

## EU-OSHA POLICY ON MANAGEMENT OF CONFLICT OF INTEREST

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## 1 Purpose and overview

As a EU body, EU-OSHA is committed to good governance.

This policy has mainly a preventive and corrective nature and serves two overarching purposes: maintaining the integrity of the decisions, opinions and recommendations issued by EU-OSHA and fostering accountability in relation to the Agency's work and activities.

This policy aims at establishing a comprehensive framework for the management of conflict of interest that can arise within the Agency or in relation to the work of the Agency. This includes:

- To provide a clear definition on conflict of interest, interest, and management of conflict of interest;
- To describe the main steps to be undertaken by the Agency in relation to the management of possible conflict of interests situations;
- To determine the scope of application of the policy;
- To set out roles and responsibilities within the Agency;
- To envisage awareness actions with the objective of promoting a thorough understanding of conflict of interest among the individuals concerned.

The policy builds on a risk assessment exercise carried out by the Agency to identify its exposure to the risk of conflict of interest.

In general the risk level is considered to be low. This is in particular due to the role of the Agency which does not include regulation or inspection. Furthermore, there is no direct financial impact from the Agency's work on its stakeholders. Finally, the governance model of the Agency is a strong preventive element. Several interests are represented and there are strong elements of collegial decision-making.

However, the lack of a clear policy and rules could possibly raise the risk level (both real and perceived) and in general the Agency's exposure to conflict of interest. The present policy and related procedures aim at mitigating such risk.

The following areas have been identified as deserving special attention to reduce the real and perceived risk level:

- Absence of a procedure defining how to detect possible situations of conflict of interests and how to react if conflicts of interests are identified;
- Absence of a procedure for dealing with breach of trust situations;
- A lack of awareness about the conflict of interest issue among those concerned.

This policy addresses full and alternate members of the Agency's Governing Board and of Advisory Groups and observers. For the sake of transparency, the Agency's Director and the Heads of Unit shall also submit their declarations of interests and a summary of their CVs.

Statutory staff members are covered by the provisions included in the Regulation No 31 (EEC), 11 (EAEC) laying down the Staff Regulations of Officials and the Conditions of Employment of Other Servants of the European Economic Community and European Atomic Energy Community (in particular Title II and Annex IX thereof) as well as in the Agency's Financial Regulation and in the Code of good administrative behaviour. These provisions are executed via the relevant implementing measures and procedures.

For the purpose of preventing and managing conflict of interest, the treatment of Seconded National Experts, trainees and local staff shall be aligned to the one reserved to statutory staff. For interim and external staff, a clause related to the management of conflict of interest shall be included in the contract with the service providers.

The policy is drafted in compliance with Regulation (EC) No 45/2001 of the European Parliament and of the Council of 18 December 2000 on the protection of individuals with regard to the processing of personal data by the institutions and bodies of the Community and on the free movement of such data.

Further information on how personal data are processed is provided in the specific privacy statement (Annex 1).

## 2 Concept and key terms

A **conflict of interest** refers to a situation where the impartiality and objectivity of a decision, opinion or recommendation is or might be perceived as being compromised by a personal interest held or entrusted to an individual. Not only actual impartiality and objectivity is important, but also perception of impartiality and objectivity. Appearance of conflict of interest can constitute a reputational risk for the Agency.

An **interest** may be of financial or non-financial nature and it may concern a personal or a family relationship (to be understood as close family circle: parents, stable partner, children) or a professional affiliation.

Interests may be direct or indirect.

**Direct interests** are interests of personal benefit that are susceptible to generate a benefit (or loss) for the concerned individual and that are likely to exert a direct influence over the individual's behaviour in performing his/her role in relation to EU-OSHA.

Direct interests include (non-exhaustive list): employment as a free-lance consultant by the Agency, employment, consultancy or strategic advisory role for an OSH company or holding shares or investment funds in an OSH-sector company; work carried out for an organisation operating in the field of work of EU-OSHA during the last 10 years, whether or not such work was regularly or occasionally remunerated.

**Indirect interests** are other interests that may exert some influence over the individual's behaviour.

Indirect interest include (non-exhaustive list): receiving public funds (grants) from an OSH research centre or firm; intellectual interests of non-pecuniary nature or material benefit, arising from professional activities or affiliation with national and international organizations operating in fields related to the area of work of EU-OSHA.

**Legitimate interests** are interests of a particular individual in his/her capacity as representative of an organization or an interest group within the governance structure of the Agency (e.g., Governing Board member, Advisory Group member etc.).

**Management of conflict of interest** is part of the broader risk management process. It is defined as a continuous, proactive and systematic process of identifying, assessing, and managing potential conflict of interest situations in line with the conflict of interest policy and procedures, carried out at the most appropriate level within the Agency.

## 3 Scope of application

According to the risk assessment performed by the Agency in relation to the exposure to conflict of interest and by virtue of their role performed at the Agency, this policy shall apply to all those individuals who are supposed to take significant decisions or who have substantial influence over these decisions by providing strategic orientation. These are:

- **Full, alternate members and observers of the Governing Board;**
- **Full, alternate members and observers of the Advisory Groups;**
- In addition to their obligations and duties resulting from the Staff Regulations. Financial Regulation and Code of good administrative behaviour, **the Director and the Heads of Unit** shall sign a declaration of interests and submit a standardized CV.

## 4 Roles & Responsibilities

This policy foresees two levels of involvement:

- **Screening and assessment** of the declaration of interests and summary of CVs;
- **Validation of the assessment.** The validation of the assessment is not systematic and is carried out only if any issue is spotted at the assessment phase.

For the Governing Board and the Advisory Groups, the screening and assessment shall be performed by one individual (respectively, one member of the Agency's Network Secretariat and a Head of Unit), whereas the validation of the assessment, wherever appropriate, shall be carried out by a collegial body within the Agency, the Conflict of interest committee.

The Conflict of interest committee is composed by the Heads of Unit and the Internal Control Coordinator.

For the Director, the screening shall be carried out by his/her Reporting officers and the validation, where appropriate, by the Chair and Vice-Chair of the Governing Board.

For the Heads of Unit, the screening and the validation shall be carried out by the HR section and the validation, where appropriate, by the Director.

## 5 The 5 key steps in the conflict of interest management process



### Step 1: Declaration of interests and summary of CV

Declarations of interest are a key element in ensuring transparency and reducing the risk of perceived conflicts of interest. They also reduce the risk of real conflicts of interest by allowing to detect conflicts of interest in due time. The summary of the CVs will help identifying interests from previous activities.

Upon taking up their role at the Agency, the individuals concerned by this policy (cf. section 3) shall complete and sign a pre-defined statement where they declare their and their close family circle's interests, affiliations, memberships and relations to organizations, companies and networks related to the area of work of EU-OSHA (cf. *Declaration of interests template*<sup>1</sup>). They shall also complete and submit a standardized summary of CV (cf. *summary of CV template*<sup>2</sup>).

For the definition of interests, cf. section 2. **Legitimate interests shall not be declared.**

The declarers shall assume individual responsibility by declaring their interests or absence of interests in good faith.

Declaring an interest does not necessarily mean being in a situation of conflict of interest, nor does it automatically disqualify from participating in the activities of the Agency.

The declarers shall be directly responsible to submit an updated declaration or a summary of CV whenever the situation changes with respect to the interests declared. In any case, updated declarations and summaries of CVs shall be submitted every five years.

Governing Board members (full and alternate) and observers, Advisory Group members (full and alternate) and observers, apart from submitting their declarations and summaries of CVs, shall be

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<sup>1</sup> cf. Annex B under Procedure related to the submission, screening and assessment of declarations of interests and summaries of CVs and validation for Governing Board and Advisory Groups members (full/alternate/observers), Annex 2.

<sup>2</sup> cf. Annex D under Procedure related to the submission, screening and assessment of declarations of interests and summaries of CVs and validation for Governing Board and Advisory Groups members (full/alternate/observers), Annex 2.

invited by the Chair to declare if they consider having a conflict of interest in relation to any agenda item at the beginning of each meeting. In addition, specific declarations may be requested for specific agenda items.

## **Step 2: Screening and assessment of the declaration of interests**

The screening and assessment are to be understood as a subjective judgement of the assessors on the basis of pre-determined criteria (see below) and are based on a desk review of the declarations of interests and summaries of CVs submitted by the declarers. The assessors shall also consider the appearance of a conflict of interest.

To determine the significance of the conflict of interest, the reviewer should take into consideration the nature of the presumed interest (direct, indirect etc.) and carry out the assessment on the basis of the following criteria and principles:

### **Criteria**

- (1) **Likelihood of undue influence:** the likelihood that decisions, opinions and recommendations made would be unduly influenced by a personal interest that goes beyond the legitimate interest of the individual.
  - What is the value of the personal/undue interest?
  - What is the scope of the relationship under scrutiny?
  - What is the extent of discretion in the decision-making process?
- (2) **Seriousness of the potential harm or wrong** that could result from such influence.
  - What is the value of the decision/opinion/recommendation?
  - What is the scope of the consequences?
  - What is the impact on accountability?
- (3) **Availability of mitigating measures** that could reduce the likelihood or limit the harm.

### **Principles**

- (1) **Proportionality and efficiency:** the balance of expected benefits and risks should be taken into account;
- (2) **Fairness:** similar treatment should be applied to individuals that are in the same situation;
- (3) **Transparency:** screening and assessment shall be carried out according to harmonized criteria and communicated to the concerned individuals and stakeholders.

## **Step 3: Actions and sanctions**

If the screening and assessment of the declarations raise concerns about a possible conflict of interest or its appearance, the reviewers shall suggest preventive and remedial actions. These shall be validated as explained in Step 4.

**Preventive actions** shall be suggested in a situation in which interests are properly and transparently declared and the conflict of interest has not yet materialized and is of a case-specific nature. Such actions include:

- Informal exchange with the declarer informing about the outcome of the assessment and reminding him/her about his/her obligations arising from the policy;
- Notification to other parties that could contribute to mitigate the potential conflict of interest;
- Invitation to the declarer to abstain from taking part in discussions or/and deliberations and voting (if applicable) where his/her opinion or vote may be perceived as biased in the light of the potential conflict of interest, provide specialist advice only or leave the room. For the Governing Board and Advisory Groups, it is the Chair who takes the initiative. At Governing Board and Advisory Groups meetings, the declarer may be replaced by his/her alternate.
- Abstention of the declarer from taking up roles that seems not to be compatible with his/her situation of possible conflict of interest (e.g. Chair, Vice-Chair or group coordinator within the Governing Board).

**Remedial actions** shall be suggested in two scenarios:

- (1) the potential conflict of interest has already materialised;
- (2) the declarer either failed to declare his/her interests deliberately or because of gross negligence and/or failed to comply with his/her obligation under this policy (being in a position of “breach of trust” vis-à-vis the Agency).

Actions may include:

- Review or withdrawal of the decisions taken with the contribution of the concerned declarer;
- Initiation of the “breach of trust” procedure<sup>3</sup>, which may lead to a formal notification to the relevant appointing authority and the Anti-Fraud Office of the European Commission, where appropriate.

#### **Step 4: Validation**

The actions and sanctions, if any, resulting from the screening and assessment of the declaration as suggested by the reviewer shall be validated as indicated in section 4.

The detailed steps related to the submission, screening, assessment and validation of the declarations of interests and summaries of CVs are described in a dedicated procedure<sup>4</sup>.

#### **Step 5: Monitoring and reporting**

**Transparency** is a key principle of the Agency’s approach to prevention and detection of potential conflict of interest situations and a cornerstone of the monitoring and reporting of this policy.

The Agency commits to make publicly available and accessible from the website the following information:

- Agency’s policy on management of conflict of interest;
- Rules of procedure of the Agency’s Governing Board;
- Names of the members (full/alternate/observers) of the Governing Board and Advisory Groups and the names of the organizations they represent/belong to in conformity with the relevant data protection provisions (Regulation (EC) No 45/2001);
- Declarations of interests and summaries of CVs of the members (full/alternate/observers) at the Governing Board and Advisory Groups as well as of the Director and Heads of Unit in conformity with the relevant data protection provisions (Regulation (EC) No 45/2001);
- Minutes of Governing Board and Bureau meetings including the list of attendees;

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<sup>3</sup> Cf. Annex 3 - Procedure for the management of the breach of trust by Governing Board and Advisory Groups members (full/alternate/observers).

<sup>4</sup> Cf. Annex 2 - Procedure related to the submission, screening and assessment of declarations of interests and summaries of CVs and validation for Governing Board and Advisory Groups members (full/alternate/observers).

- Any restriction on the level of participation both in Governing Board deliberations and written procedures;
- Report on the implementation of the conflict of interest policy as part of the Authorizing Officer's Annual Activity Report.

## 6 Communication and training

In addition to being publicly available and accessible from the Agency's website, this policy and the related procedures shall be communicated to all individuals concerned (actors within the policy and addressees of the policy) via different channels.

The Agency shall present the rationale of the policy and the procedures to the individuals concerned and prepare targeted information packages to ensure that they are aware of their obligations and their personal responsibility to declare their interests. Such packages shall include guidelines and shall be permanently available on the appropriate platforms for reference.

Compulsory training on conflict of interest shall be regularly delivered to staff and shall be included in the Agency's training plan.

## 7 Regulatory framework

- EU-OSHA Internal Control Standard n.2 "Ethical and Organizational Values";
- The Commission Guidelines on the prevention and management of conflict of interest in EU decentralised Agencies.

## 8 Other background documents

- The Court of Auditors Special Report No 15/2012 "Management of conflict of interest in EU selected Agencies";
- Managing Conflict of Interest in the Public Service: OECD Guidelines and country experiences, OECD, Paris, 2003;
- The European Parliament discharge decision in respect of the implementation of the budget of the European Agency for Safety and Health at Work for the financial year 2012;
- The European Parliament resolution of 3 April 2014 on discharge in respect of the implementation of the budget of the European Union Agencies for the financial year 2012: performance, financial management and control.

## 9 Procedures related to this policy

- Procedure related to the submission, screening and assessment of declarations of interests and summaries of CVs and validation for Governing Board and Advisory Groups members (full/alternate/observers);
- Procedure related to the management of the breach of trust by Governing Board and Advisory Groups members (full/alternate/observers).

### Annexes:

- **Annex 1:** Privacy statement in relation to EU-OSHA policy on management of conflict of interest
- **Annex 2:** Procedure related to the submission, screening and assessment of declarations of interests and summaries of CVs and validation for Governing Board and Advisory Groups members (full/alternate/observers);
- **Annex 3:** Procedure related to the management of the breach of trust by Governing Board and Advisory Groups members (full/alternate/observers).