any decisions; its ultimate aim is rather to facilitate communication and restore dialogue between the parties.

**49** Mediation should therefore not be limited to situations of alleged harassment, but could also prove useful in cases of interpersonal conflicts, disputes, etc.

**50** Mediation is without prejudice to the rights provided under the Staff Regulations, especially requests for assistance under Article 24, and it does not suspend the statutory deadlines for the exercise of formal remedies, such as lodging a complaint, where applicable.

**51** A list of the names and contact details of the internal and external mediators available is posted on the ECA's intranet.

**52** The party that initiates mediation is free to choose any mediator from the list. However, any request for an external mediator should be addressed to the Director of Human Resources, Finance and General Services or, in the case that this Director is the alleged harasser, to the Secretary-General, who will deal with the financial and contractual aspects.

**53** Annex 2 details the procedure for selecting and training internal mediators. External mediators are preselected by the Human Resources department from among recognised and qualified mediators operating in Luxembourg. Preselection will be limited to ensure that the mediators are familiar with workplace conflict and harassment mediation.

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<sup>7</sup> Except situations described under paragraph 56.



**54** The internal mediator should aim to react<sup>8</sup> to any request for assistance in the shortest possible time, and no later than **five** working days from when the request is submitted.

**55** The mediator must notify the request for mediation to the other party, who will have **five** working days to accept or refuse the mediation procedure. Failure to reply by this deadline or a rejection of the informal procedure will not entail any negative consequences for the person concerned.

**56** In cases of interpersonal conflicts or disputes which do not involve allegations of harassment, HR or a hierarchical superior can also recommend mediation as a managerial measure. In these cases, an initial session with a mediator will be mandatory for all parties involved in the conflict. After this session, any party is free to withdraw from the mediation process.

**57** The mediator operates in complete independence and confidentiality, acts solely within the framework of the informal procedure, and always with the express consent of the person by whom they were contacted. The mediator must undertake to abide by the European Code of Conduct for Mediators<sup>9</sup>.

**58** The parties involved in mediation and the mediator may convene as many mediation sessions as necessary and for as long as necessary. The parties may withdraw from mediation at any time.

**59** Where an agreement is reached, the parties conclude a mediation settlement agreement (the “mediation settlement”), which is binding on the parties concerned.

**60** A mediation settlement cannot include measures which extend beyond the parties’ remit or which provide for financial compensation or compensation in kind. Once concluded, the mediator must communicate the measures agreed in the mediation settlement to the Director of Human Resources, Finance and General Services.

**61** Any party may bring any breach of the commitments entered into under the mediation settlement to the attention of the mediator.

**62** Mediation will be deemed to have failed if the parties withdraw from the discussions before an agreement has been reached, if the mediator reaches the conclusion that an amicable solution is not possible, or if a formal procedure is initiated. The mediator must confirm that the mediation procedure has failed by informing (in writing) the involved parties and the Director of Human Resources, Finance and General Services.

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<sup>8</sup> An out-of-office reply is also considered a reaction, following which the alleged victim can either wait until the mediator returns, or contact a different mediator.

<sup>9</sup> <https://e-justice.europa.eu/fileDownload.do?id=c0ec51ee-bf0f-4b6b-8cc9-01b305b90d68>.

**63** The mediators meet **once a year** with the ECA's Director of Human Resources, Finance and General Services to provide a **completely confidential and anonymous** update on the extent to which staff use the service.

### 5.3. The formal procedure

**64** The formal procedure may either be initiated immediately and directly, or when an informal procedure (e.g. bilateral approach, confidential counselling, mediation) has not resulted in an amicable solution to the problem. Initiating a formal procedure is incompatible and thus closes automatically any ongoing informal procedures. The alleged victim may withdraw from the formal procedure at any time.

**65** The formal procedure is initiated by the alleged victim by means of a **written request for assistance**, submitted on the basis of Article 24 of the Staff Regulations or, in the case of alleged victims who are not covered by the provisions of the Staff Regulations or the Conditions of Employment of Other Servants, on the basis of ECA Decision No 5-2026.

**66** The written request for assistance must be addressed to the Secretary-General. If the alleged harasser is the Secretary-General, the written request for assistance must be addressed to the Director of Human Resources, Finance and General Services, who will forward it to the Ethics Committee.

**67** Once a request has been received by the Secretary-General or the Director of Human Resources, Finance and General Services, it must be classified immediately as confidential.

**68** If the alleged harasser is a Member of the Court, including the President, the Secretary-General must forward the request to the Ethics Committee.

**69** The request for assistance must indicate the alleged harasser, provide a description of the facts and initial evidence of the alleged psychological or sexual harassment. Medical certificates or reports pointing to a situation of harassment delivered by a medical practitioner consulted by the alleged victim do not constitute sufficient evidence of harassment, but may nevertheless be taken into account in conjunction with other evidence, especially in order to evaluate the impact of the alleged harassment on the alleged victim.

**70** A person who considers themselves to be a victim of harassment is encouraged to keep a record of all incidents in as detailed a manner as possible.

**71** Upon receipt of a request for assistance, and within a maximum of **15** working days, the Secretary-General, or the Director of Human Resources, Finance and General Services where appropriate, will **pre-assess** the request, seeking an opinion from the Legal Service. Where the alleged harasser is the President, a Member of the Court or the Secretary-General, the Ethics Committee will also be required to provide an opinion.

**72** Based on this pre-assessment, and after having heard the alleged harasser, a decision will be taken within a maximum of **one month** from the time of submission of the request for assistance to either open an administrative investigation, or refuse assistance (where the behaviour described in the request does not, *prima facie*<sup>10</sup> constitute harassment, or where the complaint is considered to have been made in bad faith).

**73** This Decision is taken by:

- the Administrative Committee, if the alleged harasser is a Member of the Court, the President or the Secretary-General. The Administrative Committee receives the pre-assessment from the Secretary-General or, when the alleged harasser is the Secretary-General, from the Director of Human Resources, Finance and General Services;
- the Secretary-General for all other cases.

**74** If a decision is taken to refuse assistance, the alleged victim may contest it by submitting a complaint pursuant to Article 90(2) of the Staff Regulations, or, in the case of alleged victims who are not covered by the provisions of the Staff Regulations and the Conditions of Employment of Other Servants, pursuant to ECA Decision No 5-2026. Furthermore, where the alleged victim believes that the request for assistance has not been properly addressed by the ECA, they may lodge a complaint with the European Ombudsman.

**75** Where it is decided to open an administrative investigation, the Secretary-General or the Director of Human Resources, Finance and General Services will inform the alleged harasser that an investigation has been launched, and explain what their rights and obligations are.

**76** In every case, pending the outcome of the investigation, the Secretary-General or the Director of Human Resources, Finance and General Services may take interim measures to maintain a satisfactory working environment, while taking into consideration the interests of the persons concerned. In the case that the allegations of

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<sup>10</sup> "Prima facie" means that factual elements indicating the possible existence of a case of harassment have been established.

harassment involve “violence against women”<sup>11</sup>, contacts between the alleged victim and the alleged harasser must be avoided throughout the procedure.

**77** The administrative investigation is to be conducted in accordance with the rules on administrative investigations in force at the ECA, taking all measures necessary to protect the alleged victim and witnesses against secondary victimisation and retaliation, and protect the privacy of those involved, as well as to guarantee confidentiality for the alleged victim and witnesses. In case the allegations of harassment involve “violence against women”, the principles relating to investigations as set out in Chapter VI of the Istanbul Convention must also be taken into account.

**78** Both the alleged victim and the alleged harasser are required to cooperate in good faith with the designated investigator(s).

**79** The alleged victim and the alleged harasser may submit any document or material they wish to the investigator(s), and may also ask that one or more witnesses be heard.

**80** The alleged victim, the alleged harasser and the witnesses may be assisted throughout the formal procedure, especially during the hearings, by a person of their choice (including a lawyer at their own expense).

**81** The administrative investigation must be carried out without delay and within an indicative timeframe of **four months** from the date of the mandate given to the investigator, insofar as this is commensurate with the complexity of the case.

**82** Once the investigation has been completed and before written conclusions are drafted, the investigator must give the parties (i.e. the alleged victim and the alleged harasser) an opportunity to comment on the facts. The investigator will then finalise the investigation report and send it to the Appointing Authority, who will communicate it to the parties, with due regard to the protection of legitimate interests of third parties. The report must not contain any confidential medical information without the express permission of the person to whom it relates.

**83** The Appointing Authority is:

- the Secretary-General, where the alleged harasser is an official or other agent up to grade AD12 (inclusive);
- the Administrative Committee, for all cases where the alleged harasser is an official or other agent in grades AD13 – AD15. The Administrative Committee may decide to delegate this role to the Secretary-General;
- the Court, for Members of the Court and the Secretary-General.

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<sup>11</sup> “All acts of gender-based violence that result in, or are likely to result in, physical, sexual, psychological or economic harm or suffering to women, including threats of such acts, coercion or arbitrary deprivation of liberty, whether occurring in public or in private life” (Article 3 of the Istanbul Convention).

**84** Based on the investigation report, the hearings of the alleged harasser (in particular if the Appointing Authority envisages granting the request for assistance) or alleged victim (in particular if the Appointing Authority envisages refusing the request for assistance), and any other information deemed necessary, the Appointing Authority will take a decision on the request for assistance.

**85** Where the Appointing Authority accepts the request for assistance, they may, as appropriate:

- propose solutions to the parties, in cooperation with the Medical Officer, line managers or the mediator, with a view to re-establishing and maintaining a satisfactory working environment; and/or
- take rehabilitation measures to protect and support all the parties involved in the harassment case, in cooperation with the Medical Officer, line managers or the mediator; and/ or
- assist the victim in pursuing claims for compensation against the harasser or compensate the victim, under Article 24(2) of the Staff Regulations and, where applicable, in accordance with the principles established in Articles 30 and 57 of the Istanbul Convention, for harm suffered as a result of behaviour deemed to constitute harassment; and/or
- initiate disciplinary proceedings against the harasser.

**86** Where the harasser is a Member of the Court, the investigation report will be forwarded to the Administrative Committee, which will hear the Member about the report and the evidence it includes, and then submit the matter to the Court. Where appropriate, the Court will invoke Article 4 of its Rules of Procedure, hear the Member, and decide on the measures to be taken.

**87** Where the Appointing Authority rejects the request (if the complaint is deemed to be unfounded or has been made in bad faith), due justification should be provided.

**88** Where a complaint lodged by way of a request for assistance has been made in bad faith, the Appointing Authority may take disciplinary action against the person bringing the complaint. Where a Member has lodged the complaint, the Court may invoke Article 4 of its Rules of Procedure.

## 6. Accompanying measures

**89** The ECA must take all appropriate accompanying measures in respect of the parties (the alleged victim and the alleged harasser) and any other persons involved (witnesses and bystanders, and other people who might have been involved in the proceedings, such as confidential counsellors, mediators, and the Legal Service), in order to re-establish and maintain a healthy and respectful working environment.

**90** These measures can take various forms, including:

- the immediate separation of the alleged victim and the alleged harasser by means of reassignment;
- offering the possibility of special leave or adapting the working pattern to allow time to recover from any harm suffered;
- sessions with an occupational psychologist;
- providing the opportunity for confidential counsellors and mediators to undergo an annual supervision session with an occupational psychologist;
- specific, targeted training or coaching sessions (including restorative dialogue) for teams involved in harassment cases.

**91** In cases of proven harassment, the above-mentioned measures should complement the disciplinary measures and/or financial compensation decided under the formal procedure.

## 7. Monitoring and reporting

**92** The success of the implementation of this policy will be monitored and evaluated by means of the following:

- an annual, anonymised, gender-disaggregated report from all those involved in implementing the policy (confidential counsellors, mediators, Legal Service), which will be sent to the Director of Human Resources, Finance and General Services (see also the chapter 9 on data protection);
- regular staff surveys launched to measure colleagues' perception of the policy's effectiveness.

**93** While strictly respecting the rules on confidentiality and data protection, the consolidated, gender-disaggregated information obtained through the above is to be communicated to all ECA staff in the interests of transparency.

## 8. Review

**94** The ECA's policy on ensuring a respectful and harassment-free workplace is to be evaluated every three years by the Secretary-General.

## 9. Data protection

**95** All data gathered in the context of harassment proceedings is to be processed in accordance with Regulation (EU) 2018/1725 of the European Parliament and of the Council of 23 October 2018 (the EUDPR) on the protection of natural persons with regard to the processing of personal data by the EU institutions, bodies, offices and agencies and on the free movement of such data, repealing Regulation (EC) No 45/2001 and Decision No 1247/2002/EC.

**96** Data gathered during an informal procedure is to be destroyed as soon as the informal procedure ends. Data gathered in connection with a request for assistance under Article 24 and stored for historical, statistical or research purposes must be rendered anonymous five years after the proceedings are settled.

**97** Confidential counsellors, line managers and mediators must destroy all personal data gathered in the course of counselling and conflict-resolution duties. However, for statistical purposes, and to report on their own activities, they may keep anonymised general information, including on the number of cases handled each year, dates of visits, and details of the function groups of the persons concerned.

**98** If the nature of a case of alleged harassment in the workplace or in connection with the workplace constitutes a criminal offence, the Appointing Authority must cooperate with the national judicial authorities to which the case is referred.

**99** In its capacity as data controller, the ECA will duly draw up privacy statements detailing the manner in which personal data will be processed under both the formal and informal anti-harassment procedures, and post them on [the DPO's intranet page](#) .

**100** Lastly, in accordance with [Decision No 42-2021](#) of the Court of Auditors of 20 May 2021 adopting internal rules concerning restrictions of certain rights of data subjects in relation to the processing of personal data in the framework of activities carried out by the European Court of Auditors, certain restrictions may apply to data subjects' rights in the course of anti-harassment proceedings at the ECA.

## Annex 1: selection and training of confidential counsellors

**01** To fill a vacant confidential counsellor position, the ECA's Director of Human Resources, Finance and General Services will launch a **call for expressions of interest**. In the case of internal counsellors, the call will be open to all ECA staff. In the case of external counsellors, it will be addressed to the International Association of Former Officials of the European Union (AIACE), and the ECA's active seniors.

**02** The ECA's Director of Human Resources, Finance and General Services will screen the applications, consult the members of the confidential counsellors' network to obtain their opinion<sup>12</sup>, and submit a proposal for appointment to the Secretary-General. The Secretary-General will draw up the definitive list of confidential counsellors. The ECA's Human Resources department will communicate the list to the ECA's staff using all appropriate means, including the intranet.

**03** The criteria for the selection of confidential counsellors are as follows:

- **abilities related to the role**, namely to listen, empathise and communicate, exercise discretion, maintain confidentiality, remain impartial and objective, and act autonomously;
- **understand** the issue of harassment and the ECA's related policy and procedures, particularly in light of the confidential counsellor's role of explaining the options available and the procedures that exist to the person seeking assistance;
- capacity and commitment to **assist** in exploring the possibilities to find an amicable resolution of problems that arise;
- **motivation** to take up the role of confidential counsellor;
- **availability** (both to alleged victims of harassment and for coordination meetings and further training relating to harassment);
- insofar as possible, **gender equality**, and **adequate coverage** of the various parts of the ECA's organisational structure.

**04** Successful candidates will be required to follow specific training courses totalling approximately five training days organised by the ECA's Professional Training team.

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<sup>12</sup> The network's opinion is non-binding.



**05** In the subsequent years of their term, confidential counsellors are required to dedicate **one to two working days** each year to training courses relating to their role. The training course will be chosen by the network in cooperation with the ECA's Professional Training team. Counsellors may also attend external training courses to further develop their skills.

**06** By reason of the ECA's duty of care to its staff, confidential counsellors are strongly encouraged to attend a **supervision** session with a psychologist every year, the purpose of which is to help them maintain the objectivity and distance required for their role, learn from their experience, and develop their expertise, with a view to ensuring that a good service is provided to all ECA staff.

## Annex 2: selection and training of internal mediators

**01** To fill a vacant internal mediator position, the ECA's Director of Human Resources, Finance and General Services will launch a call for expressions of interest, which is open to all ECA staff.

**02** The ECA's Director of Human Resources, Finance and General Services will screen the applications and submit a proposal for the appointment of an internal mediator to the Secretary-General.

**03** The ECA's Human Resources Department will communicate the names of the persons selected as mediators to the ECA's staff using all appropriate means, including the intranet.

**04** The criteria for the selection of mediators are as follows:

- **motivation** to take up the role of mediator;
- **abilities related to the role**, namely to listen, empathise and communicate, exercise discretion, maintain confidentiality, remain impartial and objective, and act autonomously;
- **understand** the issue of harassment and the ECA's related policy and procedures, including explaining to the person seeking assistance the options available and the procedures that exist;
- **availability** (both to alleged victims of harassment and for coordination meetings and further training relating to harassment);
- insofar as possible, **gender equality**.

**05** Successful candidates must follow a specific training course (reimbursed by the ECA), leading to their professional certification as a mediator.

**06** Internal mediators are required to spend **one to two working days** each year on training courses relating to their role. The training will be chosen by the mediators in cooperation with the ECA's Professional Training team. Mediators may also attend external training courses to further develop their skills.

**07** By reason of the ECA's duty of care to its staff, internal mediators are strongly encouraged to attend a **supervision** session with a psychologist every year, the purpose of which is to help them maintain the objectivity and distance required for their role, learn from their experience, and develop their expertise, with a view to ensuring that a good service is provided to all ECA staff.