

Prevention of Harassment

Record of ESMA activities processing personal data, based on Article 31 of Regulation (EU) 2018/1725 of the European Parliament and of the Council of 23 October 2018 on the protection of natural persons with regard to the processing of personal data by the Union institutions, bodies, offices and agencies and on the free movement of such data, and repealing Regulation (EC) No 45/2001 and Decision No 1247/2002/EC.

Nr.	Item	Record Information
Prevention of Harassment		
1	Last update of the record	30 November 2022
2	Reference number	ESMA40-133-1304
3	Name and contact details of controller	Address of the controller: European Securities and Markets Authority (ESMA) 201-203 Rue de Bercy 75012 Paris France
4	ESMA area entrusted with processing	ESMA/RES/Human Resources

5	Processors (if any)	Not applicable
6	Name and contact details of DPO	Data Protection Officer (ESMA) dpo@esma.europa.eu
7	Name and contact details of processor (where applicable)	Not applicable
8	Purpose of the processing	<p>Individuals considering themselves as a victim of physiological and/or sexual harassment may request assistance by contacting a confidential counsellor (CC) or HR. The CC or HR will guide and accompany the alleged victim examining with him/her the various options and structures that will help find a satisfactory solution to the problem.</p> <p>In this respect personal data are processed for two different goals:</p> <ol style="list-style-type: none"> 1) In the context of the selection procedure of the confidential counsellors in accordance with the ESMA Policy on protecting the dignity of the person and preventing psychological harassment and sexual harassment as adopted by the Management Board on 17 December 2018 (ESMA64-87-175), the collection of personal data aims at best evaluating the candidates' aptitude and competences regarding their specific tasks to conduct informal procedures. 2) In the context of processes of cases of alleged harassment by the network of confidential counsellors under the informal procedure or by HR, the data is collected to provide support and protection to the alleged victims, attempt conciliations when possible, put in place preventive measures, identify recurrent or multiple harassers and monitor the impact and effectiveness of the policy. Management Board on 17 December 2018 (ESMA64-87-175).

9	Description of categories of persons whose data ESMA processes and list of data categories	<p>As regards the informal procedure: ESMA Staff (Temporary/Contract Agent), Seconded National Experts (SNEs), Trainees, Consultant and Interim Staff.</p> <p>Furthermore, personal data is also processed by authorised persons within HR Unit responsible for monitoring the implementation of the anti-harassment policy.</p> <p>1) Selection of the confidential counsellors:</p> <p>General personal data: first name and surname, Job title, ESMA email address, phone number, employment details, education and training details regarding soft skills appropriate for the profile.</p> <p>2) Concerning the informal procedure it should be noted that there are two different categories of data to be processed:</p> <p>a) Objective data: administrative and identification data, usually collected directly from the data subjects by means of opening and closing forms. The collection of this data aims at the identification of the person, the management of historical records and most importantly at the identification of recurrent and multiple cases.</p> <p>b) Subjective data: data qualified as subjective, i.e. allegation and declaration based upon the subjective perceptions of data subjects, is usually collected by means of the personal notes of the counsellors. The general analysis of the collected personal data is always conducted on a case by case basis by the confidential counsellors in order to ensure that the relevant processing is adequate and relevant and not excessive in relation to the purpose.</p>
10	Time limit for keeping the data	<p>The application form and thus any personal data contained in it of the selected counsellors, is kept in the HR archives for the duration of the mandate of the appointed confidential counsellors. Applications from staff members who were not appointed as confidential counsellors will be</p>

		<p>destroyed 1 year after the final meeting of the selection panel. The confidential counsellors do not keep any personal data beyond the time limit necessary for them to accomplish their tasks (i.e. two months).</p> <p>A historical record of all cases dealt with under the informal procedure will be kept by authorised HR Unit members for a maximum period of 5 years from the date of the start of the informal procedure. Data might be stored for a further period of 5 years if judicial or administrative procedure requiring this documentation is still ongoing when the first term expires.</p> <p>If the alleged victim does not give the consent to inform the alleged harasser about the existence of an informal procedure, no personal data (i.e. objective and subjective data) is kept by the confidential counsellors or the HR Team when the case is closed. Data for statistical purposes are kept for an unlimited term after being rendered anonymous.</p>
11	Recipients of the data	<p>The data provided by the candidates in the application form will be disclosed to the following recipients:</p> <ul style="list-style-type: none"> • the recruitment team who receives the applications, • a designated member from the HR Unit who performs the pre-screening to ensure the compliance with the eligibility criteria, • the selection panel composed of representatives of the HR Unit, the Staff Committee and possibly an expert in the field of prevention of harassment as an external member of the panel. • The Appointing Authority. <p>For the informal procedure: Data and information transmitted to the confidential counsellors and to authorised members of the HR Unit in charge of dealing with the informal procedure</p>
12	Are there any transfers of personal data to third countries	Not applicable

	or international organisations? If so, to which ones and with which safeguards?	
13	General description of security measures, where possible.	<p>Objective and subjective data collected by the confidential counsellors during the informal procedure is collected and stored on paper and/or in electronic form. Forms and any other relevant documents are stored in locked cupboard accessible to the confidential counsellors only or stored electronically and protected by password or any other relevant mean that limits the access.</p> <p>The historical record of all cases (kept by authorised HR Unit members) will be stored in a safe. Access to the safe is only granted to authorised persons in the HR Unit. Electronic documents will be kept in a secure environment protected by a password. Closing, opening forms and the list of alleged harassers will be stored in a safe accessible only to authorised persons in the HR Unit.</p> <p>ESMA's IT infrastructure is protected with physical and logical security controls: IT systems are installed on a secured datacentre with restricted physical and logical access controls. Network firewalls isolates data flows through ESMA's IT infrastructure and computer systems processing and storing the data are hardened. Administrative controls include the obligation for ESMA's staff and ESMA's service providers to sign nondisclosure (NDA) and confidentiality agreements (CA). Paper files are stored in locked cupboards accessible to HR staff with a valid need-to-know only.</p>
14	Information on how to exercise your rights to access, rectification, object and data	<p>To exercise your Data Privacy Rights you can address your requests to the Controller: at hr.helpdesk@esma.europa.eu.</p>

<p>portability (where applicable), including recourse right.</p>	<p>In some cases your rights might be restricted in accordance with Article 25 of the Regulation (EU) 2018/1725. In each case, ESMA will assess whether the restriction is appropriate. The restriction should be necessary and provided by law and will continue only for as long as the reason for the restriction continues to exist.</p> <p>For more information about how to exercise your right, please refer to the following resource: https://www.esma.europa.eu/about-esma/data-protection</p> <p>If you have additional questions or concerns, you can also contact: DPO@esma.europa.eu.</p> <p>You have also the right to lodge a complaint with the European Data Protection Supervisor (edps@edps.europa.eu) if you consider that your rights under the Regulation (EU) 2018/1725 have been infringed as a result of the processing of your personal data by ESMA.</p>
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