



## Decision of the Executive Director No 13/2023

### on the policy on the prevention and management of conflicts of interest, related post-employment and ethical guidance, and the role of ethics correspondent

#### THE EXECUTIVE DIRECTOR,

HAVING REGARD to Regulation (EU) 2021/2303 of the European Parliament and of the Council of 15 December 2021 on the European Union Agency for Asylum<sup>1</sup> (hereinafter 'the EUAA Regulation'), and in particular Article 47(5) thereof,

HAVING REGARD to Management Board Decision No 54 of 14 August 2019 on the EASO Financial Regulation<sup>2</sup> (hereinafter 'the Agency's Financial Regulation'), and in particular Article 42(4) thereof,

After consulting the Staff Committee,

#### WHEREAS:

- 1) The (previous) EASO policy on the prevention and management of conflicts of interest was adopted by the Executive Director following its endorsement by the Management Board on 29 November 2013. It applied to the Agency's staff, trainees, and other personnel, to the members, alternate members, observers, and advisers/experts of the Management Board, to members and experts of the Agency's working parties and networks, and to tenderers and beneficiaries of contracts and grants.
- 2) Since the adoption of the (previous) EASO policy on the prevention and management of conflicts of interest, the Agency's Financial Regulation, and the Staff Regulations of Officials of the European Union ('Staff Regulations') and the Conditions of Employment of Other Servants of the European Union ('CEOS')<sup>3</sup> have been updated with additional provisions that address the prevention and management of conflicts of interest. Moreover, the Regulation on the financial rules applicable to the general budget of the Union<sup>4</sup> (hereinafter 'the Union's financial rules') and the Agency's Internal Control Framework<sup>5</sup> were also updated in this sense in the meantime.

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<sup>1</sup> Regulation (EU) 2021/2303 of the European Parliament and of the Council of 15 December 2021 on the European Union Agency for Asylum and repealing Regulation (EU) No 439/2010, (OJ L 468, 30.12.2021, p. 1).

<sup>2</sup> As amended by Management Board Decision No 74 of 28 July 2021.

<sup>3</sup> Staff Regulations of Officials of the European Union and the Conditions of Employment of Other Servants of the European Union laid down by Council Regulation (EEC, Euratom, ECSC) No 259/68, (OJ L 56, 4.3.1968, p. 1), as last amended by Regulation (EU, Euratom) No 1023/2013 of the European Parliament and of the Council of 22 October 2013, (OJ L 287, 29.10.2013 p. 15).

<sup>4</sup> Regulation (EU, Euratom) 2018/1046 of the European Parliament and of the Council of 18 July 2018 on the financial rules applicable to the general budget of the Union, amending Regulations (EU) No 1296/2013, (EU) No 1301/2013, (EU) No 1303/2013, (EU) No 1304/2013, (EU) No 1309/2013, (EU) No 1316/2013, (EU) No 223/2014, (EU) No 283/2014, and Decision No 541/2014/EU and repealing Regulation (EU, Euratom) No 966/2012, (OJ L 193, 30.07.2018, p.1).

<sup>5</sup> Management Board Decision No 42 of 21 December 2018 on the Internal Control Framework of EASO.





- 3) Article 42 of the Agency's Financial Regulation in particular makes provisions for the prevention of conflicts of interest and associated risk mitigation in relation to the Executive Director and financial actors. The aforementioned Article also includes a requirement for the Agency to adopt rules on the prevention and management of conflicts of interest. Additional applicable provisions relating to conflicts of interest are detailed in Articles 143, 155, 205 and 209 of the Union's financial rules.
- 4) Articles 11, 11a, 12, 12b, 13, 16, 17, 17a and 18 of the Staff Regulations make provisions, *inter alia*, on declaration of interests, conflicts of interest, honours, decorations, favours, gifts and payments, outside activities, and writings and publications.
- 5) Principle 1 of the Internal Control Framework requires the Agency to demonstrate a commitment to integrity and ethical values by setting the tone at the top, establishing and communicating standards of conduct, and putting in place processes for assessing alignment with the standards and addressing deviations in a timely manner. This should be done by analogy to the standards adopted by the Commission.
- 6) The Agency has a number of complementary internal acts and measures in place to address conflicts of interest and manage fraud and must additionally ensure that other measures are in place to cover the wider breadth of its activities, including external individuals participating in and contributing to the Agency's mandate.
- 7) The (previous) EASO policy on the prevention and management of conflicts of interest should be updated to better reflect the Agency's evolving needs and ensure it addresses adequately and effectively potential or actual risks that could arise from conflicts of interest and provide guidance on ethical behaviour in an all-encompassing manner.
- 8) The Management Board adopted Decision No 122<sup>6</sup> (hereinafter Management Board Decision No 122) in respect of the prevention and management of conflicts of interest of members of the Management Board and member organisations and competent bodies of the Consultative Forum. Certain elements within the aforementioned Decision such as underlying principles that apply equally to the scope of this Decision should be equivalent to ensure a common approach across the Agency. Moreover, Article 3(2) of Management Board Decision No 122 provides that the Agency may implement an electronic system to manage submission and/or assessment of declarations of interest and related forms and maintain a register of documents,

#### HAS DECIDED AS FOLLOWS:

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<sup>6</sup> Management Board Decision No 122 of 11 January 2023 on the rules on the prevention and management of conflicts of interest of the members of the Management Board, conflicts of interest connected to membership of organisations and competent bodies of the Consultative Forum, and ethical guidance applicable to the Management Board.



### **Article 1**

#### **Policy on the prevention and management of conflicts of interest**

The Policy on the prevention and management of conflicts of interest as set out in Annex 1 to this Decision, is hereby adopted.

### **Article 2**

#### **Guidance on post-employment rules and ethical behaviour**

The Guidance on post-employment rules as set out in Annex 2 to this Decision, as well as the Procedure and the Guidance on ethical behaviour set out in Annex 3 to this Decision, are hereby adopted.

### **Article 3**

#### **Further implementation of this Decision**

1. Further documentation supporting the implementation of the policy referred to in Article 1 of this Decision and the guidance referred to in Article 2 of this Decision, including, *inter alia*, complementary guidance, procedures and forms to be completed, may be adopted by means of one or more Decisions of the Executive Director and/or other internal acts<sup>7</sup>.
2. In accordance with Article 3(2) of Management Board Decision No 122, the Agency may implement an electronic system to manage submission and/or assessment of declarations of interest and related forms and maintain a register of interests.
3. When processing any personal data in the context of implementing this Decision, the Agency shall comply with the respective provisions of Regulation (EU) 2018/1725<sup>8</sup>.

### **Article 4**

#### **Ethics correspondent**

1. The head of centre responsible for human resources shall appoint (a) statutory staff member(s) from the Human Resources Unit as ethics correspondent(s). The details shall be communicated and published on the Agency's intranet.

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<sup>7</sup> In accordance with Article 3 of the Decision of the Executive Director No 20 of 19 January 2022 implementing Management Board Decision No 97 of 19 January 2022 establishing the Agency's internal structure, and laying down the internal rules of procedure (ISROP).

<sup>8</sup> 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).



2. An ethics correspondent shall serve as the first and main contact point for all ethics-related issues. They shall always act in confidence and with integrity when dealing with queries from staff.

### **Article 5 Transparency**

This Decision shall be communicated within the Agency and made public on the EUAA's website.

### **Article 6 Entry into force**

This Decision enters into force on the date of its adoption and repeals and replaces the EASO policy on prevention and management of conflicts of interest adopted by the Executive Director following its endorsement by the Management Board on 29 November 2013.

Done at Valletta Harbour, on 27 January 2023

*Signature on file*

Nina Gregori  
Executive Director

**Annexes:**      Annex 1: Policy on the prevention and management of conflicts of interest.  
                     Annex 2: Guidance on post-employment rules and procedure.  
                     Annex 3: Guidance on ethical behaviour.



## Annex 1

### Policy on the prevention and management of conflicts of interest

#### 1. Purpose and scope

The Common Approach on EU Decentralised Agencies endorsed in July 2012 by the European Parliament, the Council of the EU and the European Commission and the roadmap thereof adopted in December 2012 mention the need to address the issue on prevention and management of conflicts of interest in order to enhance the EU agencies' accountability, transparency and good management.

Situations involving conflicts of interest can happen at any time. It is of paramount importance to either prevent them or manage them appropriately when they occur. That requirement is crucial for upholding the transparency, reputation and impartiality of the public sector and the credibility of the rule of law principles as a fundamental value of the EU. This is essential for maintaining public confidence in the integrity and impartiality of public bodies and servants as well as in the decision-making processes that serve the general interests. Conversely, if conflicts of interest are not prevented or properly managed when they arise, they can negatively affect the decision-making process in public bodies, give rise to unsound use of public money and cause reputational damage. They can also lead to a loss of faith in the public sector's ability to operate impartially and in the general interests of society.

This policy, which is based on the guidelines drafted by the European Commission and experience gained by other agencies, aims to set out a number of principles and recalls the applicable procedures aimed at preventing, identifying and managing situations of conflict of interest. It should be read and interpreted in conjunction with the European Commission's Guidance on the avoidance and management of conflicts of interest under the Financial Regulation<sup>9</sup>.

This Policy on the prevention and management of conflicts of interest (hereinafter 'the Policy') shall apply to:

- i) The following categories of individuals who shall periodically be required to complete declarations of interests:

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<sup>9</sup> OJ C 121, 9.4.2021, p.1.



- All statutory staff<sup>10</sup> (i.e., temporary agents and contract agents), seconded national experts<sup>11</sup>, trainees<sup>12</sup>, temporary agency workers ('interims')<sup>13</sup>, and candidates offered a contract of employment with the EUAA<sup>14</sup>;
  - Member State experts and experts seconded by Member States to the Agency deployed in asylum support teams<sup>15</sup>;
  - Tenderers participating in calls for tenders, applicants participating in calls for proposals and contractors and beneficiaries awarded the EUAA's contracts and grants, including, *inter alia*, consultants and remunerated external experts<sup>16</sup>.
- ii) The following category of individuals who need not complete declarations of interests:
- Members and experts participating in the EUAA's working groups and networks.

Unless otherwise specified in this Policy, all persons falling within the categories identified in points (i) and (ii) above are collectively referred to as 'individuals'.

## 2. Conflicts of interest

According to the European Commission's 'Guidelines on the prevention and management of conflicts of interest in EU decentralised agencies'.

*"Relevant personal interest may be of a financial or non-financial nature, and it may concern a personal or family relationship or professional affiliations (including additional employment or 'outside' appointments or former employments or appointments) and other relevant outside activities.*

*Not only actual independence but also perception of independence is important, since it can impact on the Agency's reputation by raising doubts about the conclusions reached. The appearance of conflict of interest can constitute a reputational risk to the Agency, even if it turns out to be unsubstantiated.*

*Therefore, giving due consideration to proportionality, specific backgrounds, all relevant facts and mitigating circumstances, a risk of perceived conflict of interest should be treated as if it were an actual conflict."*

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<sup>10</sup> For the purposes of this Decision, the term 'statutory staff' includes temporary agents and contract agents covered by the EU Staff Regulations and CEOS.

<sup>11</sup> Within the meaning of Article 1 of Management Board Decision No 1 of 25 November 2010 laying down rules on the secondment of national experts (SNE) to the European Asylum Support Office.

<sup>12</sup> Applies throughout this Annex to trainees engaged under a traineeship programme organised by the EUAA. Trainees assigned to the EUAA under the official traineeships scheme of the European Commission (blue-book trainees) are covered by the Rules governing the official traineeships scheme of the European Commission (Commission Decision of 2.03.2005 - C(2005)458).

<sup>13</sup> Within the meaning of Article 3(1)(c) of Directive 2008/104/EC of the European Parliament and of the Council of 19 November 2008 on temporary agency work.

<sup>14</sup> Within the meaning of Article 11 of the Staff Regulations.

<sup>15</sup> Within the meaning of Article 19 of the EUAA Regulation.

<sup>16</sup> Within the meaning of Article 237 of the financial rules applicable to the general budget of the Union.



Moreover, pursuant to Article 42(2) of the Agency's Financial Regulation, a conflict of interest exists where the impartial and objective exercise of the functions of a financial actor or other person involved in budget implementation and management, including acts preparatory thereto, audit and control, is compromised for reasons involving family, emotional life, political or national affinity, economic interest or any other direct or indirect personal interest.

A conflict of interest can arise even if the individual does not actually benefit from the situation, as it is sufficient that circumstances compromise the exercise of their functions in an objective and impartial manner. However, such circumstances must have a certain identifiable and individual link with (or impact on) concrete aspects of the conduct, behaviour, or relationships of the individual.

A perceived conflict of interest may notably occur when an individual, regardless of their intentions, may reasonably see themselves or be seen as having competing personal and public interests, as these risk undermining the person's ability to fulfil their tasks and responsibilities in an impartial and objective manner (e.g., a risk or possibility of favouritism or hostility for reasons of family interest and national or political affinity may objectively be perceived as a conflict of interest). A perceived conflict of interest covers objective circumstances affecting trust and confidence in an individual's independence and impartiality, even if the conflict of interest does not materialise or even if the individual does not actually benefit from the situation. In this context, it is of utmost importance to safeguard both the effective observance of the rules on avoidance of conflicts of interest and avoid any doubts that a reasonable, informed, objective and good-faith person may have about the conformity of the behaviour of an involved individual.

### **3. Principles**

#### ***Transparency and responsibility***

Individuals shall assume individual responsibility by declaring their interests in good faith. Existence of conflicts of interest or potential conflicts of interest shall be disclosed by the individual. The individual should state, in particular, the type and nature of the interests, specifying whether they are general or relate to a specific topic (under discussion or being decided on), product, report, tender, recruitment etc. The Agency undertakes to review the declarations of interests. Moreover, the Agency will include in its single programming documents an indication of measures to prevent recurrence of cases of conflict of interest in line with Article 32(1), point (h), of the Agency's Financial Regulation.

#### ***Proportionality***

When taking decisions related to the management of this Policy, the Agency shall ensure that the measures taken are suitable, necessary and reasonable to the legitimate aim pursued.



## **Awareness**

The Agency shall ensure to make all relevant individuals aware and informed of this Policy and shall provide clear guidance in case of queries related to the subject in question. The Human Resources Unit will also provide training to staff, trainees, and interims in this respect.

## **4. Categories**

### **4.1 Statutory staff (i.e., temporary agents and contract agents), seconded national experts, trainees, temporary agency workers ('interims'), and candidates offered a contract of employment with the EUAA**

The Agency, its statutory staff, seconded national experts, trainees and interims have a duty to serve the Union's interest and, in doing so, the public interest. In this context, statutory staff is bound by the provisions contained in the Staff Regulations, the CEOS and any implementing rules thereto adopted in accordance with Article 110 of the Staff Regulations. Particularly relevant are the obligations for staff, trainees and interims to carry out their assigned duties objectively and impartially, to declare any personal interest that could or be perceived to impair their independence, and (for statutory staff) the obligation to inform of their intention to engage in an occupational activity within two years after leaving the service.

Although not being covered by the Staff Regulations or CEOS, seconded national experts, trainees, as well as interims are also included in the scope of this Policy on a *mutatis mutandis* basis.

In particular, statutory staff, seconded national experts, trainees and interims shall be reminded that:

- they shall carry out the duties assigned to them objectively and impartially;
- they must notify any personal interest that might impair their independence; mitigating measures must be taken, where required;
- they (statutory staff) shall seek approval for engaging in outside activities and declare gainful employment of their spouses;
- they (statutory staff) continue to be bound by the duties of integrity and discretion after leaving office as regards the acceptance of certain appointments or benefits and must notify of any occupational activity engaged in for two years after leaving the service (see Annex 2);
- they shall always act objectively and impartially, in the Union's interest and for the public good;
- they shall act independently within the framework of this Policy and their conduct shall never be guided by personal or national interest or political pressure.

Prior to recruitment, all candidates offered a contract of employment with the Agency shall be required to complete a declaration of interests in line with Article 11 of the Staff Regulations. The Appointing Authority shall take into account any actual or potential conflicts of interest and take appropriate measures. This procedure shall also apply *mutatis mutandis* to seconded national experts, trainees, interims and, in line with Article 11 of the Staff Regulations, to statutory staff returning from leave on personal grounds.





Declarations of interests submitted by statutory staff and seconded national experts must be updated once every two years. In the case of interims, their declarations of interests must be updated every two years if their period of engagement with the EUAA runs for more than two years. If during the course of their duties, statutory staff, seconded national experts, trainees or interims wish to update their declaration of interests, they shall inform their line manager<sup>17</sup>. The declarations of interests of the Executive Director, Deputy Executive Director, heads of centre and the Senior Adviser to the Executive Director shall be published on the Agency's website.

If at any time in the course of their duties, statutory staff, seconded national experts, trainees or interims become aware of any potential or actual conflict of interests, they must inform without delay their line manager, who, in turn, may consult the Head of the Human Resources Unit<sup>18</sup>. The Executive Director<sup>19</sup> will determine any appropriate action in line with sections 6.1 and 6.2 of this Policy. The Head of the Human Resources Unit<sup>20</sup> shall remind statutory staff, seconded national experts, trainees and interims of their obligations regarding this Policy, including the obligation to update their declaration of interests.

The Head of the Human Resources Unit<sup>21</sup> (with input from line managers – as applicable) may support/facilitate the Executive Director on matters related to conflicts of interest in general. Any related decisions by the Executive Director shall be made in accordance with the EU Staff Regulations.

Therefore, any relevant matters brought to the attention of the Executive Director, if deemed necessary, may warrant measures being taken in line with section 6.1 of this Policy.

In case of non-compliance with this policy, action shall be taken in line with section 6.2 thereof.

#### **4.1.1 Selection procedures**

As specified above, the Agency and its statutory staff have a duty to serve the Union interest and, in doing so, the public interest. In this context, statutory staff taking part in selection committees are obliged to fill in a declaration with reference to conflicts of interest and a confidentiality declaration, each time they are appointed to a selection committee (in addition to the declaration of interests they fill in every two years as statutory staff).

External members of selection committees who do not have a contract of employment with the EUAA are also obliged to fill in a declaration with reference to conflicts of interest and a confidentiality declaration, whenever they are appointed to a selection committee.

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<sup>17</sup> For the purposes of this section of the Policy, the term 'line manager' is also used with regard to seconded national experts, trainees and interims. However, it should be emphasised that they are not employed by the EUAA.

<sup>18</sup> Pursuant to the relevant responsibilities on human resources management attributed to the Human Resources Unit in accordance with the ISROP.

<sup>19</sup> Or the Responsible Authorising Officer (RAO) – where applicable.

<sup>20</sup> Pursuant to the relevant responsibilities on human resources management attributed to the Human Resources Unit in accordance with the ISROP.

<sup>21</sup> *Idem*.



The Head of the Human Resources Unit<sup>22</sup> (with input from line managers – as applicable) may support/facilitate the Executive Director on matters related to conflicts of interest in the context of selection procedures. Any related decisions by the Executive Director shall be made in accordance with the EU Staff Regulations.

Therefore, any relevant matters brought to the attention of the Executive Director, if deemed necessary, may warrant measures being taken in line with section 6.1 of this Policy.

In case of non-compliance with this policy, action shall be taken in line with section 6.2 thereof.

As described in section 4.1 of this Policy, candidates offered a contract of employment with the EUAA are to complete a declaration of interests prior to taking up employment.

#### **4.1.2 Procurement and grants**

Statutory staff appointed to a tender opening committee, and/or appointed to a call for proposals or a call for tender evaluation committee and/or given the responsibility for assessing exclusion and selection criteria are obliged to fill in a declaration of absence of conflict of interest and confidentiality each time they are appointed in one of the aforementioned roles and in addition to the declaration of interests they fill in every two years as statutory staff.

In addition, other persons who do not constitute staff, such as external experts, invited to intervene at any stage of the procurement or grants procedure are also obliged to fill in a declaration of absence of conflicts of interest and confidentiality form.

Additional detailed provisions in applicable European Commission and EUAA documents shall also apply to the management of conflicts of interest in procurement and grants procedures.

The Head of the Procurement and Facility Management Unit<sup>23</sup> undertakes to assess and monitor regularly and make preliminary appraisals of compatibility of interests declared with the evaluation of the tender or grant proposal concerned. These preliminary appraisals shall be brought to the attention of the Executive Director or responsible authorising officer who, if deemed necessary, shall take action in line with section 6.1 of this Policy.

In case of non-compliance with this Policy, action shall be taken in line with section 6.2 thereof.

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<sup>22</sup> Pursuant to the relevant responsibilities on human resources management attributed to the Human Resources Unit in accordance with the ISROP, as well as the Decision of the Executive Director No 159 of 15 December 2020 on the Staff Recruitment Standard Operating Procedure (SOP).

<sup>23</sup> In implementation of the applicable provisions laid down in Article 42 of the Agency's Financial Regulation, as well as pursuant to the EASO Standard Operating Procedures on Procurement Rules and Contract Management.



#### **4.2 Member State experts and experts seconded by Member States to the Agency deployed in asylum support teams**

Member State experts<sup>24</sup>, including experts seconded by Member States to the Agency<sup>25</sup>, that are deployed in the Agency's asylum support teams shall duly fill in a declaration of interests prior to the start of their first deployment and every two years thereafter unless they are no longer made available by their Member States to the asylum reserve pool<sup>26</sup> or nominated in the context of annual bilateral negotiations<sup>27</sup> or their status is 'inactive' in the Operational Deployment System. Should an expert be made available or nominated once again or their status is changed from 'inactive' to 'active' in the Operational Deployment System, and they are subsequently deployed more than two years after their latest declaration, the aforementioned provisions shall apply.

The head of the entity within the EUAA responsible for managing the deployment of asylum support teams undertakes to assess and monitor regularly and make preliminary appraisals of compatibility of interests declared with general or specific office or duties of the individual concerned. These appraisals shall be brought to the attention to the line manager of the aforementioned head of entity who, if deemed necessary, shall take action in line with section 6.1 of this Policy.

In case of non-compliance with this Policy, action shall be taken in line with section 6.2 thereof.

#### **4.3 Tenderers participating in calls for tender, applicants participating in calls for proposal and contractors and beneficiaries awarded the EUAA's contracts and grants, including, *inter alia*, consultants and remunerated external experts**

Tenderers and beneficiaries participating in the EUAA's calls for tender and calls for proposal, respectively, shall fill in a declaration stating that the company or organisation that they represent, including subcontractors, and the personnel proposed for the tender or grant are not subject to a conflict of interest in the context of the scope of the contract or grant and that they undertake to inform the Agency without delay of any change to this situation.

They shall also declare that they have not made and will not make any offer<sup>28</sup> of any type whatsoever from which an advantage can be derived under the contract or grant.

Contracts or grants will not be awarded to tenderers or beneficiaries who, during the procurement or grant procedure are deemed by the Agency to have a conflict of interest.

Contractors or beneficiaries of the EUAA's grants are bound by (general) provisions included in every contract or grant agreement according to which the contractor or beneficiary shall take all necessary measures to prevent any situation that could compromise the impartial and objective performance of the contract or the grant agreement. A contractor or beneficiary shall notify the Agency in writing

<sup>24</sup> Within the meaning of Article 19(1)(b) of the EUAA Regulation.

<sup>25</sup> Within the meaning of Article 19(1)(c) of the EUAA Regulation.

<sup>26</sup> Within the meaning of Article 19(6) of the EUAA Regulation.

<sup>27</sup> Within the meaning of Article 12 of the Decision of the Executive Director No 83 of 12 July 2022 on the mechanism for selection of experts to be assigned to asylum support teams in operational support activities coordinated by the Agency, including management of the asylum reserve pool.

<sup>28</sup> That is not referring to a technical and/or financial proposal as part of a tender.



without delay of any conflict of interest which could arise during performance of the contract or grant agreement. In the event of such conflict, the contractor or beneficiary shall immediately take all necessary steps to resolve it. The Agency reserves the right to verify if such measures are adequate and may require additional measures to be taken within a concrete time limit.

In case the contractor or beneficiary does not comply with its obligations as laid down in this Policy, the responsible authorising officer may decide to terminate the contract or grant agreement.

The provisions of this section shall moreover apply *inter alia* to consultants and remunerated external experts contracted on a personal basis.

#### **4.4 Members and experts participating in the EUAA's working groups and networks**

All members of and experts<sup>29</sup> invited to a meeting of a working group or expert network of the EUAA are obliged to ensure that they have no conflicts of interest in relation to any of the topics to be discussed at that meeting. The Agency shall remind them of this obligation in the meeting invitation and invite them to inform the designated Chairperson and the Agency's entity responsible for the working group or expert network of any identified potential or actual conflicts of interest prior to the start of the meeting.

During meetings, if a potential or actual conflict of interest becomes apparent to a member/expert or the aforementioned Agency's responsible entity, then it must be communicated to the Chairperson immediately. The nature and details of the conflicting interest need not be openly disclosed to the other participants in the meeting.

In either of the preceding situations, should any member/expert declare such conflict of interests, the designated Chairperson shall take the necessary measures to ensure that there is no undue influence on the outcome of discussions and/or decisions made at the meeting, including where necessary excluding the member/expert in question from participating in discussions. The Agency's entity responsible for the working group or expert network shall record in the meeting minutes the communicated conflicts of interest and any measures taken by the designated Chairperson.

In case of non-compliance with this Policy, action shall be taken in line with section 6.2 thereof.

## **5. Declaration of Interests**

### **5.1 Who should declare their interests?**

Individuals falling within the categories identified in point (1) of section 1 of this Policy should, depending on their role(s), declare/communicate their interests and/or fill in declarations of interests covering both current and past interests of relevance or, if requested the absence of any relevant interests.

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<sup>29</sup> Including national contact points within the meaning of Article 24 of the EUAA Regulation.



## 5.2 What to declare?

An individual may have private financial interests, personal relationships or affiliations that could compromise official decisions in which they are involved. Interests can be direct or indirect depending on their likely or potential impact on the individual's behaviour at a given point in time. Personal relationships or affiliations could compromise official decisions in which an individual is involved. Where a competing interest arises due to direct or indirect interests the individual's involvement will have to be negated or restricted so that the competing interest is mitigated.

For the purposes of this sub-section of the Policy, the following definitions shall apply:

- **'Activity'** shall include:
  - **Employment:** any form or regular occupation or business, part-time or full-time, paid or unpaid, including self-employment, in any organisation active in relation to the Agency's remit;
  - **Consultancy, legal representation or advisory role:** any activity in which the concerned individual provides advice or services in a particular field that falls within the EUAA's remit regardless of the contractual arrangements or any form of remuneration;
  - **Membership of a management board/advisory board or equivalent structure:** any participation in the internal decision-making (with the right to vote/influence the outputs) of any organisation operating in a domain falling within the EUAA's remit in which the individual is expressing opinions on the (future) strategy, direction, and development activities either in terms of general strategy or activity-related strategy, regardless of contractual arrangements or any form of remuneration;
  - **Other memberships or affiliations:** any membership or affiliation not falling under the above categories and relevant for the purposes of the Policy, to any entity with an interest in the field of the activities of the EUAA, including professional organisations;
  - **Public statement or position:** any expert opinion or testimony in the field of activities of the EUAA for a commercial entity or other organisation as part of a regulatory or judicial process. Any office or other position (paid or unpaid), where the concerned individual represented interests or defended opinions in the field of activities of the EUAA.
  
- **'Financial interests'** shall include:
  - **Financial investments:** any economic stake or share in company, which is active in the field of activities of the EUAA, including holding of stocks and shares, stock options, equities, bonds, partnership interests and or securities held in the capital of a company, its subsidiaries or in a company in which it has a holding. Independently managed investment funds and/or pension schemes are not in scope and need not be declared;
  - **Research funding:** any funding for research or developmental work financed by public or private body (e.g., grants, rents and reimbursement of expenses, sponsorships, and fellowships) and received in a personal capacity or by an institute to which they are associated and fall within the EUAA's remit;
  - **Intellectual property rights:** rights in the field of activities of the EUAA granted to creators and (co-)owners of works that are the result of human intellectual creativity (e.g., patents, trademarks, etc.) and may lead to a financial gain.



Each individual is responsible for declaring their interests. The individual must declare all interests that could be prejudicial to their independence, whether of direct or indirect nature. These include:

- **Direct interests:** interests of personal benefit to the individual at any point in time, likely to influence or give the appearance of influencing their behaviour, including:
  - **Past activities:** activities engaged in over the last two years in foundations or similar bodies, academic institutions, companies or other public and/or private organisations (the nature of the post/role and the name of those bodies should also be indicated); other membership/affiliation held or professional activities carried out over the last two years, including services, liberal professions, consulting activities, and relevant public statements;
  - **Current activities:** activities engaged in foundations or similar bodies, academic institutions, companies or other public and/or private organisations (the nature of the post/role and the name of those bodies should also be indicated); other membership/affiliations held, or professional activities carried out, including services, liberal profession, consulting activities, and relevant public statements. stocks and shares, in the capital of such a company;
  - **Financial interests** which might create a conflict of interest in the performance of duties, with an indication of their number and value, as well as the name of the company/provider of the declared interest, asset, grant or funding;
- **Indirect interests:** other interests that may have some influence over the individual's behaviour and therefore have to be neutralised;
- **Interests of close family members:** spouse's, partner's and/or dependent family members' current activities and financial interests in a domain falling within the EUAA's remit that might give rise to or create a perception of a conflict of interest;
- **Any other relevant interests:** any interests not falling under the categories provided above and relevant for the purposes of this Policy.

## 6. Management of the Policy

### 6.1 Preventive action if a risk of conflict of interest is identified

The applicable legal framework establishes measures to be taken in dealing with conflicts of interest<sup>30</sup>.

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<sup>30</sup> The Agency's Financial Regulation states:

Article 30 – Internal control of budget implementation

[...] 3. Effective internal control shall be based on best international practices and on the Internal Control Framework laid down by the Commission for its own departments and shall include, in particular, the following elements:

[...] (c) avoidance of conflicts of interest; [...]

Article 42 – Conflicts of interest

1. Financial actors within the meaning of Chapter 3 of this Title and other persons, including the members of the Management Board, involved in budget implementation and management, including acts preparatory thereto, audit or control shall not take any action that may bring their own interests into conflict with those of the Union body. They shall also take appropriate measures to prevent a conflict of interest from arising in the functions under their responsibility and to address situations which may objectively be perceived as a conflict of interest.



In case a conflict of interest or potential conflict of interest is identified, the following measures shall be taken.

### **6.1.1 All statutory staff (i.e., temporary agents and contract agents), seconded national experts, trainees, temporary agency workers ('interims'), and candidates offered a contract of employment with the EUAA**

In the case of statutory staff, the provisions of the Staff Regulations and CEOS apply, in particular the applicable measures foreseen in Articles 11, 11a and 13 thereof. If the statutory staff member concerned is the Executive Director, the decisions shall be made by the Management Board or the

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Where there is a risk of a conflict of interest, the person in question shall refer the matter to the competent authority. The competent authority shall confirm in writing, whether a conflict of interest is found to exist. In that case, the competent authority shall ensure that the person concerned ceases all activities in the matter. The competent authority shall take any further appropriate action.

2. For the purposes of paragraph 1, a conflict of interest exists where the impartial and objective exercise of the functions of a financial actor or other person, as referred to in paragraph 1, is compromised for reasons involving family, emotional life, political or national affinity, economic interest or any other direct or indirect personal interest.

3. The competent authority referred to in paragraph 1 shall be the Executive Director. If the member of staff concerned is the Executive Director, the competent authority shall be the management board or, where the constituent act allows it, the executive board. In case of a conflict of interest involving a member of the management board, the competent authority shall be the management board, exclusive of the member concerned.

The Staff Regulations state:

#### Article 11

[...] Before recruiting an official, the appointing authority shall examine whether the candidate has any personal interest such as to impair his independence or any other conflict of interest. To that end, the candidate, using a specific form, shall inform the appointing authority of any actual or potential conflict of interest. In such cases, the appointing authority shall take this into account in a duly reasoned opinion. If necessary, the appointing authority shall take the measures referred to in Article 11a(2).

This Article shall apply by analogy to officials returning from leave on personal grounds.

#### Article 11a

1. An official shall not, in the performance of his duties and save as hereinafter provided, deal with a matter in which, directly or indirectly, he has any personal interest such as to impair his independence, and, in particular, family and financial interests.

2. Any official to whom it falls, in the performance of his duties, to deal with a matter referred to above shall immediately inform the Appointing Authority. The Appointing Authority shall take any appropriate measure, and may in particular relieve the official from responsibility in this matter.

3. An official may neither keep nor acquire, directly or indirectly, in undertakings which are subject to the authority of the institution to which he belongs or which have dealings with that institution, any interest of such kind or magnitude as might impair his independence in the performance of his duties.

#### Article 13

If the spouse of an official is in gainful employment, the official shall inform the appointing authority of his institution. Should the nature of the employment prove to be incompatible with that of the official and if the official is unable to give an undertaking that it will cease within a specified period, the appointing authority shall, after consulting the Joint Committee, decide whether the official shall continue in his post or be transferred to another post.





Executive Board, if constituted, in accordance with Management Board Decision No 98 of 19 January 2022<sup>31</sup>.

In the case of a seconded national expert, trainee or interim the Executive Director<sup>32</sup> shall ensure that the person concerned should either give up the conflicting personal interest or refrain from participating in relevant activities, discussions, or decision-making for which such a conflict may arise. The Head of the Human Resources Unit<sup>33</sup> shall be responsible for enforcing the Executive Director's decision. The Executive Director<sup>34</sup> may decide to take other preventive action, if deemed necessary, and give due consideration to the facts, context, and proportionality.

### **6.1.2 Member State experts and experts seconded by Member States to the Agency deployed in asylum support teams**

The head of unit<sup>35</sup> responsible for managing the deployment of the asylum support team shall ensure that the concerned expert should either give up the conflicting personal interest or refrain from participating in relevant activities for which such a conflict may arise.

The Executive Director may decide to take other preventive action, if deemed necessary.

### **6.1.3 Tenderers participating in calls for tender, applicants participating in calls for proposals and contractors and beneficiaries awarded EUAA contracts and grants, including, *inter alia*, consultants and remunerated external experts**

The responsible authorising officer shall ensure that the tenderers or beneficiaries concerned should either give up the conflicting personal interest or refrain from participating in relevant contracts or grants for which such a conflict may arise.

The Executive Director or responsible authorising officer may decide to take other preventive action, if deemed necessary.

### **6.1.4 Members and experts participating in the EUAA's working groups and networks**

The head of unit within the EUAA responsible for the concerned working group or expert network shall ensure that the member or expert concerned should refrain from participating in relevant activities, discussions, or decision-making for which such a conflict may arise.

The Executive Director may decide to take other preventive action, if deemed necessary.

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<sup>31</sup> Management Board Decision No 98 of 19 January 2022 on the delegation to the Executive Director of the European Union Agency for Asylum of the powers conferred by the Staff Regulations of Officials of the European Union on the appointing authority and by the Conditions of Employment of Other Servants of the European Union on the authority authorised to conclude contracts of employment.

<sup>32</sup> Or the Responsible Authorising Officer (RAO), where applicable.

<sup>33</sup> Or the contract manager concerned, where applicable.

<sup>34</sup> Or the Responsible Authorising Officer (RAO), where applicable.

<sup>35</sup> Or in the absence of a head of unit, a head of centre, where applicable.





### 6.1.5 General measures

In all scenarios described in sub-sections 6.1.2 to 6.1.4 and depending on the determination of the level of exposure to an actual or risk of conflict of interest of each individual concerned, they may therefore as a result, where applicable:

- not be appointed to the relevant role (e.g., as chairperson, member, expert etc.);
- not work on or be involved in the concerned topic;
- not be involved in the concerned activities;
- not be selected to form part of an asylum support team etc.;
- not participate in decision-making or a vote on the concerned topic;
- if appropriate, not participate in deliberations leading to certain decisions; in the latter case, the Agency will need to decide whether to benefit from the member/expert's advice via other means (e.g., expert hearing, invitation on *ad hoc* basis by a committee/panel etc.).

## 6.2 Non-compliance with the Policy

### 6.2.1 Statutory staff

Non-compliance with this Policy by statutory staff may form a basis for launching disciplinary procedures under the applicable provisions of the Staff Regulations, in particular Article 86 thereof, and Management Board Decision No 69 of 25 September 2020<sup>36</sup>.

### 6.2.2 All categories of individuals excluding statutory staff

For all categories of individuals (excluding statutory staff), a non-compliance with this Policy, which may be motivated by a (risk of) conflict of interest and may moreover warrant any of the actions referred to above in Section 6.1, concerns:

- failure to complete a declaration of interests when required to do so under this Policy following two successive reminders to do so;
- failure to declare or communicate an actual or potential conflict of interest in a declaration of interests or prior to/during a meeting intentionally or through gross negligence;
- submission of an incorrect or incomplete declaration of interests, and failure to rectify following two successive reminders;
- failure to comply with the requirements of this Policy intentionally or through gross negligence.

Depending on the status of the individual concerned, appropriate action to be taken in case of non-compliance may include, *inter alia*:

- a) a verbal warning;
- b) a letter of reprimand;
- c) revocation of nomination or termination of a contract of engagement;

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<sup>36</sup> Management Board Decision No 69 of 25 September 2020 on the application of the European Commission general implementing provisions on the conduct of administrative inquiries and disciplinary procedures to EASO.



d) the duty to step down from the role in EUAA activities or a request to step down.

The appropriate action shall be based on the principle of proportionality and shall take into account the reasons for the non-compliance, as well as previous proven non-compliances.

Any of the actions above taken shall be duly recorded.



## Annex 2

### Guidance on post-employment rules and procedures

#### 1. Purpose and scope

This Annex provides guidance on the rules and procedures applicable when statutory staff<sup>37</sup> leave the Agency. The aim is to ensure that statutory staff leaving the service do not put at risk the objectives of the Agency when entering their new occupational activity. Any measure taken against potential misuse of sensitive information should however not prevent former statutory staff from applying their professional expertise.

Post-employment refers to the future employment to be taken up by statutory staff leaving the Agency. Besides employment in the private sector, this includes employment with another EU Institution or body as well as with a public administration at national level, an academic institution, a public research centre, or a not-for-profit or non-governmental organisation.

#### 2. Legal basis

Statutory staff are bound, under Articles 17 and 19 of the Staff Regulations applicable by analogy to temporary and contract staff under the CEOS, to keep confidential any information they have received in the line of duty even after leaving the public service. This obligation to respect professional secrecy is not limited in time.

In addition, Article 16 of the Staff Regulations, which also applies by analogy to temporary agents and contract staff, obliges former statutory staff to behave with integrity and discretion as regards the acceptance of certain appointments or benefits after leaving the service. They also have to inform their previous employer, within two years after leaving the service, about any intention to engage in an occupational activity, whether gainful or not. Based on the information received the authority empowered to conclude contracts of employment (AECC) will have to assess whether approval of that activity can be given.

Moreover, senior 'officials' as defined in implementing measures are in principle prohibited, during the first year after leaving the public service, from engaging in lobbying or advocacy vis-à-vis staff of the Agency for their business, clients or employers on matters for which they were responsible during the last three years in service.

#### 3. Post-employment duties before leaving the public service

Pursuant to Article 11 of the Staff Regulations, statutory staff shall carry out their duties and conduct themselves solely in the interest of the service, to which they owe their loyalty. Therefore, statutory staff should not enhance their future occupational prospects in or for the private sector by giving

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<sup>37</sup> For the purposes of this Decision, the term 'statutory staff' includes temporary agents and contract agents covered by the Staff Regulations and CEOS.



preferential treatment to potential employers or, in case of a planned self-employed activity, clients during their service at the Agency.

Statutory staff should be obliged, in a timely manner, to disclose their negotiating of employment or services and offers of employment or service contracts in the private sectors that could constitute a conflict of interest. In practice this requires the statutory staff concerned to inform their hierarchy at once if they are in serious employment or service negotiation with a company or stakeholder that is subject to or affected by any Agency decision, opinion, or recommendation under preparation, in which adoption process those statutory staff are actively involved.

This requirement stems from the general obligation to abstain from any conflicts of interest as enshrined in Article 11a of the Staff Regulations and depends not only on the activities and mission of the Agency but also on the job descriptions, tasks and objectives of each individual statutory staff member.

Following the notification of employment negotiations, the general conflict of interest policy procedures apply, which may require the adoption of certain safeguarding measures including but not limited to removing the declaring statutory staff member from or limiting their participation in the preparation of the decision, opinion or recommendation where their participation may be perceived as leading to a conflict of interest situation.

In order to prevent and manage potential conflict of interest situations after leaving the public service, statutory staff who had access to sensitive information and who wish to engage in an occupational activity should inform the AECC, either before their employment contract expires or after the AECC received or sent out a notice of termination, of the following:

- A description of their activities during their last three years of active service at the Agency;
- A description of the activities that they wish to take up, including information on the position they are to occupy and the expected duration of the activities;
- The name, address and telephone number of their potential employer, as well as its fields of activity; and
- The links with their former functions at the Agency, if any.

To that end, the Agency shall make available to its statutory staff a specific application for approval form.

#### **4. Assessment and decision by the AECC following a request for approval of an occupational activity after leaving the service**

Following the submission of the application for approval, the AECC has 30 working days to assess the envisaged employment or service and notify its decision whether the application for approval:

- will be granted;
- will be granted under certain conditions; or
- will be rejected.



If no such notification has been received by the end of this period, this should be deemed to constitute an implicit acceptance of the application.

The AECC may consult the head of centre/unit from which the statutory staff member concerned originates.

Any permission granted pursuant to the application should be limited to employment with or services for a named organisation, and any person with whom the organisation merges or transfers the undertaking by which the statutory staff member is employed or provides services for.

The application for an occupational activity after leaving the Agency shall generally be granted unless it refers to particular cases in which there is a concrete link between the statutory staff member's tasks and responsibilities at the Agency and their future employment. More specifically, it should be ensured that statutory staff after leaving the Agency will not:

- Represent their new employer or client before the Agency or any court in an on-going procedure or negotiation on a specific issue for which they had responsibility during their service at that Agency;
- Take unfair advantage of sensitive information that they acquired while being employed by the Agency to benefit themselves or their new employer;
- Take unfair advantage of their personal contacts in the Agency in order to gain privileged access to former colleagues; or
- Seek to influence outside of normal consultation processes their former colleagues to the benefit of themselves or their new employer.

In this regard the AECC should also take into account any safeguarding measures of the statutory staff member's new employer or company, including rules on professional ethics, ensuring exclusion of any conflicts of interest.

## **5. Post-employment duties after having left public service**

For a period of two years after leaving the Agency, former statutory staff are required to inform the AECC without delay of any change in one or more of the circumstances set out in the bullet points of Section 4 of this guidance that occur after approval has been given. The AECC should examine whether to modify the conditions of or, in exceptional circumstances, to withdraw its approval in the light of such a change.

Former statutory staff must neither use nor disclose classified, sensitive or other internal information after they leave the public service. This obligation stems directly from their duties pursuant to Articles 17 and 19 of the Staff Regulations.

Statutory staff is required to acknowledge this obligation by signing a declaration of honour before their last day in service at the EUAA.



## 6. Conditions that may be imposed by the AECC before authorising post-employment

In case the AECC considers it necessary to impose temporary conditions in order to exclude any of the scenarios contained in the previous section, it may require one or several of the following conditions, taking into account the interest of the service and the level of risk that the post-employment concerned could give rise to a conflict-of-interest situation or result in undue advantage due to sensitive inside knowledge:

- No intervention in any affair or dossier that the former statutory staff member was personally involved in or, in case of a management position, that was dealt with by the centre/unit headed by the former statutory staff member (applicable by analogy to heads of sector or office). This condition particularly concerns dossiers which remain open after leaving the service;
- Abstain from having any professional contact with former colleagues and especially subordinates;
- Prohibition to advise companies that have been addressees or beneficiaries of any individual decision prepared by centres under the authority of the former statutory staff member (applicable to senior management or senior advisors);
- No representation of companies before the former employer (e.g., before an Agency's Board of Appeal or an advisory or regulatory committee/body);
- Not to hold a senior consultative role in the regulated industry or its associations (applicable to the Agency's Executive Director and Deputy Executive Director);
- Not to engage in lobbying or advocacy vis-à-vis staff of their former Agency for their business, clients or employers on matters for which they were responsible during the last three years in service (duty imposed on senior 'officials' by the Staff Regulations could be extended to other statutory staff).

The general principle of proportionality will be adhered to when deciding which conditions to apply and for how long these should be in place.



## **Annex 3**

### **Guidance on ethical behaviour**

#### **1. Purpose and scope**

This Annex provides guidance on a number of ethical principles that apply in the performance of the Agency's activities and the tasks it delivers as a public body of the European Union.

Although the ethical principles were originally elaborated to guide statutory staff under the applicable provisions of the Staff Regulations and CEOS, where applicable they should be applied by analogy to other categories of persons involved in or supporting the conduct of the Agency's activities.

In this context, the principles apply to the following categories of persons (hereinafter 'individuals'):

- a) Statutory staff (i.e., temporary agents and contract agents) and other personnel (including seconded national experts, temporary agency workers (interims), and trainees);
- b) Member State experts and experts seconded by Member States to the Agency deployed in asylum support teams;
- c) Tenderers participating in calls for tenders, applicants participating in calls for proposals and contractors and beneficiaries awarded EUAA's contracts and grants, including, *inter alia*, consultants and remunerated external experts<sup>38</sup>.
- d) Members and experts participating in the EUAA's working groups and networks

For the sake of clarity, the individuals referred to in points (b), (c) and (d) are hereinafter collectively referred to as 'non-staff individuals' (in this Annex) to distinguish them from statutory staff and other personnel referred to in point (a).

#### **2. Confidentiality and discretion**

All individuals must treat information on the Agency's work with the utmost discretion and confidentiality. The Agency faces potentially conflicting obligations, requiring it to weigh the duty to deliver on its tasks, transparency and granting public access to documents, with the need to respect confidentiality of information that the Agency holds, where appropriate as legally required.

All individuals are subject to a general duty of confidentiality under the Lisbon Treaty. The protection of personal data and respect of confidential information is an essential part of the relationship between the Agency, European institutions, Member States, third countries and other third parties. The Agency recognises that some individuals may have access to confidential information as well.

Individuals have to treat information on the Agency's activities with the utmost discretion and confidentiality. This is of particular importance in view of the potential implications and legal consequences of a disclosure of sensitive information to the public. Individuals have to exercise the

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<sup>38</sup> Within the meaning of Article 237 of the financial rules applicable to the general budget of the Union.



greatest discretion both during their term of office, service, or period of collaboration, and afterwards. Individuals have a life-long duty of confidentiality even after they have ceased their relationship with the Agency. This covers all information of the kind covered by the obligation of professional secrecy. The duty of confidentiality applies under all circumstances, whether at the Agency, in their own workplace or at home. Individuals have to avoid discussing sensitive information outside the Agency or their workplace. Utmost discretion should be exercised when discussing Agency work-related subjects with third parties including family and friends and with colleagues or third parties in a public place.

Individuals are advised to exercise care when answering questions so as not to supply any information where this is not public. The provenance of the party posing a question should always be ascertained and questions should be put in writing where possible. Common sense must be applied regarding indirect questions seeking to obtain information. Where it is not possible to clear a presentation or a statement in advance within the Agency, e.g., answers to questions in a panel discussion or in other similar situations, it is advisable to give a disclaimer, e.g., that the views presented are those of the individual and may not be understood or quoted as being made on behalf of the Agency or reflecting the position of the Agency.

In case of any doubt about the correct handling of information non-staff individuals should seek guidance from their Agency contact point, whereas staff members and other personnel should speak to their managers.

As a general policy, on matters related to the Agency, individuals should not speak directly to journalists and the wider media without informing the Agency's Spokesperson or Press Officer in advance.

Individuals should abide by the Agency's guidance for staff on social media, particularly when acting in a private capacity (e.g., as a blogger). They should refrain from voicing opinions on sensitive topics in the areas of the Agency's mandate and tasks.

Individuals are required to cooperate fully with the European Anti-Fraud Office (OLAF). The release of information in response to a request from or in the course of an investigation by the Office shall not constitute a breach of confidentiality. Information provided to the European Court of Auditors (ECA) or the European Commission's Internal Audit Service (IAS) in the course of its duties, national or European Courts shall not constitute a breach of confidentiality.

### **3. Gifts and hospitality<sup>39</sup>**

#### **3.1. Definitions**

A 'gift' is understood to mean:

- a sum of money or any physical object, or

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<sup>39</sup> Based on 'Communication from Vice-President Šefčovič to the Commission on Guidelines on Gifts and Hospitality for the staff members', (SEC(2012) 167 final, 7.3.2012).





- the possibility to participate for free in events which are open to the public or are private in nature, are only accessible in return for payment and represent a certain value (such as complimentary tickets for sports events, concerts, theatre, conferences, etc.), or
- any other advantage with a pecuniary value such as transport costs.

Low value items given for purely information purposes (brochures, booklets, catalogues, etc.) are not considered as gifts in this context. Indirect gifts are those which are not offered directly to an individual, but to a third party that is close to the individual. Gifts that are offered to the Agency are not covered by this guidance.

‘Hospitality’ is defined as an offer of food, drink, accommodation and/or entertainment from any source outside the Agency.

### **3.2. Principles**

As a general rule, individuals should not accept any direct or indirect gifts or hospitality offered by third parties.

This is most evident where gifts are offered by persons, authorities or organisations which are involved in or are seeking official action by the Agency especially in a sensitive area in which the individual is, has been or will likely be active in the foreseeable future. All such gifts should be in principle refused. In addition, the rules apply to "indirect" gifts or hospitality offered to a third party that is close to the individual. In any event, any situation where the acceptance of a gift or hospitality may lead to real, potential, or perceived conflict of interest should be absolutely avoided. Any gifts entailing a sum of money, regardless of the amount, must always be refused.

Acceptance of gifts or hospitality may, exceptionally be authorised (within the limits indicated in subsection 3.3 below) when it is clear that this will not compromise or reasonably be perceived to compromise the individual's objectivity and independence and will not damage the Agency's public image. This evaluation can only be based in the first place on sound judgement from the individual in the given circumstances, and in the relevant cases should then be confirmed by the Agency contact point in the case of non-staff individuals or the Appointing Authority in the case of statutory staff and other personnel.

Criteria to be considered in this context are, in particular, if the acceptance of the gift or hospitality is counter to the interest of the service or presents a real or perceived conflict of interest for the individual concerned, or if such acceptance would be in accordance with diplomatic and courtesy usage.

In this respect, certain factors may point towards the likelihood that authorisation could be granted, for instance when the offer of a gift or hospitality has a low value or is addressed to a large number of persons. On the other hand, there are factors which may point towards the likelihood that authorisation would be refused, for instance when the offer of a gift or hospitality has a high value or is addressed to a single individual.



In general terms, for the purposes of the assessment of a given request, the following factors could be relevant: it being understood that the factors mentioned are not exhaustive, and that they will be neither individually nor collectively decisive but form part of a case-by case analysis:

- depending on the context, the nature of the source offering the gift or hospitality (private/public);
- the apparent motive behind the offer of the gift or hospitality;
- the link between the entity offering the gift or hospitality and the Agency (e.g., procurement procedures, cases under investigation, financial interests, etc.);
- the nature and estimated value of the gift or hospitality, including whether there have been one or several offers from the same source;
- the individual or collective destination of the offer;
- the role or functions of the individual;
- the benefits for the Agency expected from the participation of the individual at the event in question.

Gifts and hospitality motivated solely by a family relationship or personal friendship, or in a context not related in any way to the individual's duties or role do not, in principle, fall under these provisions. However, even here situations may arise when acceptance can be perceived as compromising the individual's independence.

### 3.3. Specific provisions relating to gifts

The specific provisions in this sub-section apply primarily to statutory staff and, by analogy, to other personnel. They should nonetheless be duly considered by non-staff individuals as guidance in the context of their roles and/or provision of services to the Agency.

As a general rule, gifts should not be accepted and one should make use of sound judgement in order to assess, in the given circumstances, if acceptance could be envisaged.

Subject to the general principles set out in sub-sections 3.1 and 3.2, gifts should therefore only be accepted if in line with or if required by social, courtesy, or diplomatic usage. In that case, the following administrative arrangements apply:

- a) Prior permission by the Appointing Authority<sup>40</sup> is presumed to be granted, in accordance with Article 11 of the Staff Regulations and in the interest of expedient administrative procedures for **a gift worth up to €50.**

In this respect it is important to stress that this threshold does not mean that any statutory staff member may consider themselves at liberty to accumulate a number of gifts below the set value, bearing in mind that an accumulation may be seen to compromise their objectivity and independence, or may damage the EUAA's public image.

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<sup>40</sup> Within the meaning of Article 1 of Management Board Decision no 98 of 19 January 2022 on the delegation to the Executive Director of the European Union Agency for Asylum of the powers conferred by the Staff Regulations of Officials of the European Union on the appointing authority and by the Conditions of Employment of Other Servants of the European Union on the authority authorised to conclude contracts of employment.



- b) Explicit prior permission by the Appointing Authority is required for a **gift worth between €50 and €150**.

If the Appointing Authority authorises acceptance, the gift may be kept. Again, it is stressed that this threshold does not mean that any statutory staff member may consider themselves at liberty to accumulate a number of gifts – which will also be an element that will be taken into consideration by the Appointing Authority.

- c) Authorisation for **gifts with a value higher than €150** will be refused by the Appointing Authority.

Such gifts must thus be refused. For the sake of transparency, the statutory staff member should inform their immediate hierarchical superior, preferably in writing, that the gift or sum of money has been offered and refused.

Offers of any sum of money must always be refused by statutory staff.

- d) General considerations.

In general terms, the following applies:

- If the Appointing Authority refuses to authorise acceptance or if a gift is unwanted, it can be returned to the source, if this is feasible;
- Alternatively, it can be sent to the Human Resources Unit. The gifts transmitted by statutory staff based in any location, will be donated by the Human Resources Unit to an appropriate charitable organisation;
- As far as gifts returned to the source or sent to the Human Resources Unit are concerned, such action shall not be considered as "acceptance" in the meaning of the Staff Regulations, provided that the statutory staff member immediately informs their immediate line manager;
- As a courtesy, the statutory staff member should inform the sender, unless this would be diplomatically inappropriate, that the gift cannot be accepted and will be transmitted to charity;
- Where statutory staff are in doubt as to whether the refusal of a gift would be contrary to social, courtesy, or diplomatic usage or might create otherwise embarrassing situations, they should bring the matter to the attention of the Appointing Authority, which will decide on a possible refusal.

Finally, the value amounts mentioned above should be estimated in good faith.

### **3.4. Specific provisions relating to hospitality**

The specific provisions in this sub-section apply primarily to statutory staff and, by analogy, to other personnel. They should nonetheless be duly considered by non-staff individuals as guidance in the context of their roles and/or provision of services to the Agency.



### 3.4.1. Hospitality in general

As a general rule, hospitality should not be accepted and one should make use of sound judgement in order to assess, in the given circumstances, if acceptance could be envisaged.

Subject to the general principles set out in sub-sections 3.1 and 3.2 above, hospitality should therefore only be accepted if in line with or if required by social, courtesy, or diplomatic usage. In that case, the following administrative arrangements apply:

- a) Prior permission by the Appointing Authority is presumed to be granted, in accordance with Article 11 of the Staff Regulations and in the interest of expedient administrative practice:
- of hospitality in the form of lunches or dinners strictly linked to the function of statutory staff, and as such not prejudicial to the interests and public image of the Agency, and in which the statutory staff participate in agreement with their hierarchy and in the interest of the service;
  - of occasional offers of simple meals, refreshments, snacks, etc.

As in the case of gifts, the presumption of authorisation does not mean that statutory staff may consider themselves at liberty to accumulate a number of offers of hospitality, bearing in mind that an accumulation may be seen to compromise their objectivity and independence, or may damage the Agency's public image.

- b) Explicit prior permission by the Appointing Authority is required:

As a general rule, statutory staff should keep in mind that there is no such a thing as a free lunch. In cases not covered by the previous heading, or if statutory staff judge that there is a doubt as to the appropriateness of accepting or refusing a hospitality offer, prior authorisation should be received from the Appointing Authority. If prior authorisation is not feasible, the Appointing Authority's agreement should be sought as soon as possible subsequent to the event. In any event the statutory staff member's immediate superior should be informed.

This does not mean that statutory staff may consider themselves at liberty to accumulate a number of offers of hospitality, which will also be an element that will be taken into consideration by the Appointing Authority.

In any case of doubt, statutory staff are invited to consult their line managers.

### 3.4.2. Hospitality offered during missions

A mission order will as a rule cover all predictable offers of hospitality, based on the mission programme, notably meals, accommodation, and transport. These will not be considered as hospitality offers if the programme of the mission and the participation of the statutory staff member (or seconded national expert) has been authorised, as they form part of the performance of their duties in the interest of the service. The acceptance of these offers will then be declared in the mission expense statement.



Particular prudence is necessary in sensitive situations. For example, statutory staff participating in audits, evaluations and similar missions should whenever possible inform their line manager or on an *ad hoc* basis, and in accordance with any other specific provisions, when hospitality is offered in the course of such missions. If this is impossible, they should exercise their individual judgement and act according to the principles set out in these guidelines. Any hospitality thus accepted should be declared in the mission expense statement.

In this respect, the Human Resources Unit may give practical advice on what can be considered as usual and acceptable practice in view of avoiding real or perceived potential conflicts of interest.

#### **4. Invitations to publish or to give speeches or lectures**

The specific provisions in this section apply primarily to statutory staff and, by analogy, to other personnel. They should nonetheless be duly considered by non-staff individuals as guidance in the context of their roles and/or provision of services to the Agency.

Invitations to publish or to give speeches or lectures can be seen as a gift or an indirect benefit. One must distinguish between publications, speeches, or lectures in an official capacity on behalf of the Agency or when using one's position or association with the Agency to support one's participation or publication and private publications, speeches, or lectures.

When statutory staff or other personnel are acting in an official capacity, advance clearance for the content thereof is required by the Executive Director. Member State and national experts and remunerated external experts acting in their Agency role should obtain advance clearance from the Executive Director via the head of centre or unit concerned.

Statutory staff wishing in a private capacity to publish a text, give a speech, an interview or lecture on a subject relating to the work of the Agency or the European Union must inform the Agency in advance in writing, in accordance with Article 17a of the Staff Regulations and the Agency's rules on outside activities and assignments<sup>41</sup>. Permission may be granted by the Executive Director strictly on a case-by-case basis after taking into consideration the statutory staff member's role and experience and the legitimate interests of the Agency and/or the European Union.

Where it is not possible to clear a presentation or statement in advance, e.g., answers to questions in a panel discussion or during an interview, a disclaimer must be stated, i.e., that the views presented are those of the individual and may not be understood or quoted as being made on behalf of the EUAA or reflecting the position of the EUAA.

Statutory staff and other personnel must also obtain advance permission concerning the acceptance of any payment for publications, speeches or lectures which are not directly related to their work at the Agency in accordance with the rules on outside activities and assignments<sup>42</sup>. Payment for

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<sup>41</sup> Management Board Decision No 86 of 13 September 2021 on the application by analogy of Commission Decision C(2018) 4048 of 29 June 2018 on outside activities and assignments and on occupational activities after leaving the Service to the European Asylum Support Office

<sup>42</sup> *Idem*.



publications, speeches or lectures directly relating to the activities of the Agency is normally not permitted.

On some occasions, it may not be appropriate for anyone from the Agency to attend or participate in any way. Therefore, if permission is refused for an invitation to speak, publish or to participate at a meeting, conference or to represent the Agency, it is not acceptable for the individual to attend during a weekend or by taking leave.

## 5. Fees and honoraria

For invitations to speak (for which permission to attend has been granted) it is acceptable that the participation fee is waived and/or travel expenses are paid for by the inviting organisation. However, no honorarium may normally be accepted for publications, speeches, or lectures in the course of duty. Exceptionally, a payment may be accepted to defray reasonable attendance and accommodation costs.

In the special case of a private publication, provided that the publication is written in one's free time and advance permission has been obtained, the fee for publication (declared in advance) may be accepted by statutory staff or other personnel in line with the rules on outside activities and assignments.

## 6. Honours or decorations

If statutory staff or other personnel are offered an honour or decoration from any government or other source, permission to accept it must have been requested in writing and obtained in advance from the Executive Director.

There is an exception for services rendered before one's employment/engagement by the Agency or during special leave for military or other national service and in respect of such services. Otherwise, it might reasonably be considered that the honour has been granted for services rendered to an outside body or national government while the statutory staff member or other personnel was working for the Agency, which requires an assessment by the Executive Director.

Only national honours and decorations awarded by a sovereign state or official medals awarded by a sovereign state or an official organ of that state (ministry, regional or local authorities, universities, etc.), or recognised by an official authority outside the institution (Prix Charlemagne, Carnegie Hero Fund, etc.), are subject to the restrictions outlined in Article 11 of the Staff Regulations.

In assessing these requests, the Executive Director will take into consideration the following factors:

- the reason for the honour or decoration;
- the possible consequences for the Agency's interests.

This guidance also applies to former statutory staff and other personnel if the decoration or honour has any link with their work at the Agency.