

CORPORATE

EIB Group  
**Dignity at Work Policy**





## **Dignity at Work Policy**

**Entered into force on 8 May 2019**



The European Investment Bank (the "**EIB**") and the European Investment Fund (the "**EIF**") (hereinafter together referred to as the "**EIB Group**"),

considering both the EIB Staff Regulations I and EIB Staff Regulations II as well as the EIF Staff Regulations I and EIF Staff Regulations II (hereinafter together referred to as the "**Staff Regulations**"), in particular Article 1 and Articles 38 to 40,

considering the EIB Group Staff Code of Conduct (the "**CoC**"),

considering the EIB Group Whistleblowing Policy,

after consultation of the respective EIB and EIF Colleges of Staff Representatives and of the EIB's Joint Committee on Equal Opportunities (COPEC),

Whereas:

- (1) The EIB Group aims to ensure a working environment in which staff is treated with dignity and respect and to promote a culture in which psychological and sexual harassment are considered unacceptable and are neither tolerated nor ignored,
- (2) The EIB Group will take all necessary measures to prevent harassment in the workplace and to raise awareness among staff about its zero tolerance of harassment, to provide guidance on the relevant policy and procedures and to foster the creation of a harmonious working environment,
- (3) Prevention and resolution of harassment is the responsibility of the EIB Group, which shall ensure that simple and effective procedures and appropriate mechanisms are in place in order to protect the dignity of each and every person working for the EIB Group,
- (4) The EIB Group is determined to offer several alternatives to the persons working for the EIB Group who feel they are the victim of acts of harassment, in particular the choice between an informal approach where the alleged victim may seek support from an internal network of peers or from occupational psychologists, a mediation procedure where both parties try to solve an existing conflict with the assistance of a neutral third party and a more formal procedure aimed at establishing the facts and at adopting appropriate measures,
- (5) The EIB Group will effectively address harassment by taking appropriate action against any person working for the EIB Group who is found guilty of psychological harassment or sexual harassment,
- (6) Each person working for the EIB Group, at any level, and in particular at managerial level, is also responsible for building a positive work environment free of all forms of harassment,
- (7) It is appropriate to review and replace the existing EIB Dignity at Work Policy adopted on 12 November 2003 and the existing EIF Policy on Dignity at Work adopted in June 2017, to take into account the experience gained over the years in handling cases of alleged harassment and best practices,

has adopted the following Dignity at Work Policy (hereinafter the "**Policy**").

## TITLE I: GENERAL PRINCIPLES

### Article 1

#### Purpose, scope and definitions

1.1 The purpose of the Policy is to establish the procedures for dealing with all forms of harassment in the workplace (hereinafter the "**Harassment**"). Harassment may consist of psychological harassment or sexual harassment.

- a) **Psychological harassment** means any improper and unwanted conduct that takes place over a period of time, is repetitive or systematic and involves physical behaviour, spoken or written language, gestures or other intentional acts that may undermine the personality, dignity or physical or psychological integrity of any person.
- b) **Sexual harassment** consists of any form of unwanted verbal, non-verbal or physical conduct of a sexual nature, with the purpose or effect of violating the dignity of a person, in particular when creating an intimidating, hostile, degrading, humiliating or offensive environment.  
Sexual blackmail is a particularly serious form of sexual harassment consisting of any situation in which individuals are explicitly or implicitly intimidated or threatened, with a view to obtaining sexual favours, by someone in a position of authority in the workplace or by someone with influence over their recruitment, professional status or career development. Sexual blackmail could also manifest itself through a situation presented as causing professional advantages or disadvantages for the victim, depending on whether s/he accepts or rejects it.

A behaviour may qualify as Harassment under the Policy even if it was not deliberately intended to cause harm. It is sufficient that such behaviour was not accidental and objectively led to discrediting the Alleged Victim or impaired the latter's working conditions.

1.2 In the Policy:

- a) **Alleged Victim** means a Person working for the EIB Group, as defined below, who considers himself/herself to have been or to still be subject to Harassment by another Person working for the EIB Group;
- b) **Accused Person** means a Person working for the EIB Group who is accused of Harassment by an Alleged Victim;
- c) **Disciplinary Procedure** means the disciplinary procedure laid down in Articles 38 to 40 of the Staff Regulations for persons whose relations with the EIB/EIF are governed by individual contracts under Article 14 of the Staff Regulations;
- d) **Whistleblower** has the meaning defined in the EIB Group Whistleblowing Policy;
- e) **Confidential Counsellor** means a Person working for the EIB Group who has been selected following the relevant procedure and entrusted by the EIB Group to provide assistance, support and advice, in the strictest confidentiality, to an Alleged Victim;
- f) **Occupational Psychologist** means an independent psychologist providing counselling and advice on work-related psychological matters to Persons working for the EIB Group;
- g) **Mediation Procedure** means a process whereby the Alleged Victim and the Accused Person attempt, with the assistance of an impartial third party (the Mediator), to reach a consensual settlement of the matters at issue;
- h) **Mediator** means an expert with relevant qualifications and experience who facilitates the resolution of disagreements that arise in the context of the Policy between the

Alleged Victim and the Accused Person;

- i) **Witness** means a person who personally and directly sees or hears an event or fact that may be conducive to Harassment in the context of the Policy;
- j) **DGP / Head of H&RM** means respectively the Director General of the Personnel Directorate of the EIB or the Head of Human & Resources Management Department of the EIF;
- k) **DPO** means the respective EIB or EIF Data Protection Officer.

1.3 The Policy applies to the following persons (herein the "**Person(s) working for the EIB Group**"):

- a) members of the EIB Management Committee and the Chief Executive and Deputy Chief Executive of the EIF;
- b) persons whose relations with the EIB/EIF are governed by individual contracts under Article 14 of the Staff Regulations, regardless of their place of assignment;
- c) persons working at the EIB/EIF on secondment from their parent administration;
- d) persons working at the EIB/EIF under the traineeship program;
- e) persons working at the EIB/EIF as students on summer jobs;
- f) persons hired by the EIB/EIF to work in an external office and employed under local legislation.

Persons not directly employed by the EIB/EIF, such as interim staff, consultants and other service providers, shall be covered by the Policy only as Alleged Victim. Should a Person not directly employed by the EIB/EIF be accused of Harassment, the EIB/EIF shall follow up and take all appropriate measures under the applicable contractual framework.

The Formal Procedure as defined below applies also to persons who worked for the EIB Group and left service for acts committed during employment with the EIB/EIF, or for a professional activity related to the EIB/EIF even after having left service.

1.4 Any complaint about any kind of behaviour that may qualify as Harassment under the Policy shall be dealt with exclusively under the Policy, without prejudice to possible infringements of other internal rules and regulations.

If the Final Decision, as defined in Article 33, concludes that the established facts constitute Harassment, no further investigation as to whether the same facts may qualify as Harassment shall be initiated or resumed under any other internal policy without prejudice to the initiation of a Disciplinary Procedure.

1.5 The above is without prejudice to the initiation or continuation of an investigation or inquiry on the same facts under any other internal rules and policies by the competent services in case the behaviour may constitute a breach of professional duties other than Harassment.

## Article 2

### Types of procedures

2.1 The Policy establishes the following procedures (hereinafter the "**Procedures**"):

- a) a mediation procedure that aims to resolve cases of alleged Harassment informally, swiftly, effectively and amicably, in accordance with the provisions of Title III (hereinafter the "**Mediation Procedure**"); and
- b) a formal procedure of inquiry, involving a comprehensive fact-finding exercise and,

where necessary, the adoption of appropriate measures, in accordance with the provisions of Title IV (hereinafter the "**Formal Procedure**").

- 2.2 A secretariat, operating within the relevant division of the Personnel Directorate for the EIB and of the Human & Resources Management Department for the EIF, shall ensure the administration of the Procedures and shall be entrusted with the implementation of the Policy (hereinafter the "**Dignity at Work Secretariat**").

### Article 3

#### Access to the Procedures

The Alleged Victim is encouraged to attempt to resolve the matter informally and/or resort to the Mediation Procedure before launching the Formal Procedure. Nevertheless, the Alleged Victim may decide to directly initiate the Formal Procedure, without any previous formality.

### Article 4

#### Conflict of Interest

- 4.1 Any Person working for the EIB Group who becomes involved in the Procedures under the Policy and who finds him/herself in a situation of conflict of interest for any reason, for example because of a close personal link with the Alleged Victim and/or with the Accused Person, shall immediately declare it to the DGP / Head of H&RM, who shall take the appropriate measures.
- 4.2 If the Alleged Victim and/or the Accused Person are or were members of the EIB Personnel Directorate / EIF H&RM Department when the alleged Harassment took place, as well as in any other situation where a conflict of interest arises, the DGP / Head of H&RM shall refer the matter to the EIB President / EIF Chief Executive, who will assign the case to another EIB Directorate / EIF Service.
- All powers and responsibilities assigned under the Policy to the DGP / Head of H&RM shall be exercised by the EIB Director General / EIF Head of the Service designated by the EIB President / EIF Chief Executive and all the provisions of the Policy shall be applied *mutatis mutandis*. In this case, the secretariat of the Mediation Procedure and of the Formal Procedure shall be provided directly by the service designated by the EIB President / EIF Chief Executive.
- 4.3 In case of doubt, the existence of a conflict of interest shall be assessed by the EIB Group Chief Compliance Officer / EIF Head of Compliance or, in case the latter service is conflicted, by the EIB President / EIF Chief Executive.
- 4.4 If the EIB President / EIF Chief Executive is in a situation of conflict of interest with regards to the Alleged Victim and/or the Accused Person, any decision entrusted to the EIB President / EIF Chief Executive under the Policy will be exercised by the EIB Secretary General/Chairman of the EIF Board of Directors, who may consult with the Inspector General or the Group Chief Compliance Officer / EIF Head of Compliance.



## Article 5

### **Duty to Report**

Any Person working for the EIB Group who witnesses a behaviour or a fact that could qualify as Harassment under the Policy has a duty to report it to the DGP / Head of H&RM or, if the latter is conflicted, to the EIB President / EIF Chief Executive.

## Article 6

### **Protection against retaliation**

Protection against any acts of retaliation provided for by the EIB Group Whistleblowing Policy shall be granted to any person involved in the Procedures under the Policy in any capacity, including Witnesses, representatives of the parties and the members of the Dignity at Work Secretariat.

## Article 7

### **Abusive use of the Procedures, false or malicious allegations**

- 7.1 Abusive use of the Procedures and/or false or malicious allegations made under the Policy by the Alleged Victim, by the Accused Person, by a Whistleblower or by any other person involved in the Procedures shall lead to the initiation of the Disciplinary Procedure.

Abusive use of the Procedures refers to any malicious or vexatious use aimed at a different purpose than the one for which the Procedures have been established.

False or malicious allegations are those allegations that an impartial and reasonable observer placed in the same circumstances would have good reason to regard as false or deceitful or that are knowingly or deliberately inaccurate or misleading, including but not limited to those which are made exclusively with the purpose of gaining some form of advantage or that are made exclusively with the purpose of causing harm to a person or to the EIB Group.

- 7.2 The abusive use of the Procedures and/or the false or malicious character of the allegations shall be established, in a duly substantiated manner, by the DGP / Head of H&RM or the Dignity at Work Panel, at any stage of the Procedures.

## Article 8

### **Confidentiality**

- 8.1 Any Person working for the EIB Group who, in any manner whatsoever, becomes aware of, or involved in the Procedures under the Policy, is obliged to observe the strictest confidentiality regarding all aspects of the procedure, including the fact of its existence, the persons involved and the grounds on which the procedure was initiated and its outcome. The obligation of confidentiality does not apply to the Alleged Victim and the Accused Person with regard to the existence of the Formal Procedure, which they may disclose to their own managers, and to the content of the Final Decision, as defined under Article 33.

- 8.2 The confidentiality requirement shall not prejudice the rights of defence of the Alleged Victim and the Accused Person. In particular, the confidentiality requirement does not apply to the relations between the Alleged Victim and the Accused Person and their Witnesses or potential Witnesses, their counsels or representatives, if any, as defined under Article 30.4.
- 8.3 Any unjustified breach of confidentiality may lead to the initiation of the Disciplinary Procedure.

## Article 9

### **Ex officio Formal Procedure**

- 9.1 If the DGP / Head of H&RM becomes aware of serious allegations of Harassment, the DGP / Head of H&RM may request the competent service, including his/her services, to hear the persons involved and to take any other appropriate measure with a view to establishing the existence of *prima facie* evidence<sup>1</sup> enabling the preparation of a reasoned recommendation to the EIB President/EIF Chief Executive for the opening of a Formal Procedure *ex officio*.
- 9.2 Depending on the outcome of the preliminary assessment carried out pursuant to Article 9.1, the DGP / Head of H&RM shall bring the matter to the attention of the EIB President / EIF Chief Executive and submit the reasoned recommendation mentioned above.
- The EIB President / EIF Chief Executive shall assess the case and, within 20 working days from receipt of the reasoned recommendation, decide either to endorse the reasoned recommendation or to reject it stating the grounds on which the rejection is based.
- 9.3 If the outcome of the preliminary assessment leads the DGP / Head of H&RM to suspect breaches of the CoC other than Harassment, the DGP / Head of H&RM shall refer the case to the EIB Group Chief Compliance Officer / EIF Head of Compliance.
- 9.4 The personal data collected with a view to drafting the reasoned recommendation may be retained by the DGP / Head of H&RM for a maximum period of two years from the adoption of the decision that no Formal Procedure will be launched *ex officio*.

## Article 10

### **Interim precautionary measures**

- 10.1 Either because it has been requested by the person concerned or at his/her own initiative, the DGP / Head of H&RM may adopt the interim precautionary measures that s/he considers justified, proportionate and necessary to protect the Alleged Victim, the Accused Person and/or the Witnesses and/or other persons as appropriate and/or to ensure the smooth running of the service.

Such measures may include, but are not limited to, a period of dispensation from duties with full remuneration or the reassignment to another service of the Alleged Victim and/or of the Accused Person and/or the Witnesses and/or other persons as appropriate.

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<sup>1</sup> *Prima facie* evidence means evidence of a fact that is of sufficient weight to justify a reasonable inference of its existence but does not amount to conclusive evidence of that fact

- 10.2 Interim precautionary measures shall be adopted after hearing the person directly concerned by the precautionary measure unless the seriousness of the situation justifies otherwise. Interim precautionary measures may be adopted even if the person concerned is opposed to the adoption of such measures, if it is considered necessary for his/her effective protection or for the effective protection of others.

### Article 11 Cooperation

Any Person working for the EIB Group who becomes involved in the Procedures under the Policy has the duty to cooperate fully and in good faith to ensure the smooth running of the Procedures and to communicate to the competent persons, without concealment or alteration, all information available to them.

### Article 12 Acts of obstruction

- 12.1 Deliberate acts of obstruction of the Procedures by any Person working for the EIB Group shall lead to the initiation of the Disciplinary Procedure.
- 12.2 The Disciplinary Procedure shall be initiated against a staff member who proffers threats or behaves in a hostile manner in the course of the Procedures.

### Article 13 Data protection

- 13.1 The EIB Group, and all persons involved in the Procedures, must comply with 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. Any restrictions of the data protection rights shall be based on the internal rules adopted in accordance with Article 25 of Regulation 2018/1725 (hereinafter the "**Internal Rules**").
- 13.2 Within the scope of the Policy, the DGP / Head of H&RM shall act as the 'controller' within the meaning of Article 3(8) of Regulation 2018/1725.
- 13.3 All data collected and exchanged in the course of the Procedures shall be adequate, kept secured and confidential, processed only for the purposes related to the implementation of the Policy, not transferred to unauthorised third parties and not kept for longer than necessary.
- 13.4 An exception to the confidentiality of data shall apply when this is necessary for the prevention, investigation, detection and/or prosecution of criminal offences by the national competent authorities. In this case, the DGP / Head of H&RM shall inform the Alleged Victim and/or the Accused Person of the possible transmission of data to the competent national authorities beforehand unless informing them may risk undermining the

prevention, investigation, detection and/or prosecution of criminal offences. In this case, the Alleged Victim and/or the Accused Person will be informed at a later stage, in accordance with the restrictions laid down in the Internal Rules.

- 13.5 The Alleged Victim's and/or the Accused Person's and/or the Witnesses' right to access data related to them may be temporarily restricted, in accordance with the restrictions laid down in the Internal Rules, for as long as this is necessary to protect other persons involved in the Procedures or to safeguard the effectiveness of the Procedures. This restriction shall be duly balanced with the protection of the procedural rights of parties involved and Witnesses, in particular the right of parties involved to due process, the rights of defence and the presumption of innocence.
- 13.6 The data transmitted during the Procedures to the involved parties shall only be the data that are relevant and necessary for the inquiry as well as for the exercise of their procedural rights. The parties may object to the transmission of data on compelling legitimate grounds except in those cases provided for in Article 5 (b), (c) and (d) of Regulation 2018/1725.
- 13.7 Any unjustified breach of this provision shall be brought to the attention of the DPO.

## TITLE II: PRELIMINARY STEPS

### Article 14

#### Seeking support

14.1 An Alleged Victim who considers to have suffered or continues to be suffering from Harassment due to the behaviour of another Person working for the EIB Group may request specialised assistance and advice from a Confidential Counsellor or an Occupational Psychologist, a list of whom shall be made available to all staff.

14.2 The role of the Confidential Counsellor is to:

- a) Help and support people who feel they are being harassed;
- b) Listen, analyse and help clarify the situation for the person;
- c) Suggest and explore with the person a wide range of options and possible actions adapted to the situation;
- d) Advise on the procedures for handling complaints.

To this end, the Confidential Counsellor shall:

- Respect strict confidentiality throughout the process and afterwards;
- Seek expert help from EIB Personnel / EIF H&RM, when appropriate, without mentioning any names or personal details of the persons concerned;
- Network with other appointed Confidential Counsellors and report back at regular intervals to EIB Personnel / EIF H&RM (without mentioning any names or personal details).

The role of the Confidential Counsellor is not to act as a mediator or to take actions on behalf of the individual.

14.3 The role of the Occupational Psychologist is to provide psychological counselling and advice, assistance and guidance to persons in need to address and resolve harassment related issues. Consultations take place in strict confidentiality.

14.4 All discussions shall be confidential and no record shall be kept. However, the Confidential Counsellors and the Occupational Psychologists are subject to a special duty to report to the DGP / Head of H&RM (hereinafter the "**Special Duty to Report**") cases in which they consider that the alleged Harassment:

- a) is causing or has caused the Alleged Victim serious harm and distress;
- b) seems, at first appearance, to be a criminal offence by the Accused Person.

### Article 15

#### Discussions with the Accused Person

The Alleged Victim is encouraged to try to solve his/her concerns with the Accused Person informally and bilaterally. To the extent possible, the Alleged Victim should address his/her concerns with the Accused Person in an open, honest, non-contentious and non-threatening manner, making it sufficiently clear that the conduct is unwanted. In doing so, the Alleged Victim may seek the assistance of any person of his/her choice. No record of the outcome of these discussions shall be kept unless the parties so wish.

## TITLE III: MEDIATION PROCEDURE

### Article 16

#### Purpose of the Mediation Procedure

- 16.1 The purpose of the Mediation Procedure is to amicably settle a strenuous situation between the Alleged Victim and the Accused Person as effectively and quickly as possible so that normal working relations may be resumed. It cannot be initiated, between the same parties, after the Formal Procedure has been launched.
- 16.2 The Mediation Procedure is optional.
- 16.3 The Mediation Procedure shall be subject to full confidentiality. However, the Mediator has a Special Duty to Report to the DGP / Head of H&RM cases in which s/he considers that the alleged Harassment:
- a) is causing or has caused the Alleged Victim serious harm and distress;
  - b) seems, at first appearance, to be a criminal offence by the Accused Person.

### Article 17

#### Mediation Proceedings

- 17.1 If the Alleged Victim and/or the Accused Person so wish they may request to refer the issue to Mediation. The request for Mediation shall be submitted by the Alleged Victim or the Accused Person to the DGP / Head of H&RM who will then inform the other party of the request. The latter will have five working days to accept or refuse the proposed Mediation Procedure.
- The DGP / Head of H&RM may also suggest to the parties to resort to Mediation. The parties will have five working days to accept or refuse the proposed Mediation Procedure.
- A Mediation Procedure involving more than two parties (more than one Alleged Victim and/or Accused Person) may be organised if the parties so agree.
- 17.2 Should the other party accept the Mediation Procedure, a qualified Mediator will be selected. The Mediator will then be formally appointed by the DGP / Head of H&RM.
- 17.3 Once a Mediator has been appointed, the parties shall agree on the date of the first mediation meeting. During the first mediation meeting, the parties shall sign a mediation agreement, setting out the procedure to be followed and the negotiating principles, including the obligation to respect the principle of confidentiality of the procedure. The parties shall attend the mediation sessions in person and may not be assisted.
- 17.4 The Alleged Victim, the Accused Person and the Mediator may convene as many mediation sessions as necessary and there shall be no deadline as to how long the Mediation Procedure may last. The parties may withdraw from the discussions at any time.

## Article 18

### Outcome of the Mediation Procedure

- 18.1 If an agreement is reached, the parties shall conclude a Mediation settlement agreement (the "**Mediation Settlement**") which is binding on the parties. A Mediation Settlement cannot include measures that are not within the remit of the parties and shall not foresee financial compensation or compensation in kind. Once concluded, the Mediation Settlement shall be communicated to the DGP / Head of H&RM by the Mediator.
- 18.2 Breach of commitments made in the framework of the Mediation Settlement shall be raised by any of the parties with the DGP / Head of H&RM.
- 18.3 The Mediation Procedure shall be deemed to have failed if the parties have withdrawn from the discussions before an agreement has been reached or the Mediator has reached the conclusion that an amicable solution is not possible, or if a Formal Procedure is initiated. The Mediator shall acknowledge the failure of the Mediation Procedure and inform the parties and the DGP / Head of H&RM thereof.

## Article 19

### Retention Period for the Mediation Procedure

- 19.1 Once a Mediation Procedure has been concluded, the Alleged Victim and the Accused Person may retain all relevant electronic exchanges or paper files that formed part of the Mediation Procedure and are in their possession. The Mediator and EIB Personnel / EIF H&RM may retain such documents for a maximum period of three years, commencing on the day of the conclusion of the Mediation Procedure and in any case no longer than necessary, in a special electronic or paper folder clearly marked as strictly confidential. At the expiry of the retention period, all relevant data must be destroyed.
- 19.2 In case the Alleged Victim decides to file a formal complaint or in case the DGP / Head of H&RM decides to trigger an *ex officio* Formal Procedure in line with Article 9 of the Policy, the documented written outcome of the Mediation Procedure shall be submitted to the Dignity at Work Panel as defined below.

## TITLE IV: FORMAL PROCEDURE

### Article 20

#### Scope of the Formal Procedure

- 20.1 The Formal Procedure may be launched:
- a) by the Alleged Victim, either directly or after preliminary steps and/or a Mediation Procedure have taken place; or
  - b) *ex officio* by the DGP / Head of H&RM as provided by Article 9.
- 20.2 The Formal Procedure shall be launched within a reasonable period of time taking into consideration the particular circumstances of the case, and in any case no later than five years from the last act held against the Accused Person or from the conclusion of an unsuccessful Mediation Procedure.
- 20.3 Once duly filed, the Formal Procedure shall in principle run its course until its conclusion and cannot be withdrawn.

### Article 21

#### Launching of the Formal Procedure by the Alleged Victim

- 21.1 The Alleged Victim wishing to initiate the Formal Procedure shall lodge a complaint with the Dignity at Work Secretariat (hereinafter the "**Complaint**"), which specifies:
- a) the name and position of the Alleged Victim and of the Accused Person;
  - b) the factual background of the alleged Harassment, namely the relevant events, situations and/or incidents, including their dates, places, reactions and effects;
  - c) the documented outcome of the Mediation Procedure (if any);
  - d) if applicable, the proposal to hear witnesses in support of the Complaint, indicating in a separate document, marked as "confidential", their names and a brief explanation on why those persons can help establishing the facts; and
  - e) any relevant supporting document or evidence, in compliance with Article 29.

In case where the Complaint concerns several Accused Persons, the Alleged Victim shall lodge separate Complaints, describing the factual background of the alleged Harassment for each separate Accused Person.

- 21.2 The Complaint, if deemed admissible, shall be transmitted to the Accused Person in its entirety subject to the exceptions below.

When filing the Complaint, the Alleged Victim may submit a reasoned request that certain elements of the Complaint and/or certain documents are not transmitted to the Accused Person, in accordance with the restrictions laid down in the Internal Rules. The Dignity at Work Secretariat will either accept the request and mark the document as "confidential", or reject the request if it considers that keeping the document confidential would unduly limit the Accused Person's rights of defence. In the latter case, the Dignity at Work Secretariat will then invite the Alleged Victim to provide a sanitised version of the document concerned, duly taking into account the Accused Person's rights of defence, that will be shared with the Accused Person. In case the Alleged Victim does not send such a sanitised



version, the Dignity at Work Secretariat will remove completely the document from the case file.

- 21.3 The Formal Procedure shall be considered to be duly filed once the Complaint, including all its elements, has been sent to the Dignity at Work Secretariat. The Dignity at Work Secretariat shall acknowledge receipt of the filed Complaint.

## Article 22

### Pre-assessment of the Complaint

- 22.1 The DGP / Head of H&RM, after a preliminary assessment of the case, shall either consider the Complaint admissible or, if s/he is of the opinion that the Complaint should be dismissed as inadmissible or manifestly unfounded, s/he shall bring the matter to the attention of the EIB President / EIF Chief Executive. The EIB President / EIF Chief Executive shall assess the case and render his/her decision on whether the Complaint should be dismissed as inadmissible or as manifestly unfounded.
- 22.2 The Complaint shall be dismissed as inadmissible or manifestly unfounded in the following cases:
- a) it has not been filed within the deadline referred to at Article 20.1;
  - b) it refers to persons who do not fall within the scope of Article 1.3;
  - c) it constitutes a manifest abuse of procedure, is frivolous, false or vexatious;
  - d) it does not contain prima facie evidence that the alleged Harassment took place;
  - e) another internal procedure is considered more appropriate to deal with the issues raised in the Complaint, in which case the decision declaring the Complaint inadmissible will indicate the appropriate procedure;
  - f) the facts described in the Complaint and the parties involved are the same as in previously introduced and assessed cases, either in a previous Formal Procedure or by a competent court.
- 22.3 The decision of the EIB President / EIF Chief Executive to dismiss the Complaint as inadmissible or as manifestly unfounded shall state the grounds on which it is based. It shall be rendered within 20 working days from the filing of the Complaint.

## Article 23

### Launching of the Formal Procedure by the DGP / Head of H&RM

- 23.1 If the DGP / Head of H&RM decides to launch *ex officio* the Formal Procedure in accordance with Article 9, s/he shall instruct his/her services to prepare a note (hereinafter the "**Note**") that specifies:
- a) the name and position of the Alleged Victim and of the Accused Person;
  - b) the factual background of the alleged Harassment, namely the relevant events, situations and/or incidents, including their dates, places, reactions and effects. In order for EIB Personnel / EIF H&RM to understand and assess such events, situations and/or incidents, hearings may be held and appropriate measures may be taken pursuant to Article 9. The Dignity at Work Secretariat may decide, for objectively justified reasons and in accordance with the restrictions laid down in the Internal Rules, not to transmit to the Accused Person certain parts of the factual background and to mark them as "confidential", or to provide to the Accused Person with a

- sanitised version of these parts, provided that this does not unduly limit the Accused Person's rights of defence;
- c) the steps already taken within the Mediation Procedure, if any;
  - d) the existence of possible witnesses, indicating their names in a separate document marked as "confidential";
  - e) the reasons which have determined the DGP / Head of H&RM to launch the procedure; and
  - f) any relevant supporting document or evidence. The Dignity at Work Secretariat may decide, for objectively justified reasons and in accordance with the restrictions laid down in the Internal Rules, not to transmit to the Accused Person one or more such documents and to mark them as "confidential", or to provide to the Accused Person with a sanitised version of such documents provided that this does not unduly limit the Accused Person's rights of defence.

In case where the Note concerns several Accused Persons, the DGP / Head of H&RM shall prepare separate Notes, describing the factual background of the alleged Harassment for each separate Accused Person.

- 23.2 The Note shall be transmitted to the Alleged Victim in its entirety, specifically identifying those elements that will be considered as "confidential" towards the Accused Person. It shall be transmitted to the Accused Person in its entirety with the exception of the elements marked as "confidential" as mentioned above.

#### Article 24

### **Notification to the Accused Person**

Once the Complaint has been duly filed and deemed admissible, or once the Note has been finalised, the Dignity at Work Secretariat shall provide the Accused Person with a copy of the Complaint or of the Note (excluding the elements of the Complaint or the Note that have been considered as "confidential"). The separate documents containing the names of the persons proposed as witnesses or as persons informed of the alleged Harassment, if any, as provided under Articles 21.1 d) and 23.1 d) shall not be disclosed.

#### Article 25

### **Submissions of the Accused Person**

- 25.1 Within 20 working days of the receipt of the Complaint or of the Note, the Accused Person may lodge a submission on the Complaint or on the Note, addressed to the Dignity at Work Secretariat.
- 25.2 Without prejudice to Article 29, the Accused Person may outline in his/her submission his/her perspective in accordance with his/her right of defence and his/her right to be heard, including but not limited to his/her version of the facts, and the production of any relevant document or material.
- 25.3 The Accused Person's submission shall be transmitted to the Alleged Victim in its entirety subject to the exceptions below.

The Accused Person may submit a reasoned request that one or more specific elements of the submission and/or certain documents are not transmitted to the Alleged Victim in

accordance with the restrictions laid down in the Internal Rules. The Dignity at Work Secretariat will either accept the request and mark the document as "confidential", or reject the request if it considers that keeping the document confidential would unduly affect the principle of equality of arms and the transparency of the procedure. In the latter case, the Accused Person shall provide the Dignity at Work Secretariat with a sanitised version of the document concerned, duly taking into account the principle of equality of arms, that will be shared with the Alleged Victim. In case the Accused Person does not send such a sanitised version, the Dignity at Work Secretariat will remove completely the document from the case file.

- 25.4 The Accused Person may propose that witnesses be heard. S/he shall indicate, in a separate document, marked as "confidential", their names and a brief explanation on why those persons can help establishing the facts.
- 25.5 The Dignity at Work Secretariat shall send a copy of the Accused Person's submission to the Alleged Victim, without the documents that the Dignity at Work Secretariat has marked as "confidential" if any, and without the names of the persons proposed as witnesses, if any, in accordance with the restrictions laid down in the Internal Rules.

## Article 26

### The Dignity at Work Panel

- 26.1 The DGP / Head of H&RM shall select the members composing the panel that will deal with the Complaint (hereinafter the "**Dignity at Work Panel**") within 15 working days from declaring a Complaint admissible or from the finalisation of the Note by EIB Personnel / EIF H&RM.
- 26.2 The mandate of the Dignity at Work Panel is:
- a) to conduct a thorough inquiry (hereinafter the "**Inquiry**") with a view to establishing the facts relating to the alleged Harassment as described in the Complaint or in the Note;
  - b) to issue a final report (hereinafter the "**Final Report**") describing the findings of the Inquiry and concluding whether or not the denounced facts qualify as Harassment for the purpose of the Policy;
  - c) in line with Article 7, the Dignity at Work Panel may also conclude, in a duly substantiated manner, on the abusive use of the Procedures and/or the false or malicious character of the allegations.
- 26.3 The Dignity at Work Panel shall be composed of three members, two members with legal background and one member specialised in psychiatry, psychology or occupational health, chosen from a diverse list of eligible persons (the "**Panel List**"). For the purposes of establishing the Panel List, the EIB / EIF, after having consulted their respective College of Staff Representatives, shall select up to 30 persons other than active staff members (hereinafter the "**Panel Members**").
- 26.4 Taking into account the specific circumstances underlying the Complaint or the Note, the DGP / Head of H&RM shall choose from the Panel List three Panel Members who shall compose the Dignity at Work Panel, as well as an equal number of alternate members. As far as reasonably possible, the choice of Panel Members shall be made taking into consideration diversity criteria.

The DGP / Head of H&RM shall select one of the three selected Panel Members of the Dignity at Work Panel to act as Chairperson.

- 26.5 The Dignity at Work Panel shall be assisted by the Dignity at Work Secretariat, including at least one person with legal qualification, who will act as secretary.
- 26.6 Panel Members shall confirm the absence of any conflict of interest upon their appointment by the DGP / Head of H&RM. They shall declare potential conflicts of interest they may have with respect to the Complaint (including the Alleged Victim or the Accused Person), as soon as they arise. If a conflict of interests exists, upon consultation of the EIB Group Chief Compliance Officer / EIF Head of Compliance if appropriate, the DGP / Head of H&RM shall immediately replace the conflicted member with another eligible person of the Panel List.
- 26.7 The Dignity at Work Secretariat shall communicate the composition of the Dignity at Work Panel to the Alleged Victim and to the Accused Person within five working days from the confirmation of the absence of any conflict of interest.
- 26.8 Each party may raise a reasoned objection in writing against the appointment of one or more Panel Members within five working days from the notification of its composition.
- Within ten working days from the receipt of the objection, the DGP / Head of H&RM may:
- a) accept the objection and replace the member(s) for whom an objection has been raised; or
  - b) reject the objection and provide a reasoned justification in this respect.
- The decision to reject an objection may not be contested.
- 26.9 Once the Dignity at Work Panel is formally established, the Dignity at Work Secretariat will send to the Dignity at Work Panel a copy of the Complaint or of the Note and the submissions of the Accused Person.

## Article 27

### **Principles of the Inquiry**

- 27.1 The Dignity at Work Panel shall:
- a) conduct the Inquiry, involving an assessment of the facts, in accordance with the rules prescribed in the Policy and respecting the principles of impartiality, independence and integrity;
  - b) adopt an impartial and objective approach;
  - c) guarantee that the principle of the presumption of innocence of the Accused Person is respected throughout the Formal Procedure;
  - d) respect at all stages the right of defence and the right to be heard, examine both incriminating and exculpatory evidence and take into account both aggravating and mitigating circumstances;
  - e) observe the strictest confidentiality on all the elements of the Inquiry, both during the Formal Procedure and after its conclusion.

- 27.2 The Dignity at Work Panel shall act independently in the performance of its tasks. It shall be free to choose the methods of inquiry it considers appropriate, within the limits of the principle of proportionality and of the provisions of Article 31 hereunder.
- 27.3 The Dignity at Work Panel shall reach a conclusion according to Article 32. In case of a disagreement of one of the Panel Members, the Panel Members shall proceed to a vote. The Panel Members are not allowed to abstain from voting.

#### Article 28

##### **Burden of proof**

- 28.1 The Alleged Victim or the Note issued by EIB Personnel / EIF H&RM in case of a Formal Procedure launched *ex officio* must submit prima facie evidence that the alleged Harassment took place.
- 28.2 The Dignity at Work Panel shall form their opinion after having examined the Complaint or the Note and the submission of the Accused Person, after having conducted the hearings pursuant to Article 30 and after having used their investigative powers pursuant to Article 31, if necessary.

#### Article 29

##### **Evidence and Witnesses**

- 29.1 The Alleged Victim and the Accused Person may produce any document or material in support of their allegations/exculpation.

Following the filing of the Complaint (or in the case of a Formal Procedure launched *ex officio* – the Note) and the submission of the Accused Person, the submission of additional evidence during the process is subject to the discretionary acceptance of the Dignity at Work Panel.

- 29.2 Any person can act as Witness before the Dignity at Work Panel.
- 29.3 The Dignity at Work Panel shall decide whether a proposed person should be heard as Witness. A decision not to hear a proposed Witness shall be duly substantiated. Such decision may not be contested. The Dignity at Work Panel shall decide whether to hear a Witness orally and/or in writing.
- 29.4 Should the Dignity at Work Panel consider that a Witness could be subject to retaliation, they shall bring the matter to the attention of the DGP / Head of H&RM, who shall adopt adequate protective measures in accordance with Article 10.
- 29.5 Any Witness shall be invited for a hearing 10 working days in advance, by the Dignity at Work Secretariat. In case a Witness is unavailable on the date of the hearing and puts forward duly justified reasons in this respect, the Dignity at Work Panel may decide to hear the Witness on another date and/or request the submission of a written declaration.

29.6 The invitation to testify shall mention the following elements:

- a) the date, time and place of the hearing;
- b) the confirmation that the name of the Witness and data that can lead to their identification shall only be disclosed to the Dignity at Work Panel, the DGP / Head of H&RM and the Dignity at Work Secretariat, unless required in any subsequent legal proceedings;
- c) the obligation to observe the strictest confidentiality in relation to the Formal Procedure;
- d) information pertaining to the processing of the personal data of the Witness in the context of the Formal Procedure;
- e) the information that reasonable transportation and accommodation costs incurred by the Witnesses to attend the hearing, if any, shall be borne by the EIB Group, if the physical presence of the Witnesses is requested by the Dignity at Work Panel; and
- f) information on the consequences of false or malicious allegations when giving evidence as Witness.

### Article 30 Hearings

30.1 The Alleged Victim and the Accused Person shall be invited to the hearing by the Dignity at Work Secretariat at least 10 working days in advance.

The invitation to the hearing shall mention the following elements:

- a) the date, time and place of the hearing;
- b) the possibility to be assisted during the hearing by a person of their choice in accordance with Article 30.4;
- c) the obligation to observe the strictest confidentiality in relation to the procedure;
- d) information pertaining to the processing of the personal data of the parties in the context of the procedure; and
- e) the information that reasonable transportation and accommodation costs incurred by the Alleged Victim and the Accused Person to attend the hearing, if any, shall be borne by the EIB Group.

30.2 In order to establish the facts underlying the Complaint, the Dignity at Work Panel shall hold separate hearings with the persons involved, preferably respecting the following order:

- a) the Alleged Victim;
- b) Witnesses summoned by the Alleged Victim, if any;
- c) the Accused Person;
- d) Witnesses summoned by the Accused Person, if any; and
- e) any other person that the Dignity at Work Panel deems appropriate to hear.

30.3 If it deems it necessary, the Dignity at Work Panel may invite one or more of the persons involved for additional hearings.

30.4 The Alleged Victim, the Accused Person and the Witnesses may be assisted throughout the Formal Procedure, and in particular during the hearings, by a maximum of two persons of their choice, who may be requested to sign a confidentiality undertaking as necessary.

- 30.5 If, for duly justified objective reasons, the Alleged Victim or the Accused Person cannot be personally heard, the Dignity at Work Panel may ask them to reply in writing to a list of questions and/or to appoint a person who will represent them at the hearings after signing a confidentiality undertaking as necessary.
- 30.6 The hearings may be recorded by audio means, provided that all participants to the hearing in question have been previously informed. The recordings shall be made available to the Panel Members for the purpose of enabling them to conclude their assessment.

The recordings shall be kept for a period of six months after the delivery of the Dignity at Work Panel's recommendation to the EIB President/EIF Chief Executive, in a special file marked "strictly confidential" and with strictly limited access in the electronic document management system within the EIB Personnel Directorate / EIF H&RM Department. The recordings will be destroyed following the expiry of the retention period. Longer retention periods could be applied in exceptional and duly justified cases, subject to agreement of the DPO.

Where one of the parties so requests, a copy of the recording of their individual hearing shall be provided to them.

### Article 31 **Investigation**

- 31.1 In accordance with the principle of proportionality, the Dignity at Work Panel may resort to investigation in order to establish the facts underlying the Complaint.
- 31.2 For that purpose, the Dignity at Work Panel may submit a reasoned request to the DGP / Head of H&RM to:
- a) obtain an independent expertise on specific issues of the Inquiry, including medical examinations following the procedure under Article 27, last paragraph, of the Staff Regulations;
  - b) conduct an investigation in the office space of the Alleged Victim and/or of the Accused Person, including the inspection of their computer files and emails;
  - c) inspect the professional telephone records of the Alleged Victim, of the Accused Person and/or of other Persons working for the EIB Group that may have been involved in the Complaint;
  - d) conduct any other investigation that would appear necessary for the purpose of the Inquiry.
- 31.3 If the DGP / Head of H&RM considers the requested investigation as legitimate and appropriate for the conduct of the Inquiry s/he may authorise the requested investigation after obtaining the approval of the DPO, if applicable. When deemed necessary, the DPO may recommend conditions and restrictions to the investigation methods to be used. The DGP / Head of H&RM will then request the Inspectorate General Directorate to conduct the investigation.
- 31.4 The DGP / Head of H&RM may reject such requests by reasoned decision.

31.5 The electronic files, telecommunication electronic traffic data and recorded data collected during the investigation and relevant to the needs of the Inquiry can be kept by the Dignity at Work Panel for a maximum retention period of six months from the Final Decision. They may be stored for periods longer than six months after conclusion of the case, if relevant to judicial procedures or other inquiries. This would include where files are transferred to other competent authorities or bodies for determination. In such instances, the DPO will be informed accordingly. After the Final Decision is communicated to the parties, the parties may have access to their personal data collected during the investigation in line with the applicable rules adopted by the competent service, in case any restrictions laid down in the Internal Rules were applied.

## Article 32

### End of the Inquiry

- 32.1 The Dignity at Work Panel shall provide a draft of their final report (the "**Final Report**") within 60 working days from the date of the hearing or the last act of investigation, whichever comes later.
- 32.2 The Dignity at Work Panel shall submit to the Alleged Victim and the Accused Person the draft Final Report, thereby allowing them the possibility to provide comments and observations. The draft Final Report shall include the decisive elements that led the Dignity at Work Panel to their conclusion, in particular the key statements made by the Witnesses heard, without mentioning names or details that may lead to their identification. The Alleged Victim and the Accused Person shall submit their observations in writing within 15 working days from the receipt of the draft Final Report.
- 32.3 The Dignity at Work Panel shall, within 20 working days from receipt of the observations of the parties, submit the Final Report to the DGP / Head of H&RM. In the Final Report, the Dignity at Work Panel shall describe the outcome of its fact-finding exercise and its conclusion concerning the Complaint, having duly taken into consideration the observations of the parties, if any, on the draft Final Report.
- 32.4 In the Final Report, the Dignity at Work Panel shall establish a conclusion on all the facts, and indicate whether taken as a whole these facts:
- a) could not be established and therefore no Harassment could be proven;
  - b) constitute Harassment;
  - c) do not constitute Harassment; or
  - d) do not constitute Harassment and the Complaint constitutes an abuse of procedure and/or included vexatious, false or malicious allegations.
- 32.5 If appropriate, the Final Report should also include a recommendation to the EIB President / EIF Chief Executive on the possible implementing measures.
- 32.6 If appropriate, the Dignity at Work Panel may highlight in the Final Report their suspicions regarding potential breaches of the CoC other than Harassment or of other internal rules and policies and their suggestion to refer these suspected breaches to the competent services.



### Article 33

#### Decision on the Formal Procedure

- 33.1 The DGP / Head of H&RM shall forward to the EIB President / EIF Chief Executive the Final Report together with his/her recommendations.
- 33.2 Taking into consideration the findings, conclusions and recommendations of the Dignity at Work Panel as well as the recommendations of the DGP / Head of H&RM, the EIB President / EIF Chief Executive shall adopt and notify to the parties a reasoned decision regarding the Complaint (the "**Final Decision**") within 20 working days from the day the Final Report has been received by the EIB President / EIF Chief Executive.

If the Final Decision concludes that Harassment took place or that the Complaint constitutes an abuse of procedure and/or was based on vexatious, false or malicious allegations, the EIB President / EIF Chief Executive shall initiate the Disciplinary Procedure against the Person working for the EIB Group whose acts were found to constitute Harassment or who submitted an abusive, false or malicious complaint.

Should the Final Decision address a person described under Article 1.3(a), the procedure under Article 23.b of the EIB Rules of Procedure or a procedure that would respect the principles of Article 16.1 of the EIF Statutes will be triggered, as applicable.

The Final Decision shall also include any other effective follow-up measures that are deemed appropriate on a case by case basis.

### Article 34

#### Personal File

- 34.1 A copy (paper and/or electronic) of the decision dismissing a Complaint as inadmissible or as manifestly unfounded shall be placed in the personal file of the Alleged Victim.
- 34.2 A copy (paper and/or electronic) of the Final Decision, along with the Final Report, shall be placed in the personal file of the Alleged Victim and the Accused Person. If the Final Decision concludes that no Harassment was found, the Accused Person may request that it is not placed in or removed from his/her Personal File.
- 34.3 The applicable retention periods shall be applied.

### Article 35

#### Retention of documents

All documents, including the Complaint or the Note and any relevant supporting documents or evidence, submissions by the Accused Person and any relevant supporting documents or evidence, the Final Report and electronic communications of the Dignity at Work Secretariat with the Alleged Victim and/or the Accused Person pertaining to the Formal Procedure up to and including the Final Decision will be kept in a special file marked strictly confidential with strictly limited access within the EIB Personnel Directorate / EIF H&RM Department for a period of five years from the day on which the parties are informed in writing of the Final Decision. They may be stored for periods longer than five years after conclusion of the case, if relevant to judicial procedures or other inquiries.

## TITLE V: FINAL PROVISIONS

### Article 36

#### **Sanctions for breach**

Any serious breach of the provisions of the Policy may lead to the initiation of the Disciplinary Procedure.

### Article 37

#### **Entry into force**

- 37.1 The EIB Dignity at Work policy adopted on 12 November 2003 and the EIF Policy on Dignity at Work adopted in June 2017 are hereby repealed and replaced in full, as are any other documents that have been issued to implement them.
- 37.2 The present Dignity at Work Policy has been approved by the Management Committee and EIF Chief Executive and applies from the date of its publication on the respective EIB / EIF Intranet site. Formal procedures for which the Alleged Victim has submitted his/her memorandum and which are pending at the date of publication of this Policy will not be affected and will be governed by the previous respective EIB and EIF Dignity at Work Policy.



CORPORATE

# EIB Group

## Dignity at Work Policy



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