

EU-OSHA POLICY

ON PREVENTION AND MANAGEMENT OF CONFLICT OF INTERESTS

Approval steps	Responsible	Date
Draft	Management Board Secretariat	22 October 2019
Review	Executive Director	25 October 2019
Review	Executive Board	12 November 2019
Final adoption	Management Board	24 January 2020

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TITLE I – GENERAL PRINCIPLES

Article 1 - Purpose and overview

The management of (potential) conflict of interest situations is a key element of good governance and management of EU institutions and bodies and it is crucial for maintaining the trust of stakeholders and citizens in their work. For this reason, it is extremely important to preserve the integrity of the decisions, opinions and recommendations issued by EU-OSHA by ensuring its independence and transparency.

The legal basis of this policy is Regulation (EU) 2019/126 of the European Parliament and of the Council of 16 January 2019 establishing the European Agency for Safety and Health at Work (EU-OSHA), and repealing Council Regulation (EC) No 2062/94 (referred to as “EU-OSHA founding regulation”); and EU-OSHA Financial Regulation of 27 September 2019.

The present policy builds on a reflection based on the lessons learnt from the implementation of the 2014 EU-OSHA policy on management of conflict of interests covering Governing Board members as well as the outcome of a risk assessment to identify its exposure to the risk of conflict of interests as a result of the entry into force of a new founding regulation¹ in 2019. The reflection confirmed that the risk exposure to conflict of interests situations remains low. The mandate and role of EU-OSHA do not include regulation or inspection tasks. There is no direct financial impact from the Agency’s work on its stakeholders. As several interests are represented in the governance structure of the Agency, the actual governance structure of the Agency serves in itself as a preventive element. Among all the declarations of interests submitted by Management Board members and processed in the last five years, there has been no case that needed to be referred beyond the basic assessment level.

The residual risk related to conflict of interests is a low level of awareness, in particular among Management Board members, on the topic. As a result, the main objective for EU-OSHA is to ensure sustained awareness within this target group while establishing effective and agile mechanisms to detect potential situations at an early stage, recording them and handling them appropriately.

This policy aims at establishing a comprehensive framework for the management of situations of conflict of interests that may arise among Management Board members, external independent experts, seconded national experts and other staff not employed by EU-OSHA in relation to EU-OSHA’s work.

To this purpose, the policy includes:

- A definition for the different types of interests, conflict of interests and implications as well as criteria and principles against which potential conflict of interests situations shall be assessed.
- Procedures for preventing and handling potential conflict of interest situations, including a description of the main actions to prevent or to put remedy to (potential) conflict of interest situations for the different categories, and an overview on the responsibilities for ensuring a smooth implementation of such actions
- Provisions related to awareness raising actions and monitoring and reporting on this policy.

Article 2 - Scope of application

The provisions included in this policy shall apply to:

- **Full and alternate members and observers to EU-OSHA’s Management Board, including the independent expert appointed by the European Parliament (hereinafter, **Management Board members**)**, who, by virtue of their role, set the strategic directions for the Agency and hold the Executive Director accountable.
- **External independent experts** who may be engaged by EU-OSHA to provide expert advice at any phase of the activity cycle.
- **Seconded national experts and other staff not employed by EU-OSHA.**

¹ Regulation (EU) 2019/126 of the European Parliament and of the Council of 16 January 2019 establishing the European Agency for Safety and Health at Work (EU-OSHA), and repealing Council Regulation (EC) No 2062/94 (referred to as “EU-OSHA founding regulation”)

Article 3 - Concepts, criteria and principles

3.1. Concepts

For the purpose of this policy:

- a) 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. It should be noted that having an interest does not necessarily mean having a conflict of interest.
- b) **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.

- c) **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.

- d) **Legitimate interests** are interests of a particular individual in their capacity as representative of an organisation or an interest group within the governance structure of EU-OSHA and its Management Board. Legitimate interests are, indeed, legitimate and are embedded in the performance of the concerned individual's role as Management Board member at EU-OSHA and there is no expectation that these should lead to a conflict of interests.
- e) A **conflict of interests** 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.
- f) A **potential conflict of interests** exists when a person falling under the scope of these rules has interests in their private capacity which could cause a conflict of interests to arise if that person was to become involved in relevant (i.e. conflicting) official responsibilities in the future.

3.2. Criteria and principles

The significance of potential conflict of interests' situations shall be determined on the basis of the nature of the presumed interest (direct, indirect etc..) and assessed according to pre-defined 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:** the assessment shall be carried out according to the pre-defined criteria, documented and communicated to the concerned individuals and stakeholders.

TITLE II – PROCEDURE FOR PREVENTION AND MANAGEMENT OF CONFLICT OF INTERESTS

SECTION I – MEMBERS OF THE MANAGEMENT BOARD

Article 4 – Declarations of interests and absence of conflict of interests from Management Board members

4.1. Written declarations of interests and absence of conflict of interests

According to article 4.4 of EU-OSHA Founding Regulation, at the time of taking office, Management Board members have the duty to declare that they are not in a situation of conflict of interests.

Furthermore, according to article 42.4 of EU-OSHA Financial Regulation, they shall submit a declaration of interests.

To this purpose, within one month from their appointment, they shall be required to undersign a declaration covering both requirements based on a template provided by EU-OSHA. Management Board member shall duly fill it and return it following instructions from EU-OSHA.

Management Board members shall assume individual and full responsibility in declaring their absence of conflict of interests in good faith. The declarations shall be renewed every five years, upon renewal of their mandate (if applicable).

If at any point in time any changes occur to the situation of any member's interests, they shall inform EU-OSHA in writing with no delay. Similarly, any request for clarification in respect to individual situations shall be addressed to EU-OSHA, which, in turn, shall notify the competent body within the Management Board.

4.2. Declarations at meetings²

In the invitation to meetings where members of the Management Board are invited to participate, they shall be explicitly requested to declare whether they are/could be in a potential situation of conflict of

² Meetings include all Management Board and Executive Board meetings as well as Advisory Groups meetings (Tools and Awareness Raising Advisory Group and Prevention and Research Advisory Group).

interests with respect to any agenda item. Any such case should be referred, via EU-OSHA, to the competent body within the Management Board for assessment,

In addition, at the beginning of each meeting, participants shall be reminded by the chair of the meeting (Chairperson of the Management Board or other) to declare any interest which could be considered as prejudicial to their independence with respect to any of the items of the agenda. Provided that the case shall be referred to the competent body within the Management Board for a full-fledged assessment at a convenient time, the chair of the meeting (Chairperson of the Management Board or other) shall take the following as default precautionary measure: the member concerned shall not participate in the discussions and in the final deliberation of the relevant agenda item.

Any conflicting interest shall be recorded in the minutes together with the specific mitigating measures adopted.

4.3. Declarations for decisions to be taken by written procedure

At the time a written procedure is launched with Management Board members, EU-OSHA shall, on behalf of the Management Board, remind members about the issue and request them to declare any interest, which could be considered as prejudicial to their independence with respect to the item proposed for decision. The Management Board secretariat shall refer any such case to the competent body within the Management Board for assessment. The Chairperson of the Management Board shall take a decision based on the proposal from the competent body. Any conflicting interest shall be recorded in the decision together with the specific mitigating measures adopted.

Article 5 - Assessment of declarations

The **Management Board** has the duty to deal with any case referred by an individual Management Board member – which may include following up to requests for information or clarification by a Management Board member or assessing specific situations or competing interests declared in any form. The assessment shall be performed in line with the criteria and principles referred to under article 3.2 of this policy. Furthermore, it has the duty to put in place effective controls by implementing either mitigating measures or remedial actions where such interests carry a risk of turning into potential conflicts of interest, cf. articles 6 and 7.

The Chairperson of the Management Board, assisted by the three Deputy Chairpersons, is designated to perform the assessment (hereinafter **competent body**). Decisions on possible mitigating and remedial actions are taken by the Chairperson of the Management Board on behalf of the Management Board upon a proposal from the competent body.

Should any of the above-mentioned members find themselves in a situation of potential conflict of interests, the Management Board shall designate another member from the same interest group or among the Commission representatives to perform the tasks required for the implementation of the policy.

At the **EU-OSHA**, the coordination of the policy is placed within the **Management Board secretariat** (managementboard@osha.europa.eu), which shall support to the Management Board in the performance of this task.

As legal representative of EU-OSHA and responsible for the daily management of the Agency, the **Executive Director** shall ensure a proper implementation of this policy. This entails ensuring that appropriate communication and training actions are delivered to Management Board members and others covered by its provisions and that the required reporting obligations are met.

Article 6 - Mitigating measures

The Chairperson of the Management Board shall, upon a proposal by the competent body within the Management Board and after having informed the Executive Director, implement measures aiming at mitigating or eliminating potential situations of conflict of interests. These measures shall be adopted in a situation in which interests are properly and transparently declared and the conflict of interests has not yet materialised.

In the first instance, if a potential conflict of interests is identified during the assessment – either via the declarations submitted by Management Board members or via any other means – the Chairperson shall arrange for the member concerned to either give up the conflicting personal interest or pull out/ recuse himself/herself from relevant decisions and, if necessary, discussions for which such a conflict may arise.

Other actions may include restriction in the level of the participation in Management Board's discussions, deliberations and voting (if applicable) where their opinion or vote may be perceived as biased in the light of the potential conflict of interests. Restrictions may vary depending on the materiality of the conflict of interests as assessed by the competent body within the Management Board.

Examples include:

- The member concerned can participate in the discussions but not in the final deliberation of the relevant agenda item;
- The member concerned shall not participate in the discussions and in the final deliberation of the relevant agenda item;
- The member concerned is requested to leave the room for the duration of the discussions and deliberation of the relevant agenda item;
- The member concerned shall participate only as an expert in order to give specialist advice on a specific issue by providing information and replying to questions;
- The member concerned may not be considered suitable to hold a function within the Management Board such as Chairperson or Deputy Chairperson; interest group coordinator; reporting officer for the Executive Director etc.;
- In case an alternate can be appointed, the member concerned may be replaced for the relevant agenda item.

Should the situation of the member concerned be deemed to be particularly detrimental to EU-OSHA, the Chairperson of the Management Board shall refer the case to the appointing authority³ stating the nature of the problem.

It remains within the responsibility of the competent appointing authority to adopt any formal decision with regard to the member concerned, which, where necessary, may lead to the revocation of their nomination as Management Board members.

The member concerned shall be informed prior to any step being taken and may provide further details/explanation related to the case. They may also request a review of any of the mitigating actions decided upon by submitting a request, via EU-OSHA, to the Chairperson of the Management Board.

Article 7 - Remedial actions and breach of trust

In case the potential conflict of interests has already materialised, the Chairperson of the Management Board shall, upon a proposal by the competent body within the Management Board and after having informed the Executive Director, implement, in addition to any mitigating measure considered useful (cf. article 6), specific remedial actions.

Such actions may include, further to an ex-post review of the concerned member's activities and contributions to the Agency's outputs:

- Review by the Management Board of the decisions taken with the contribution of the member concerned adopted without the required mitigating measures;
- Cancellation of such decisions in case the member concerned has played a significant role in their adoption, for instance, by virtue of their role within the Management Board.

Any false declaration, wilful omission or refusal to declare interest or any other failure to comply with this policy may be seen as a breach of trust towards EU-OSHA. In these cases, in addition to the above-

³ The appointing authority is the Council of the European Union for Management Board members from the three interest groups (Governments, Employers and Workers); the European Commission for the Commission representative; the European Parliament for the Parliament representative; for any other observer members, it is the authority responsible for their appointment.

mentioned remedial actions, the Chairperson of the Management Board shall refer the case immediately to the competent appointing authority stating the nature of the problem. It remains within the responsibility of the competent appointing authority to adopt any formal decision with regard to the member concerned, which, where necessary, may lead the revocation of their nomination as Management Board members.

Cases of presumption of fraud shall be referred immediately to the European Anti-Fraud Office (OLAF).

The member concerned shall be informed prior to any step being taken and may provide further details/explanation related to the case. They may request a review of any of the remedial actions decided upon by submitting a request, via EU-OSHA, to the Chairperson of the Management Board.

SECTION II – INDEPENDENT EXPERTS

Article 8 - Declaration of interests and absence of conflict of interests from independent experts

In the planning, design and implementation of its activities, EU-OSHA may resort to expert advice. In order to give a full and transparent account of EU-OSHA internal decision-making process, preserve the reliability of the advice sought and ensure integrity of the Agency's outputs, external experts shall be required to undersign a declaration of interests and absence of conflict of interests with respect to the area of EU-OSHA work for which their expert advice is requested.

Article 9 - Assessment of the declarations of interests

At EU-OSHA, the responsibility of assessing the declarations of interests submitted by external experts lies with the Heads of Unit under whose remit the activities are planned, designed and implemented – who act on behalf of the Executive Director.

Article 10 – Actions and sanctions

Mutatis mutandis, the mitigating (article 6) and remedial actions (article 7) referred to in this policy shall apply. The competent authority to decide on such measures is the Executive Director upon a proposal from the relevant Head of Unit.

SECTION III – SECONDED NATIONAL EXPERTS AND OTHER STAFF NOT EMPLOYED BY EU-OSHA

Article 11 – Applicable principles

In line with Article 20 of the Founding regulations, EU-OSHA may make use of seconded national experts or other staff not employed by EU-OSHA.

Secoded national experts (SNEs) and other staff not employed by EU-OSHA shall carry out their duties and conduct themselves solely with the interests of EU-OSHA in mind. They shall neither seek nor take instructions from any government, authority, organisation or person outside EU-OSHA. They shall carry out their duties objectively, impartially and in keeping with their duty of loyalty to EU-OSHA.

SNEs and other staff not employed by EU-OSHA shall not deal with matters in which, directly or indirectly, they have an interest such as to impair their independence and, in particular, family or financial interests. They may neither keep nor acquire, either directly or indirectly, any interests that might impair their independence in the performance of their duties.

Article 12 – Declarations of interests

Before appointing an SNE and other staff not employed by EU-OSHA, the Executive Director shall examine whether the candidate has any interests such as to impair his/her independence or any other conflicts of interests. To that end, the candidate shall submit a declaration of interests.

Article 13 – Assessment of declarations of interests

The Executive Director shall assess, based on the declaration of interests, if there is a case of potential or actual situations of conflict of interests and take this into account in a duly reasoned opinion.

To determine the significance of a conflict of interests, the Executive Director shall take into consideration the nature of the declared interests and carry out an assessment on the basis of the criteria and principles as per article 3.2.

In case an SNE or other staff not employed by EU-OSHA encounters a conflict of interests, he/she shall immediately inform the Executive Director in writing. The latter shall take this into account in a duly reasoned opinion.

Article 14 – Provisions regarding outside activities

SNEs and other staff not employed by EU-OSHA wishing to engage in an outside activity, whether paid or unpaid, or to carry out an assignment outside EU-OSHA, shall be subject to the rules on prior authorisation for staff⁴,

Article 15 – Actions and sanctions

In case of actual or potential conflicts of interests, the person concerned shall be informed about the outcomes of the assessment and be reminded of his/her obligations as arising from these rules.

The person concerned should abstain from taking up roles that seem not compatible with his/her situation of conflict of interests.

In case the actual or potential conflict of interests has already materialised or the person concerned failed to declare his/her interests either deliberately or because of gross negligence, actions may include: notification of the Executive Director and the Anti-Fraud Office of the European Commission, as appropriate.

TITLE III – FINAL PROVISIONS

Article 16 – Raising awareness

As legal representative of EU-OSHA and responsible for the daily management of the Agency, the **Executive Director** shall ensure a proper implementation of this policy. This entails ensuring that appropriate communication and awareness raising actions are delivered to the subjects covered by its provisions.

All members of the Management Board, SNEs and other staff not employed by EU-OSHA shall receive a copy of these rules upon their appointment or commencement of duties with EU-OSHA, or upon adoption of these rules, as relevant.

Article 17 - Monitoring and reporting

The Executive Director shall ensure the utmost transparency in relation to the implementation of the policy and that the necessary reporting obligations are met. In particular, he/she shall ensure that the following information is made publicly available and accessible on the Agency's corporate website:

- EU-OSHA policy on prevention and management of conflict of interests;
- Management Board members' declarations of interests and absence of conflict of interests and any related updates thereto;
- Rules of procedure of the EU-OSHA Management Board;

⁴ Article 12b of the Staff regulations and the provisions implementing this article apply mutatis mutandis, EU-OSHA Decision of 23.01.2019 on the application by analogy of the Commission Decision on outside activities and assignments and on occupational activities after leaving the service.

- Names of the members (full/alternate/observers) of the Management Board including the names of the organisations they represent/belong to;
- Agendas and minutes of Management Board and Executive Board meetings including list of attendees;
- Any restrictions of any kind with regard to Management Board and Executive Board deliberations and written procedures;
- Names of independent experts, organisations they belong to and declaration of interest and absence of conflict of interest and related updates thereto.

An annual account of the implementation of the policy shall be included in the Consolidated Annual Activity Report (article 48 of EU-OSHA Financial Regulation).

Article 18 - Personal data protection⁵

Declarations shall be processed pursuant to 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.

The Executive Director is the data controller for handling the declaration of interests and absence of conflict of interests of data subjects identified in this policy.

Data subjects are also entitled to have recourse at any time to the European data Protection Supervisor.

Article 19 - Entry into force

The policy repeals “EU-OSHA policy on prevention and management of conflict of interests of Management Board members and independent experts”, adopted by the Management Board on 7 June 2019 and shall enter into force on the day after its adoption.

Annexes:

Annex I – Declaration of absence of conflict of interests (template)

Annex II – Privacy statement

⁵ For further details, cf. the specific privacy statement annexed to this policy.

Annex 1

Declaration of interests and absence of conflict of interests

Information on direct or indirect interests of relevance in the fields of work conducted by EU-OSHA:

Name _____

Position

- Titular member of the Management Board
- Alternate member of the Management Board
- Observer to the Management Board
- Independent expert (please specify): _____

1. Direct interest (financial benefits arising from, for example, employment, contracted work, investments, fees etc.):

.....
.....
.....

2. Indirect financial interests (grants, sponsorships, or other kind of benefits):

.....
.....
.....

3. Other interests or facts that the undersigned considers pertinent:

.....
.....
.....

I hereby declare that I have no actual or potential conflict of interests that may affect negatively the performance of the duties that I have committed to duly and appropriately discharge as a member of the Management Board of EU-OSHA.

In accepting this declaration, I also agree that my declaration will be posted on the EU-OSHA website.

Annex 2

Privacy Statement on the protection of personal data in relation to the EU-OSHA policy on management of conflict of interest with respect to Management Board members and external experts

Organizational part of the Agency entrusted with the processing of personal data

Christa Sedlatschek, Executive Director, information@osha.europa.eu

Purpose of processing

The processing of personal data is to maintain the integrity of the decisions, opinions and recommendations issued by EU-OSHA and foster accountability in relation to the Agency's work and activities.

Type of data processed

- Name and surname, employer and role played by Management Board members, alternates and observers within the Management Board of EU-OSHA or name and surname, employer and role played in one of EU-OSHA's expert groups.
- Statement related to the interests and absence of conflict of interest vis-à-vis EU-OSHA's work and mandate.
- Direct or indirect interests declared by the data subjects during meetings, written procedures or any other form.

Legal basis

The processing and publishing of personal data is carried out on the basis of:

- Regulation (EC) No. 2019/126 of 16/01/2019 establishing the European Agency for Safety and Health at Work repealing Council Regulation (EC) No 2062/94 and subsequent amendments
- EU-OSHA Financial Regulation of 27 September 2019

Lawfulness of processing

The lawfulness of the processing is based on Article 5(a) and (d) of [Regulation \(EU\) 2018/1725](#) of the European Parliament and of the Council of 23 October 2018 on the protection of natural persons with regard to the processing of personal data by the Union institutions, bodies, offices and agencies and on the free movement of such data (hereinafter the Regulation).

Data recipient

- The declarations of interests and absence of conflict of interest and any restriction in the level of involvement in the Agency's activities as a result of the assessment of potential conflict of interests situations shall be published on the website and therefore are accessible by the general public.
- For the Management Board - the Management Board plays a key role in the implementation of the policy. A small competent body established within the Board deals with any situation involving a potential conflict of interests and any other issue related to the interpretation and implementation of the policy and prepares decisions in this respect for the Chairperson of the Management Board. This work is supported by EU-OSHA's Management Board secretariat. Data processed are disclosed on the basis of the "need-to-know" principle.
- For external experts – EU-OSHA Executive Director and Heads of Unit are involved in the assessment of the declarations.

The data subject's rights

- Data subjects have the right to request from the controller access to and rectification or erasure of personal data or restriction of processing concerning the data subject or, where applicable,

the right to object to processing or the right to withdraw consent at any time without affecting the lawfulness of processing based on consent before its withdrawal (Articles 17, 18, 19, 20, 22, 23 and 24 of the Regulation).

- Data subjects' rights can be restricted only in the cases foreseen in Art 25 of the Regulation.
- Data subjects have the right to rectify any information included in the declaration in writing to managementboardatosha.europa.eu.

Information on the conservation period of data

The acceptance of the statement of absence of conflict of interest together with the date of acceptance shall be made available on the EU-OSHA's website throughout the duration of the mandate of the corresponding Management Board member/alternate/observer and expert group member and will be stored until 3 years after the end of the mandate (once the discharge for the relevant year has finalised).

Request for information

For any further information regarding the handling of their personal data, data subjects can address their request to EU-OSHA Data Protection Officer at: dpoatosha.europa.eu.

Recourse

Data subjects are entitled to have recourse to the European Data Protection Supervisor: <http://www.edps.europa.eu>, should they consider that the processing operations regarding their personal data do not comply with the Regulation.

Date when processing starts

Date of entry into force of the policy.