

**PROCEDURAL ACT
OF THE ENERGY COMMUNITY SECRETARIAT**

2023/06/ECS: On the adoption of a special procedure for disciplinary action in cases of alleged harassment

The Energy Community Secretariat (“the Secretariat”),

Acknowledging that psychological and sexual harassment in the work environment affects a person’s psychological, physical and sexual health, dignity and social environment,

Determined to promote a work environment of zero tolerance towards harassment,

Committed to complement the clear and unequivocal prohibition of harassments and the consequences of such behaviour by procedural rules conducive to due process for all staff members and officials involved;

Based on Section 3.4 of the Staff Regulations and Article 67(e) of the Treaty,

ADOPTS THE FOLLOWING PROCEDURAL ACT:

Article 1

Reporting of alleged harassment

1. Any official of the Secretariat (as well as locally recruited persons and research fellows) which considers that he or she has been exposed to harassment as defined in Section 3.4 of the Staff Regulations by another official of the Secretariat shall report this in writing within three months from when the alleged offence occurred.
2. The report shall not require any specific format but provide sufficient details to support the allegation. The official shall describe the specific offensive acts, the time, location, and circumstances under which they took place and any other information of relevance. The official shall identify the alleged harasser as well as any witness to the acts or anyone else who may have information of relevance.
3. Depending on who the alleged harasser is, the official shall report to the Director who shall be bound to strict secrecy, including vis-à-vis all other officials and their superiors, without prejudice to the following paragraph.
4. Within two working days from the date when the Director was informed, he/she will nominate a Staff Committee to investigate the matter.
5. In case the Director is the alleged harasser, the written report shall be forwarded to the President and the Vice-President of the PHLG.

Article 2
Staff Committee

1. The Staff Committee shall include members from different units of the Secretariat, including at least one member at the same hierarchical level with the official alleging harassment, and at least one member at the same hierarchical level with the alleged harasser). It shall include at least one member of each gender.
2. The members of the Staff Committee shall be bound to strict secrecy, including vis-à-vis all other officials and their superiors.

Article 3
Procedure before the Staff Committee

1. The Staff Committee shall receive the written report referred to in Article 1. The chair of the Staff Committee shall present the report to the alleged harasser and request a written response within a deadline of ten working days. If the Staff Committee considers fit, it shall request a written rebuttal within a deadline of five working days. The Staff Committee may invite both the reporting employee and the alleged harasser for separate interviews. The Staff Committee is entitled to request any additional document or information relevant and may require any official to furnish evidence orally or in writing. Employees requested to furnish evidence shall be bound to strict secrecy, including vis-à-vis all other officials and their superiors.
2. The Staff Committee shall adopt and submit to the Director a report containing a record of its proceedings and a summary of the matter and its recommendations with a justification no later than a month after its appointment. The Staff Committee's report shall represent the opinion of the majority of its members. Separate opinions may be attached to the Staff Committee's report. The report shall not be shared with other officials and their superiors, including the alleged harasser and the reporting employee.
3. The Staff Committee's recommendations may include, but not be limited to, the following disciplinary measures:
 - a) a written warning;
 - b) an obligation to undergo appropriate and sufficient training and counselling at the official's expense;
 - c) termination of the respective agreement for misconduct, in accordance with Section 6(d) of the Staff Regulations;
 - d) termination of the respective agreement without notice for any form of misbehaviour, based on sexual or other motives, in accordance with Section 8(e) of the Staff Regulations.

The severity of the disciplinary measures recommended shall be commensurate with the seriousness of the harassment. To determine the seriousness of the harassment, the Staff Committee shall take into account all relevant circumstances, including the nature of the misconduct and the circumstances in which it occurred, whether the misconduct involves repeated action or behaviour, the conduct of the alleged harasser throughout the course of his/her career, etc.

Article 4
Decision by the Director

1. Within ten working days from receipt of the Staff Committee's report, the Director shall inform both parties in writing of his/her decision, including any disciplinary measures, with a copy to the Staff Committee. Before taking his/her decision, the Director shall invite both the reporting official and the alleged harasser for separate interviews.
2. The decision by the Director is subject to the remedies envisaged by Articles 13 to 15 of the Staff Regulations, as well as Procedural Act No 01/2011 PHLG-EnC of the Permanent High Level Group of the Energy Community of 23 March 2011 laying down the rules governing the arbitration procedure in staff matters under Article 14 of the Staff Regulations.

Article 5
Entry into force

This Procedural Act enters into force on the day of its adoption.

For the Energy Community

A handwritten signature in black ink that reads "Artur Lorkowski".

Director

Artur Lorkowski

Done in Vienna on 18 October 2023