



Brussels, XXX
[...] (2022) XXX draft

COMMISSION DECISION

of XXX

on the prevention of and fight against psychological and sexual harassment

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THE EUROPEAN COMMISSION,

Having regard to the Treaty on European Union,

Having regard to the Treaty on the Functioning of the European Union,

Having regard to the Protocol on Privileges and Immunities of the European Union, and in particular Articles 11 and 17 thereof,

Having regard to the Staff Regulations of Officials ('Staff Regulations') and the Conditions of Employment of Other Servants ('CEOS') of the European Union, laid down by Regulation (EEC, Euratom, ECSC) No 259/68¹, and in particular Articles 1d, 12, 12a, 24, and 110 of the Staff Regulations, and Articles 11 and 81 of the CEOS,

Whereas:

- (1) The Commission is aware of the psychosocial risk the modern working environment can create and is committed to providing the best possible working environment, centred on the wellbeing of its staff in all aspects. The Commission also acknowledges the principle that the health of staff is a key element in a healthy organisation that enables staff to unleash their full potential, and the right of every worker to working conditions that respect his or her safety and dignity.
- (2) The Commission is committed to setting the example in promoting a trust-based, inclusive and respectful workplace in line with European values, as set out in the Communication to the Commission on a 'A new Human Resources Strategy for the Commission Resources' ('HR Strategy')². The implementation of the present Decision should be closely linked to the implementation of all initiatives announced in the HR Strategy and pursuing that objective, notably actions pertaining to management development, staff wellbeing, and promotion of diversity, inclusion, and gender equality.
- (3) Psychological and sexual harassment fall within the broader spectrum of violence in the world of work, which, when they arise, represent a serious problem in the working environment and a violation of the right to dignity at work. As a responsible employer, the Commission should guarantee the dignity of all members of staff. It should not tolerate harassment or any types of conduct that run counter to a respectful and inclusive workplace and should strive constantly to improve the available means to prevent and fight harassment of any kind, including in the hybrid working environment, which combines work at the office and remotely.
- (4) The Commission condemns any type of improper conduct in its working environment, whether or not it can be qualified as discrimination or harassment. It encourages and

¹ OJ L 56, 4.3.1968, p. 1.

² Communication to the Commission C(2022) 2229 of 5 April 2022: A new Human Resources Strategy for the Commission.

assists staff in addressing any type of improper conduct in the world of work that they are subject to or witness of, both by means of formal procedures, as well as by raising awareness of the standards of conduct that is expected of Commission staff.

- (5) Article 1d of the Staff Regulations prohibits any discrimination in the application of the Staff Regulations. Discrimination can manifest itself through harassment. In particular, sexual harassment is to be treated as discrimination based on gender. The heightened public awareness on sexual harassment in the world of work has emphasised the importance of having strong, appropriate and dissuasive tools in place to fight against such behaviour. Communication from the Commission on a better workplace for all clarified that the Commission would enforce its anti-discrimination policy and continue developing its conflict and harassment prevention framework.³
- (6) Articles 12 and 12a of the Staff Regulations and Articles 11 and 81 of the CEOS provide that staff members shall refrain from any action or behaviour which might reflect adversely upon their position, including any form of psychological or sexual harassment.
- (7) Decision C(2006) 1624⁴ sets out the current framework for protecting the dignity of the person and preventing psychological and sexual harassment at the Commission. This policy is based on prevention, support, and redress mechanisms for staff reporting harassment. Staff members may opt for lodging a request for assistance, which can involve an administrative inquiry to establish the facts and a disciplinary procedure against the alleged harasser. Staff can also opt for informal mechanisms, which can involve mediation by the Mediation Service⁵ or support by the Commission's network of confidential counsellors. Moreover, depending of the case, interim protective measures for the victim may be considered to put an end to a given situation.
- (8) Experience in the application of this legal and institutional framework gained over more than 15 years has shown that further steps are needed to improve the options available to staff who feel they are victims of psychological or sexual harassment. The results of the staff survey on diversity, inclusion and respect at workplace carried out in 2021 showed that respondents did not always know where to find information on available support. The majority of respondents, who reported having experienced behaviours that can be qualified as psychological or sexual harassment, did not seek any assistance from the institution.
- (9) It is therefore appropriate to strengthen the victim-centred approach, reinforce the independence and effectiveness of the informal procedure for providing assistance in situations perceived as psychological or sexual harassment, and offer comprehensive accompanying measures to victims of harassment. It is also essential to act more on prevention, communicate clearly on where to find help, ensure a truly trust-based approach, support managers on harassment prevention within their teams and improve cooperation between all the services and actors involved in the fight against harassment.
- (10) By reason of its specific characteristics, namely its multicultural environment and the fact that it operates in many different jurisdictions, the Commission, although inspired

³ Communication of the Commission C(2017) 5300 of 19 July 2017: A better workplace for all: from equal opportunities towards diversity and inclusion.

⁴ Commission Decision C(2006) 1624/3 of 26 April 2006 on the European Commission policy on protecting the dignity of the person and preventing psychological harassment and sexual harassment.

⁵ {need to make reference to the new Commission Decision which should be adopted in parallel of that Decision} C(2002) 601 of 4 March 2002 on the reinforced Mediation Service.

by the national systems of the Member States, in which it has its seats according to Protocol 6 annexed to the Treaties, established its own internal procedures to address harassment. These procedures apply equally in all places of employment of persons working for the Commission, and wherever the alleged harassment occurs. These procedures are without prejudice to any judicial means available to victims under the national legislative system, where applicable.

- (11) Processing of personal data by the Commission is subject to Regulation (EU) 2018/1725 of the European Parliament and of the Council⁶. In this light, information containing personal data collected or transmitted in the course of proceedings taken pursuant to the provisions of this Decision should enjoy the level of data protection guaranteed by Regulation (EU) 2018/1725.
- (12) Specialised Commission services ensure that allegations of harassment are addressed in full respect of the rights of the persons involved, and in light of the specific characteristics of the Commission.
- (13) The Commission should appropriately examine all instances of alleged psychological or sexual harassment, protect the victims and, where it is confirmed that harassment took place, sanction the perpetrator and assist the victim in pursuing justice. At the same time, the Commission should uphold the presumption of innocence and the rights of defence of all those involved.
- (14) This Decision should set out the rights and obligations of persons who perceive themselves as victims of harassment in the world of work as well as of those persons who are accused of harassment.
- (15) Since psychological or sexual harassment may cover a wide range of situations, it is appropriate to provide both informal and formal means of redress. An informal procedure should not involve any legal assessment of the circumstances and should therefore not lead to a legal qualification of behaviours perceived as psychological or sexual harassment. As such, it should be available where it is desired by the victim, deemed to be faster, more efficient and effective than a formal procedure.
- (16) As part of the informal procedure, this Decision should establish the function of a Chief Confidential Counsellor. The Chief Confidential Counsellor should exercise his or her function independently of any instruction or influence and in a trust-based manner. He or she is to be administratively attached to the Directorate-General for Human Resources and Security and should report annually on the fulfilment of his or her mandate to the Member of the Commission in charge of the Administration. Appropriate resources should be assigned to the Chief Confidential Counsellor to support his or her responsibilities.
- (17) The Chief Confidential Counsellor should notably provide prompt and confidential advice, information on available services, and support to persons who wish to report behaviours perceived as psychological or sexual harassment. He or she should be able to provide support to victims during and in the aftermath of the informal procedure, as well as facilitate the implementation of interim protective measures and accompanying measures, where relevant. The Chief Confidential Counsellor should also advise and support managers on prevention of harassment within their teams and respond to

⁶ 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 (OJ L 295, 21.11.2018, p. 39).

situations indicating potential harassment brought to his or her attention by the unit in charge of medical absences or the Medical Service. At the request of the victim, the Chief Confidential Counsellor should also have the possibility to provide his or her opinion on procedural aspects of the procedure on preliminary examination whether there is *prima facie* evidence of harassment. Additionally, the Chief Confidential Counsellor should have the overall responsibility for initiating the development and coordination of the implementation of the policy on the prevention of and fight against harassment, including the coordination of the preventive actions. The role of the Chief Confidential Counsellor should be without prejudice to the competences of other services involved, notably the Mediation Service and the Investigation and Disciplinary Office of the Commission.

- (18) The Chief Confidential Counsellor should be entrusted with the daily management of the confidential counsellors' network, including their selection and appointment, the allocation of cases of conduct perceived as psychological or sexual harassment, as well as potential withdrawal of their mandate. This Decision also should clarify the roles of the confidential counsellors, who should continue to operate on a voluntary basis. They should focus on listening and supporting staff who come to them, while responsibility for conciliation should be transferred to the Mediation Service, which should thus be solely responsible for offering mediation in situations suitable for that conflict resolution mechanism.
- (19) The Chief Confidential Counsellor and the confidential counsellors should act in full impartiality and in compliance with rules on confidentiality and be bound by professional secrecy concerning the performance of their tasks.
- (20) Under Regulation (EU) 2018/1725, the Commission is required to provide information to data subjects on the processing of personal data concerning them and to respect their rights as data subjects. However, the Commission should balance these rights with the objectives of preventing and dealing effectively with actual or potential cases of psychological or sexual harassment in the workplace. Article 16(5) of Regulation (EU) 2018/1725 provides for exceptions to data subjects' right to information. This right should notably not apply in cases where the personal data must remain confidential subject to an obligation of professional secrecy, and where it would seriously impair the achievement of the objectives of that processing. This exception should be applied to alleged harassers' right of information as regard personal data collected by the Chief Confidential Counsellor and the confidential counsellors.
- (21) It might also be required to balance the alleged harasser's other data subject rights against the fundamental rights and freedoms of others. To that end, Article 25 of the Regulation (EU) 2018/1725 gives the possibility to restrict data subjects' rights under strict conditions. Unless such restrictions are provided for in a legal act adopted on the basis of the Treaties, it is necessary to adopt internal rules under which the Commission is entitled to restrict those rights. In order to ensure the confidentiality and effectiveness of all proceedings provided in this Decision, including administrative inquiries, pre-disciplinary, disciplinary and suspension proceedings, the Commission adopted inter alia Decision (EU) 2019/165⁷, Decision (EU) 2022/121⁸

⁷ Commission Decision (EU) 2019/165 of 1 February 2019 laying down internal rules concerning the provision of information to data subjects and the restriction of certain of their data protection rights by the Commission in the context of administrative inquiries, pre-disciplinary, disciplinary and suspension proceedings (OJ L 32, 4.2.2019, p. 9).

⁸ Commission Decision (EU) 2022/121 of 27 January 2022 laying down internal rules concerning the provision of information to data subjects and the restriction of certain of their rights in the context of

and Decision X⁹, which restrict, respectively, the data subjects' rights pursuant to Article 25(1) points (b), (c), (g) and (h) of Regulation (EU) 2018/1725.

- (22) The Mediation Service is a Commission service that is independent of any instruction or influence. It acts as a facilitator in disputes that may arise in the context of working relations. It is equipped with tools enabling it to carry out mediation activities, alongside offering advice. It may request information needed for its work from any of the Commission's services, which are under an obligation to provide such information. The Mediation Service may also submit individual recommendations in order to propose a solution to settle a dispute in a specific case, as well as general recommendations to prevent recurring conflictual situations.
- (23) While harassment situations may originate from a conflict at work not timely and constructively addressed, not all conflicts at work could be considered as harassment. To better guide staff members to the most appropriate assistance, the relevant Commission services should reinforce communication on their respective competences by defining clearly the various paths offered to staff who feel they are victims.
- (24) Cooperation between the main actors being part of the informal procedures, i.e. the Chief Confidential Counsellor and the Mediation Service, is essential. It is appropriate to set out specific modalities of their collaboration.
- (25) A formal procedure in line with the Commissions' obligations under Article 24 of the Staff Regulations should be in place to allow the administration to provide effective assistance. That procedure should include appropriate verifications of the alleged facts, as well as procedural safeguards.
- (26) The administration should assess the accuracy of the information provided to it in relation to a possible case of harassment with a view to deciding on the appropriate follow-up. To that end, the administration should conduct a preliminary examination of the information.
- (27) Recourse to the formal procedure involving a request for assistance under Article 24 of the Staff Regulations bestows upon staff members also the right to receive certain information concerning the follow-up of the case, and in particular concerning the final result of the investigations and possible disciplinary action. While that right to information has to be balanced with the need to fully observe the rules on data protection, it constitutes an important advantage for the victims who, in the absence of a request for assistance, would have no right of information concerning pending investigations.
- (28) Staff members called as witnesses to testify under a formal procedure should be made aware at an early stage of this procedure of the possibility to ask for assistance under Article 24 of the Staff Regulations in case they are subject to retaliatory measures because of their testimony.
- (29) Whenever indications of harassment in the world of work arise, it is the Commission's obligation to comply with its duty of care. It should examine the matter impartially, fairly and diligently. This aspect is fully enshrined in the Commission's Human Resources Strategy.

processing of personal data for the purposes of handling requests and complaints under the Staff Regulations (OJ L 19, 8.1.2022, p. 77).

⁹ Decision X would cover the informal procedure conducted by the Chief Confidential Counsellor. It would be adopted concurrently with the present Commission decision.

- (30) The victim has the right to access to national courts and, where relevant, should comply with his or her obligations under the Staff Regulations, and in particular Article 19 thereof.
- (31) The results of the Commission's internal findings should be taken into account when deciding on requests by staff members called to testify before a national court and on requests by national judicial authorities to waive the immunity of staff members and grant them permission to appear before a national court, also as a matter of the Commission's duty of care for the persons concerned.
- (32) As a rule, in cases where the Commission authorises staff members who are called as witnesses or as alleged harassers to appear before a national court, it should pay the costs of legal representation in line with its duty of care. In the case of alleged harassers, this should notably not apply where the Commission's internal investigation confirms the veracity of the accusations, and where the person is convicted of a criminal offence at the end of the judicial procedure.
- (33) The present Decision should apply to any forms of psychological and sexual harassment as defined in Article 12a of the Staff Regulations, for which specific means of redress should be established. In addition, a guide should be established including practical recommendations on the prevention of and fight against harassment as defined in Article 12a of the Staff Regulations. The guide should also include examples addressing other types of improper conduct which are unwelcomed in the world of work, whether or not such conduct can be classified as harassment or discrimination.
- (34) The Commission is fully committed to combatting psychological and sexual harassment in the world of work regardless of the status of those concerned. As some categories of persons are not subject to the Staff Regulations and the CEOS, the provisions of this Decision should apply to those categories subject to the respect of the relevant legal provisions and conditions applicable to them. In particular, the decision on the follow-up of cases involving a Member of the Commission needs to take account of the Code of Conduct for the Members of the Commission and the relevant institutional provisions in EU law.
- (35) Commission Decision C(2006) 1624/3 of 26 April 2006 should be repealed,

HAS DECIDED AS FOLLOWS:

Title 1

General provisions

Chapter I

Subject matter, purpose, personal scope and definitions

Article 1

Subject Matter

1. This Decision lays down the framework for:
 - the prevention measures taken in the Commission as regards psychological or sexual harassment in the world of work, occurring in the course of, linked with, or arising out of work;
 - the procedures available in cases where persons consider that they are victims of harassment in the world of work and, in particular, the procedure for applying Article 24 of the Staff Regulations in cases of alleged harassment.
2. This Decision applies to all forms of harassment as defined in Article 12a of the Staff Regulations, for which it establishes specific means of redress. In parallel, the Directorate-General for Human Resources and Security shall establish a practical guide, which covers any form of behaviour that is unwelcomed in the world of work.

Article 2

Purpose

This decision aims to ensure:

- (a) an effective fight against harassment, consistent with the exercise of the Commission's duty of care towards its staff members;
- (b) a comprehensive and coherent set of measures to prevent harassment, including training, awareness-raising and counselling;
- (c) a comprehensive and coherent set of remedies to protect the rights of all persons affected by cases of alleged harassment.

Article 3

Scope

1. This Decision applies to all persons directly or indirectly working for the Commission regardless of their employment status. It shall hence also apply to persons who are not subject to the Staff Regulations and the CEOS without prejudice to the respect of the relevant legal provisions and conditions applicable to them.
2. This Decision shall not apply to local agents working in Union delegations, who are covered by other decisions.
3. The standard of protection against harassment laid down in this Decision shall be without prejudice to the protection guaranteed by national law, where applicable.
4. Depending on their employment status, victims shall have access to one or more of the following procedures:

- (a) the informal procedure involving the Chief Confidential Counsellor and the confidential counsellors, laid down in Chapter II of Title II;
- (b) the informal procedure involving the Mediation Service, laid down in Chapter III of Title II;
- (c) the formal procedure laid down in Title III.

Article 4
Definitions

For the purposes of this Decision, the following definitions apply:

- (d) ‘psychological harassment’ means psychological harassment as defined in Article 12a(3) of the Staff Regulations;
- (e) ‘sexual harassment’ means sexual harassment as defined in Article 12a(4) of the Staff Regulations;
- (f) ‘harassment’ means psychological or sexual harassment;
- (g) ‘person’ means a person directly or indirectly working for the Commission regardless of the employment status, with the exception of local agents;
- (h) ‘staff member’ means an official, temporary agent or contract agent;
- (i) ‘victim’ means a person who considers that he or she is or has been subject to harassment, without prejudice to whether or not such harassment is finally established;
- (j) ‘alleged harasser’ means a person who has allegedly harassed another person, without prejudice to whether or not such harassment is finally established;
- (k) ‘administrative inquiry’ means an administrative inquiry as defined in Article 2(7) of Commission Decision C(2019) 4231;
- (l) ‘request for assistance’ means a request submitted by a staff member pursuant to Article 24 of the Staff Regulations.

Chapter II **Principles**

Article 5
Prohibition of harassment

1. All persons subject to this Decision shall refrain from any form of harassment. The Institution shall give appropriate follow-up to any instance of harassment.
2. All persons shall contribute by their conduct to creating and maintaining cooperative relations in the workplace, where everyone is treated with respect, dignity and courtesy.

Article 6
Reporting on instances of harassment

1. Victims and witnesses of situations that might involve harassment may contact the actors and services mentioned in Article 11 to obtain guidance on the appropriate procedures to address and/or resolve situations in the best possible manner.

2. If the unit in charge of medical absences or Medical Service detect a pattern of long-term sick leaves in the same entity, and where there is a reported alleged link to harassment, it shall inform the Chief Confidential Counsellor, based on anonymised data. The Chief Confidential Counsellor shall inquire about the circumstances. To this end, he or she may contact the hierarchical superior of the manager in charge of this entity or the overseeing instance, where applicable.
3. Managers shall give appropriate follow-up to instances of alleged harassment within their entities, including by contacting relevant actors and services referred to in Article 11.
4. Any person who has communicated information on alleged harassment under one of the procedures set out in this Decision, provided that this is done in good faith and in compliance with the provisions of these guidelines, shall be protected against any acts of retaliation.

*Article 7
Confidentiality*

1. The persons and services entrusted with the analysis or handling of requests concerning alleged harassment shall ensure at all times the confidentiality of the information they receive in the context of those requests.
2. The confidentiality obligation may be waived in cases where urgent action is necessary for the protection of the vital interests of the person concerned.

*Article 8
Presumption of innocence*

The presumption of innocence of alleged harassers shall be guaranteed for the entire duration of all procedures.

*Article 9
Information*

1. The Directorate-General for Human Resources and Security shall maintain and regularly update a web portal containing all relevant information on the measures and procedures in place for the prevention and fight against harassment, including links to all the information concerning the actors and services referred to in Article 11. Those actors and services shall, within the limits of their individual mandate, exchange information, excluding personal data, which facilitates the tasks of the other actors, and in particular the prevention of harassment.
2. The relevant actors set out in Article 11 shall, in accordance with their respective mandates, collect and report disaggregated statistical data at regular intervals on allegations of harassment registered under the informal and the formal procedures.
3. Where contacted by any person covered by this Decision, the actors and services referred to in Article 11 shall provide that person with comprehensive information on the available procedures and services of the administration.

Chapter III

Institutional framework

Article 10

Function of Chief Confidential Counsellor

1. The Chief Confidential Counsellor function shall be established in the Directorate-General for Human Resources and Security.
2. The Chief Confidential Counsellor shall report directly to the Member of the Commission responsible for Administration with respect to the responsibilities set out in this Decision. He or she shall report annually to the Member of the Commission responsible for Administration on the fulfilment of his or her mandate.
3. The Chief Confidential Counsellor shall be selected among the persons with an established and proven record of relevant knowledge and professional experience and whose independence, impartiality and probity are beyond doubt. He or she shall be appointed for a period of 5 years, renewable once, after the approval of the Member of the Commission responsible for Administration.
4. The Chief Confidential Counsellor shall be independent in his or her work and shall neither receive nor accept any instructions as to his or her work.
5. The Chief Confidential Counsellor shall, both during and after his or her term of appointment, be subject to professional secrecy with regard to any confidential information which has come to his or her knowledge in the course of the performance of his or her mandate.
6. The Chief Confidential Counsellor shall have the overall responsibility for initiating the development of and coordination of the implementation of the policy on the prevention of and fight against harassment, including the coordination of the preventive actions, in addition to the tasks laid down in Article 22. This shall be without prejudice to the role of the Mediation Service pursuant to Decision C(2002) 601 and, in particular, Article 1(2) thereof and the role of the Investigation and Disciplinary Office of the Commission ('IDOC') pursuant to Decision C(2019) 4231.
7. The Chief Confidential Counsellor shall be provided with appropriate resources to carry out his or her tasks.

Article 11

Relevant actors and services

1. The following actors shall be responsible for different steps in the course of informal or formal procedures pursuant to this Decision based on their respective mandates and in coordination between themselves and the actors and services listed in paragraph 2:
 - (a) the Chief Confidential Counsellor shall, in particular, be the entry point for victims of harassment to provide prompt and confidential advice, information on available services, and support to the victims during the informal procedure and its aftermath. At the request of the victim, the Chief Confidential Counsellor shall provide his or her opinion on procedural aspects of the preliminary examination aimed at assessing

whether there is *prima facie* evidence of harassment in accordance with Article 39(2). He or she shall also help facilitating the implementation of interim protective measures and accompanying measures in accordance with Chapter VI. The Chief Confidential Counsellor shall also advise and support managers on prevention of harassment within their teams. He or she shall also respond to situations indicating potential harassment brought to his or her attention pursuant to Article 6. Moreover, The Chief Confidential Counsellor shall manage the network of confidential counsellors in accordance with Articles 22 and 23. The confidential counsellors shall, in particular, provide support on individual basis to victims. The Chief Confidential Counsellor and the confidential counsellors shall fulfil their mandate in accordance with the rules laid down in Title II. They shall not provide legal assessment of facts or conclude on the establishment of harassment. The alleged harasser shall not be included in the informal procedure led by Chief Confidential Counsellor and the confidential counsellors;

- (b) the Mediation Service shall notably offer direct or indirect mediation service between the victim and the alleged harasser in accordance with its mandate set down in Title II and Decision [C(2022) 601]¹⁰. It shall have exclusive competence for conciliation services between the victim and the alleged harasser;
- (c) the unit in charge of the formal procedure in the Directorate-General for Human Resources and Security shall be responsible for requests for assistance in accordance with Title III and notably Article 36;
- (d) IDOC shall address allegations of harassment brought to its attention in accordance with the rules laid down in Title III.

2. Without prejudice to their other competences laid down in separate legal acts, the following actors and services shall also be involved in the prevention of and the fight against harassment, as specified in this Decision:

- (a) lines managers;
- (b) competent HR services;
- (c) the Medical Service of the Commission, with due respect for medical confidentiality;

Article 12 *Training and support*

The Commission shall ensure appropriate training and support to the services and actors referred to in Article 11.

¹⁰ [reference to the new decision will be provided]

Chapter IV Prevention

Article 13 Prevention principles

1. The Directorate-General for Human Resources and Security shall establish a set of comprehensive measures for the prevention of harassment as part of the general psychosocial risks prevention measures. Those measures shall include information and awareness-raising campaigns, training and learning activities, advice and support, where needed. These measures shall be easily accessible and available for all persons, in particular to those holding management responsibilities so that they play their key role in the prevention of harassment. The Chief Confidential Counsellor shall coordinate the implementation of these measures.
2. Responsibility for actively promoting and applying the policy of preventing harassment shall lie primarily with managers and services in charge of human resources in the Commission departments but the efforts should be collective for the Institution and the wellbeing of all staff. The Chief Confidential Counsellor shall provide advice and support in that respect.
3. The Mediation Service shall also contribute to the prevention of harassment through general recommendations on systemic issues it detects during its work. Its contributions shall be detailed in the annual General Activity Report of the Mediation Service.

Chapter V Early intervention within the workplace

Article 14 Personal action and involvement of line managers

1. Where possible, persons who feel that they are the target of harassment are encouraged to raise the matter directly with the alleged harasser, to explain what behaviour they find unwelcomed and to make clear that they want it to stop.
2. Persons who feel that they are the target of harassment, or who have witnessed such behaviour, may inform their line manager, asking for the latter's involvement in resolving the matter. If the alleged harasser is the direct manager, the persons who feel that they are the target of harassment and the persons who have witnessed such behaviour may raise the matter directly with the line manager's hierarchy. Line managers may contact the Chief Confidential Counsellor to seek advice and support on the prevention of harassment within their teams.

The steps set out in paragraphs 1 and 2 shall not be a precondition for initiating an informal or a formal procedure laid down in Title II and Title III respectively.

Chapter VI

Interim protective measures and accompanying measures

Article 15

Interim protective measures

1. Where the Commission becomes aware of a case of potential harassment, it may take appropriate and proportionate interim measures to protect the victim. Such measures may, in particular, involve a transfer of the victim or of the alleged harasser to another entity. The Directorate-General of Human Resources and Security shall further detail the implementation of interim protective measures.
2. The fact that interim protective measures are taken shall not prejudice any final decision about whether harassment did or did not take place. Unless prevented by overriding reasons linked to the urgency of the situation, the appointing authority shall hear the person subject to an interim measure pursuant to paragraph 1, before taking that measure.
3. The appointing authority may ask the Chief Confidential Counsellor to support it in the assessment aiming to establish whether interim measures to protect the victim are needed. Where relevant, the Chief Confidential Counsellor may facilitate the implementation of interim protective measures, without prejudice to the competences of the respective services involved.

Article 16

Accompanying measures

1. In cases where an instance of harassment is established at the end of a formal procedure, appropriate measures shall be taken to accompany the victims, in order to mitigate the effects of the harassment and, where appropriate, facilitate their reintegration into the world of work.
2. The Chief Confidential Counsellor may be asked by the victim or by the Appointing Authority to coordinate the implementation of the accompanying measures.

Title II

The informal procedure

Chapter I

General provisions

Article 17

Purpose

The informal procedure shall aim at offering an appropriate assistance and, when relevant, an amicable resolution to the issues raised by the victim, without providing an assessment of the behaviour in legal terms.

Article 18
First contact

1. An informal procedure may be initiated at any time by the victim by contacting one of the following services:
 - (a) the Chief Confidential Counsellor;
 - (b) the Mediation Service.
2. Where the victim seeks contact with one of the actors referred to in paragraph 1, such actor shall systematically check with the victim if he or she has contacted the other actor.

Article 19
Parallel proceedings

1. Where the victim engaged in an informal procedure with a confidential counsellor, assigned to him or her by the Chief Confidential Counsellor, and subsequently initiates an informal procedure with the Mediation Service, the informal procedure with the confidential counsellor shall be automatically terminated.
2. Where the victim first initiates an informal procedure with the Mediation Service, the informal procedure involving the Chief Confidential Counsellor and confidential counsellors may no longer be initiated.

Article 20
Right to terminate the procedure

The victim may terminate the informal procedure at any time.

Chapter II

The informal procedure conducted by the Chief Confidential Counsellor

Article 21
Scope

The informal procedure involving support from the Chief Confidential Counsellor shall be available to the following persons:

- (a) staff members;
- (b) national experts seconded to the Commission;
- (c) persons employed under contracts concluded under national law;
- (d) service providers and their staff;
- (e) trainees;
- (f) junior professionals in delegations;
- (g) special advisers.

Article 22
Role of the Chief Confidential Counsellor

1. In addition to the competencies set out in Article 10, the Chief Confidential Counsellor shall be responsible for:
 - (a) informing victims of their rights and of available procedures;
 - (b) depending on the victim's needs, either assigning the case to a confidential counsellor, or referring the victim to relevant services in order to help them find a satisfactory solution to an identified problem;
 - (c) selecting and appointing the confidential counsellors, managing the network of the confidential counsellors, adopting its rules of procedure, ensuring appropriate training and support, including psychological supervision, to the members of the network, and potentially withdrawing the mandate of a confidential counsellor;
 - (d) at the request of the appointing authority, providing support to assess a need for interim protective measures and facilitate their implementation, without prejudice to the competences of the services involved, in accordance with Article 15;
 - (e) coordinate accompanying measures in order to mitigate the effects of the harassment and, where appropriate, facilitate victims' reintegration into the world of work, in accordance with Article 16;
 - (f) upon their request, listening to victims who engaged in the formal procedure, without however intervening at any stage of the formal procedure in accordance with Article 36;
 - (g) informing the Director-General or the Head of Service concerned of recurrent allegations of harassment occurring in the same Directorate-General or Service.
2. In exceptional cases, the Chief Confidential Counsellor may decide to perform the same tasks as confidential counsellors. Where acting as a confidential counsellor, he or she shall be subject to the rules applicable to such counsellors.

Article 23
The role of confidential counsellors

1. Confidential counsellors shall receive, listen to, support, inform and guide victims, referred to them by the Chief Confidential Counsellor, in their efforts to find satisfactory solution in a situation which victims perceive as involving harassment.
2. The confidential counsellors shall be trust-worthy, remain neutral and objective, and seek to clarify the circumstances of the situation.
3. The confidential counsellors shall be organised in a network managed by the Chief Confidential Counsellor.

Article 24
Initial interview with the confidential counsellor

1. Following the assignment of a case by the Chief Confidential Counsellor to a confidential counsellor, the latter shall organise an initial interview with the victim,

with the aim of determining his or her needs and difficulties and explaining the procedure.

2. Following the initial interview, the victim shall decide whether he or she wishes to pursue the informal procedure further.
3. In case the victim does not wish to pursue further with the confidential counsellor, the case shall be closed without further action, unless overriding reasons linked to the urgency of the situation require immediate intervention.

Article 25

Appointment and withdrawal of mandate of the confidential counsellors

1. Following an open call for expressions of interest, confidential counsellors shall be appointed by the Chief Confidential Counsellor, after informing their Directorate-General or Service of origin. The call for expressions of interest shall indicate the selection criteria, which shall include in particular the abilities necessary to perform the role of confidential counsellor, professional experience or training, knowledge or experience in the area of human resources, reasons for wanting to become a confidential counsellor, and availability.
2. Confidential counsellors shall be appointed for a term of two years, renewable twice. They shall exercise their mandate under the responsibility of the Chief Confidential Counsellor, but they shall remain assigned to their Directorate-General or Service of origin.
3. Before starting their mandate, they shall receive appropriate training, including on gender, diversity, inclusion and different dispute settlement mechanisms available in the Commission and their role.
4. Confidential counsellors shall, both during and after their term of appointment, be subject to professional secrecy with regard to any confidential information which has come to their knowledge in the course of the performance of their mandate.
5. The mandate of a confidential counsellor may be withdrawn by a decision of the Chief Confidential Counsellor where they fail to comply with the rules laid down in this Decision or the rules of procedure of the confidential counsellor network.

Article 26

Incompatibilities concerning confidential counsellors

1. The role of confidential counsellor shall be incompatible with the following positions:
 - (a) elected staff representative or member of a governing body of a representative trade union or professional organisation;
 - (b) member of any de jure or de facto staff association whose main aim is to intervene in the domain covered by the present Decision;
 - (c) agent in one of the following services:
 - the unit in charge of the formal procedure referred to in point (c) of Article 11(1);
 - the Security Directorate of the Directorate-General for Human Resources and Security;

- IDOC;
 - the HR Correspondent's team in each Directorate-General or Service;
 - career guidance services;
 - the Medical Service of the Commission;
 - the Mediation Service of the Commission;
 - the Legal Service team dealing with European civil service law.
2. Before appointing a person as a confidential counsellor, the Directorate-General for Human Resources and Security shall check whether the candidate is subject to:
 - (a) an administrative inquiry, pre-disciplinary proceedings or disciplinary proceedings; or
 - (b) a disciplinary sanction which still appears in their personal file.
 3. Where a person having applied following the call for expressions of interest referred to Article 25(1) falls within one of the categories listed in paragraph 2, the Chief Confidential Counsellor may reject their application.
 4. Where a confidential counsellor becomes covered by one of the categories listed in paragraph 2 after appointment, the Chief Confidential Counsellor shall suspend their mandate for the duration of the proceeding or until a disciplinary sanction appears in their personal file. Depending on the circumstances of each case and subject to providing the necessary justification, the Chief Confidential Counsellor may at any time withdraw a mandate of a confidential counsellor that has become covered by paragraph 2.
 5. Where, after appointment, a confidential counsellor takes up any of the positions listed in paragraph 1, the Chief Confidential Counsellor shall withdraw their mandate.

Article 27

Relations with the Directorate-General or Service of origin

1. The Directorate-General or Service to which the confidential counsellor is assigned shall provide him or her with the appropriate resources in order to carry out his or her tasks. Those resources shall in particular include an appropriate place where victims may be received and appropriate office and IT equipment.
2. Each confidential counsellor's travel costs for attending training and other activities of the network shall be disbursed from the budget of the Directorate-General or Service where he or she is assigned.
3. The time devoted by confidential counsellors to their tasks and training shall be taken into account by their Directorate-General or Service in the overall determination of their workload.
4. The activity carried out by a confidential counsellor in the framework of this Decision shall be considered as work in the interests of the institution.
5. The competent appointing authority for the authorisations under Articles 17 and 17a of the Staff Regulations shall seek the prior approval of the Chief Confidential Counsellor in relation to the activities carried out as confidential counsellors.

Article 28
Conflict of interests

1. The Chief Confidential Counsellor shall decide on the attribution of the cases. A confidential counsellor shall in principle not deal with a file if he or she is assigned in the same Directorate-General or Service as the victim or the alleged harasser.
2. A confidential counsellor who finds himself or herself in a situation of conflict of interest in a case for which his or her involvement is required shall immediately interrupt the procedure and inform the Chief Confidential Counsellor so that appropriate action can be taken.

Article 29
Principle of prior authorisation

1. Unless urgent action is needed to protect the vital interests of the victim, the Chief Confidential Counsellor shall, in the context of the informal procedure, only contact other services or disclose to third parties the information provided by the victim with the prior authorisation of that person.
2. In exceptional cases, where the urgency of the situation requires them to act to protect the vital interests of the victim without his or her prior authorisation, the confidential counsellors shall do so only with the prior authorisation of the Chief Confidential Counsellor.

Article 30
Referral to the Mediation Service

1. Where at any time during the informal procedure, the victim wishes to benefit from mediation, the Chief Confidential Counsellor, taking into account the opinion of the confidential counsellor, shall refer the victim to the Mediation Service. The Mediation Service shall assess whether the case is suitable for mediation and inform the victim accordingly.
2. The victim may contact the Mediation Service at any time. The victim shall inform the Chief Confidential Counsellor of his or her decision. The Chief Confidential Counsellor shall consequently close the case.

The Chief Confidential Counsellor and the Mediation Service shall establish a memorandum of understanding in order to detail modalities of their cooperation covering the scope of this Article.

Article 31
Time limits

1. The informal procedure shall be terminated within two months from the initial interview referred to in Article 24. In exceptional cases, the Chief Confidential Counsellor may extend that deadline once by not more than one month.
2. When the period laid down in paragraph 1 has expired, the confidential counsellor shall inform that person that their mandate is due to end. Where the victim wishes to benefit from mediation, the confidential counsellor shall inform that person that he or she may seek further remedy under the informal procedure involving the Mediation Service, pursuant to Chapter III of Title II, or the formal procedure, pursuant to Title III.

Chapter III

The informal procedure conducted by the Mediation Service

Article 32 *Scope*

Any person to whom Decision C(2002) 601 applies may initiate the informal procedure before the Mediation Service, either directly or after having consulted a confidential counsellor pursuant to Chapter II of this Title.

Article 33 *Role*

1. In accordance with Decision C(2002) 601, the Mediation Service is a Commission service, independent of any instruction or influence, which acts as a facilitator and intermediary between the parties and assist them in finding an amicable resolution to settle disputes or difficulties that may arise at work. In carrying out its duties, it acts informally and confidentially and it is bound by the principles of independence, neutrality and impartiality.
2. The Mediation Service shall provide impartial advice to the victim and may offer mediation where the situation is deemed suitable for an amicable resolution between the parties involved. The Mediation Service may hear the concerned parties and, as appropriate, any other person. In addition, pursuant to Article 2(2) of Commission Decision C(2002) 601, the Mediation Service may request the information needed for its work from any of the Commission's services, without prejudice to paragraph 3.
3. The party requesting the intervention may withdraw from the mediation process at any stage and shall inform the Mediation Service of his or her decision. The Mediation Service shall consequently close the case.
4. Before requesting additional information from the confidential counsellor or from the Chief Confidential Counsellor, the Mediation Service shall obtain the agreement of the victim.

Article 34 *Instruments*

1. Where the Mediation Service considers that a case may be solved by mutual agreement or by a compromise solution, it may submit either orally or in writing an appropriate individual recommendation to the person and service(s) concerned for consideration. The Mediation Service may request written explanations where a service does not follow a recommendation.
2. Where the Mediation Service considers that a formal procedure could be more appropriate for handling the situation, it shall inform the person concerned.

Title III

The formal procedure

Article 35

Scope

1. The procedure laid down in this Title shall be available to:
 - (a) staff members who consider themselves to be victims of harassment;
 - (b) former staff members who consider themselves as having been victims of harassment, where the alleged facts occurred while they were in active service at the Commission.
2. In addition to the procedure laid down in this Title, the following categories of persons may directly bring allegations of harassment to the attention of IDOC, without prejudice to protection afforded by national law, where available:
 - (a) staff members;
 - (b) former staff members;
 - (c) national experts seconded to the Commission;
 - (d) persons employed under contracts concluded under national law;
 - (e) service providers and their staff;
 - (f) trainees;
 - (g) junior professionals in delegations;
 - (h) special advisers.
3. IDOC shall address allegations of harassment brought to its attention under this paragraph in accordance with Decision C(2019) 4231.
4. The formal procedure shall be guided by the principles of fairness, diligence and impartiality towards the victim and the alleged harasser.

Article 36

Opening of the procedure

1. To benefit from the procedural guarantees provided for in this Title, the victim shall submit a request for assistance to the unit in charge of the formal procedure in the Directorate-General for Human Resources and Security.
2. In support of his or her request, the victim shall provide all the elements of proof at his or her disposal that he or she deems necessary for an analysis of the case.
3. During the formal procedure, the victim may ask the Chief Confidential Counsellor to listen to him or her or seek advice on the course of and approach to the formal procedure.
4. Notwithstanding his or her role pursuant to paragraph 3 and Article 39(2), the Chief Confidential Counsellor shall not intervene in any stage of the formal procedure.

Article 37

Interim protective measures and information exchange

1. The unit in charge of the formal procedure or IDOC may recommend to the appointing authority, at any time during the procedure, that the appointing authority take a measure pursuant to Article 15 of this Decision.
2. Without prejudice to specific provisions laid down in this Title, the unit in charge of the formal procedure may, where necessary, exchange information, including personal data, with relevant services involved in the implementation of the interim protective measures, when such information is required for the legitimate performance of tasks.

Article 38

Preliminary examination of the elements put forward by the victim

1. The unit in charge of the formal procedure shall transmit the request for assistance to IDOC, which shall conduct a preliminary assessment to determine whether those elements constitute *prima facie* evidence of harassment or any other inappropriate behaviour.
2. Within three months following the registration of the request for assistance, the unit in charge of the formal procedure shall perform a preliminary examination of the factual and legal elements put forward by the victim taking into account the preliminary assessment carried out by IDOC. The unit in charge of the formal procedure shall have the possibility to extend the deadline to perform the preliminary examination by one month if this was necessary to take account of the opinion of the Chief Confidential Counsellor requested by the victim pursuant to Article 39(2).
3. As part of the preliminary examination referred to in paragraphs 1 and 2, fact finding activities may be carried out including, where necessary, hearing the victim and other persons, such as witnesses proposed by the victim. The unit in charge of the formal procedure may also contact the actors or services responsible for human resources for the Directorate-General or Service of the victim and of the alleged harasser in order to obtain their assessment of the situation and all elements relevant to the case.
4. To enable a holistic assessment of the case, the unit in charge of the formal procedure may ask for an assessment of the situation by a psychologist or psychiatrist from the Medical Service. Such an assessment may also be requested by the victim.

Article 39

Right to be heard

1. Where the unit in charge of the formal procedure considers that the elements put forward by the victim in the context of the request for assistance do not constitute *prima facie* evidence of harassment, it shall provide a summary of its considerations to the victim, who may submit his or her comments within 10 working days of receipt of the summary.
2. The victim may ask the Chief Confidential Counsellor to provide his or her opinion on procedural aspects of the preliminary examination, based on the summary of the considerations. The opinion of the Chief Confidential Counsellor shall specify

whether and for what reasons certain procedural elements of the preliminary examination might require further attention. The Chief Confidential Counsellor shall provide his or her opinion to the victim and to the unit in charge of the formal procedure within the deadline referred to in paragraph 1 prolonged by 5 working days. The opinion of the Chief Confidential Counsellor shall be independent of any potential comments provided by the victim pursuant to paragraph 1 may be requested only once.

3. Taking into account the comments submitted by the victim and, if applicable, the opinion of the Chief Confidential Counsellor, within the deadline referred to in paragraph 1 or 2, the unit in charge of the formal procedure shall finalise the preliminary examination, in consultation with IDOC.

Article 40

Follow-up of the preliminary examination in case of no prima facie evidence of harassment

1. Where the preliminary examination concludes that there is no prima facie evidence of harassment, the appointing authority shall reject the request for assistance and shall inform the victim of the reasons thereof.
2. The appointing authority shall also provide to the victim information concerning remaining measures to address their situation, including the possibility to turn to the Chief Confidential Counsellor who may provide additional support to the victim following the preliminary examination of the case, as well as detailed advice on options available to victims outside the formal procedure pursuant to this Decision.

Article 41

Follow-up of the preliminary examination where there is prima facie evidence of harassment

1. Where the preliminary examination concludes that the elements put forward by the victim constitute *prima facie* evidence of harassment, the appointing authority competent for the opening of administrative inquiries shall mandate IDOC to undertake such an inquiry in accordance with Decision C(2019) 4231.
2. The appointing authority competent to decide on the request for assistance shall inform the victim of the opening of an administrative inquiry. The unit in charge of the formal procedure shall forward to IDOC any information it receives that is relevant for the administrative inquiry.

Article 42

Information from IDOC

IDOC shall inform the unit in charge of the formal procedure where:

- (a) it has finalised the administrative inquiry, and the appointing authority decided to close the case without further action because the inquiry established that there was no harassment;
- (b) it has finalised the administrative inquiry concerning a person covered by the second sentence of Article 2(1) of Decision C(2019) 4231, which corroborated the allegations and the appointing authority took the appropriate measures;
- (c) it has finalised the administrative inquiry and, based on the established facts, the appointing authority decided to open a pre-disciplinary proceeding;

- (d) the pre-disciplinary proceeding referred to in point (c) has ended and the appointing authority decided that no case can be made against the person concerned;
- (e) the pre-disciplinary proceeding referred to in point (c) has ended and the appointing authority decided to address a warning to the person concerned;
- (f) the pre-disciplinary proceeding referred to in point (c) resulted in the appointing authority deciding to initiate a disciplinary proceeding;
- (g) the disciplinary proceeding ended with a penalty imposed by the appointing authority;
- (h) no penalty was imposed on the person concerned as a result of the disciplinary proceeding.

Article 43

Follow-up to the IDOC inquiry

The appointing authority shall take a reasoned decision in reply to the request for assistance in the cases referred to in points (a), (b), (d), (e), (g) and (h) of Article 42.

Article 44

Cases where the alleged harasser is a Member of the College

If the claim is directed towards a Member of the College, and information constituting prima facie evidence has been provided, the Director-General for Human Resources and Security shall inform both the President and the Member of the Commission in charge of Administration, or only one of them if the claim concerns the other. The principles outlined in chapter II of Title I of this Decision shall be taken into account in the follow-up that is given to these claims.

Article 45

Complaints

Victims who have submitted a request for assistance may lodge a complaint to the appointing authority against the final decision on the request for assistance taken in accordance with Title III of this Decision, in accordance with Article 90(2) of the Staff Regulations.

Article 46

Protection of victims of harassment and of witnesses called to testify

1. Without prejudice to the rules on the maximum duration of contracts and to those governing the extension of contracts of temporary and contract agents, the victim shall not suffer any prejudicial effects on the part of the Commission, where, at the end of a formal procedure:
 - (a) it is established that harassment took place; or
 - (b) there is no indication that the allegations were made in bad faith.
2. Without prejudice to the rules on the maximum duration of contracts and to those governing the extension of contracts of temporary and contract agents, witnesses called upon to testify during the formal procedure shall not be subject to any retaliatory measures. They may lodge a request for assistance in accordance with

Article 24 of the Staff Regulations with a view to seeking the Commission's assistance against possible retaliatory measures.

Article 47
Compensation

The Commission shall jointly and severally compensate the staff members for damage suffered in cases of harassment in accordance with the second paragraph of Article 24 of the Staff Regulations.

Title IV

Procedure before national authorities

Article 48
Remedies before national authorities

1. While benefiting from the right to access to national courts, the victim shall, where relevant, comply with his or her obligations under the Staff Regulations, and in particular Article 19 thereof.
2. The victim shall inform the appointing authority before bringing his or her allegations before a national court or authority with a view to allow the Commission to comply with its duty of care and to ensure the effectiveness of remedies in the Commission. Where no formal procedure has been previously initiated, the appointing authority shall transmit the case to IDOC with a view to performing a preliminary assessment and, where appropriate, to conducting an administrative inquiry into the facts.
3. A victim who, in the framework of the legal proceedings before national authorities, has to disclose information or documents of which he or she has knowledge by reason of his or her duties, shall seek permission from the appointing authority in accordance with Article 19 of the Staff Regulations prior to such disclosure. Permission shall be refused only where the interests of the Union so require and to the extent that such refusal would not entail criminal consequences as far as the staff member is concerned.
4. Because of the nature of the alleged facts, paragraph 3 does not apply to matters brought before national courts or authorities, in situations of imminent or immediate danger or which are related to acts of physical violence that harm the integrity of the victim.
5. Insofar as it is not prohibited under the rules governing the procedure launched before the national judicial authorities, the victim shall keep the appointing authority informed of the progress of the file, as this could have an impact on its own procedures.

Article 49
Assistance to the victim in national procedures

1. The appointing authority may decide to provide, upon request, support to any person to whom this Decision applies and who is a victim and wishes to take further legal steps before a national authority against the harasser.

2. Assistance to staff members may include, where appropriate, the payment of reasonable legal fees. The assistance may be provided in the following situations:
 - (a) if, at the end of the disciplinary procedure concerning a case of harassment, it is established that harassment within the meaning of Article 12a of the Staff Regulations took place;
 - (b) where, at the end of an administrative procedure, the appointing authority decides to initiate disciplinary proceedings;
 - (c) in exceptional cases not covered by points (a) and (b).

Article 50

Cooperation with national authorities

Where a national authority requests the assistance of the Commission in the context of legal proceedings initiated by a person who considers himself or herself to be a victim of harassment, the Commission shall cooperate with that authority, in accordance with the principle of sincere cooperation.

Article 51

Decisions under Article 19 of the Staff Regulations

1. Where a staff member is requested by a national authority to appear before it to testify in legal proceedings concerning alleged harassment, the staff member concerned shall request an authorisation to do so to the appointing authority, in accordance with Article 19 of the Staff Regulations.
2. Before taking a decision on the request for authorisation, the appointing authority shall verify whether IDOC has conducted an administrative inquiry into the case or whether such an inquiry is ongoing.
3. Where no administrative inquiry has been conducted or is pending, IDOC shall conduct a preliminary assessment without delay and, where necessary, an inquiry into the matter, except for cases involving a Member of the Commission for which Article 44 shall apply.
4. The decision on the request referred to in paragraph 1 shall be a decision within the meaning of Article 90(1) of the Staff Regulations. When taking it, the appointing authority shall take into account all available information, including the findings made during any formal procedure or administrative inquiry already concluded. Should an administrative inquiry still be pending, the appointing authority shall also take IDOC's preliminary assessment into account.
5. The appointing authority shall refuse the authorisation referred to in paragraph 1 only where the interests of the institution so require and such refusal would not entail criminal consequences for the staff member concerned. The decision to grant or refuse authorisation shall take account of whether the staff member concerned is to benefit from immunity from legal proceedings pursuant to Article 11(a) and 17 of the Protocol on Privileges and Immunities. Where the appointing authority refuses to give authorisation, it shall communicate to the national judicial authority its findings and the reasons for the refusal.
6. The appointing authority may decide to inform the national authorities of the existence of any formal procedure or administrative inquiry on the matter and shall,

upon request of the national judicial authorities, provide all relevant documents pertaining to such procedures once they are finalised.

Article 52

Decisions under Article 17 of the Protocol on Privileges and Immunities for cases of alleged harassment

1. Where the Commission receives a request from a Member State authority to waive the immunity of a staff member for a case of harassment, the Commission shall verify whether an administrative inquiry has been conducted by IDOC or whether such an inquiry is ongoing. Where that is not the case, IDOC shall conduct a preliminary assessment as soon as possible and, where necessary, an administrative inquiry into the matter, except for cases involving a Member of the Commission. In cases involving a Member of the Commission, Article 44(2) of this Decision shall apply.
2. Where the Commission decides to apply Article 17 of the Protocol on Privileges and Immunities in the context of a case of harassment brought before a Member State authority, all available information shall be taken into account, including the findings made during any formal procedure or administrative inquiry already concluded. Where an administrative inquiry is pending, the Commission shall also take IDOC's preliminary assessment into account.
3. The Commission may decide not to waive the immunity of a staff member where it would be contrary to the interests of the institution pursuant to Article 17 of the Protocol on Privileges and Immunities. In that case, the findings of the Commission and the reasons for the refusal to waive the immunity shall be communicated to the Member State authority.
4. The Commission may decide to inform the Member State authorities of the existence of any formal procedure or administrative inquiry on the matter and shall, upon request of the national authorities, provide all relevant documents pertaining to such procedures once they are finalised.

Article 53

Assistance to staff members called before a national authority

1. Where the appointing authority takes a decision to waive the immunity of a staff member or to authorise a staff member to disclose, during legal proceedings, information he or she has knowledge of by reason of his or her duties, the staff member concerned may request the appointing authority to provide him or her with appropriate means of assistance pursuant to Article 24 of the Staff Regulations.
2. In deciding upon the request referred to in paragraph 1, the appointing authority shall take into consideration all available information, including the findings made during a formal procedure or an administrative inquiry already concluded, as well as, where an administrative inquiry is still pending, IDOC's preliminary assessment.
3. Assistance shall cover at least the reasonable legal fees incurred by the staff member. Where at the end of a judicial procedure, the staff member is convicted of a criminal offence, the legal fees paid to him or her in the form of assistance shall be recovered.

Title V

Final provisions

Article 54

Review

The Commission shall assess the implementation of this Decision by [*date five years from entry into force*].

Article 55

Repeal

Commission Decision C(2006) 1624/3 of 26 April 2006 is repealed.

Article 56

Date of entry into force and transitional provisions

This Decision shall enter into force on

Articles 31 and 38 shall not apply to cases registered before that date.

Confidential counsellors appointed before the entry into force this Decision shall continue to exercise their functions until the end of their mandate.

Done at Brussels,

For the Commission

Johannes Hahn

Member of the Commission