
Decision n°: 2022/15

SUBJECT : Rules governing the prevention and management of conflicts of interests in the Management Board and Scientific Committee of European Union Agency for Fundamental Rights

**THE MANAGEMENT BOARD OF THE
EUROPEAN UNION AGENCY FOR FUNDAMENTAL RIGHTS**

HAVING REGARD to the Council Regulation (EC) No 168/2007 of 15 February 2007, amended by Council Regulation (EU) 2022/555 (hereinafter referred to as "the Founding Regulation"), establishing the European Union Agency for Fundamental Rights (hereinafter referred to as "the Agency"), and in particular Articles 12, 14 and 16 thereof;

HAVING REGARD to Regulation (EC) No 2018/1725 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;

HAVING REGARD to the Decision of the Management Board of 16 December 2022 adopting the Rules of Procedure of the Agency;

HAVING REGARD to the Guidelines on the prevention and management of conflicts of interest in EU decentralised agencies adopted by the European Commission on 10 December 2013;

HAVING REGARD to Decision 2014/14 establishing the Rules governing conflict of interest in the Management Board and the Scientific Committee and adopted on 12 December 2014 by the Management Board of the Agency;

WHEREAS:

- (1) Given the mandate and tasks assigned to the Agency, the Founding Regulation requires that the composition of the Management Board and the Scientific Committee ensures the Agency's independence, and by extension this of its members.
- (2) Article 12.1 (a) of the Founding Regulation establishes that the Management Board shall be composed *inter alia* of one independent person appointed by each Member State, having high level responsibilities in an independent national human rights institution or other public or private sector organisation.
- (3) According to Article 14.1 of the Founding Regulation, the Scientific Committee shall be composed of eleven independent persons, highly qualified in the field of fundamental rights, with adequate competences in scientific quality and research methodologies.
- (4) The members and alternate members of the Management Board, and the members of the Scientific Committee, shall undertake to act in the public interests. For this purpose, Article 16.2 of the Founding Regulation provides that they shall make a statement of financial, or any other interests of relevance to the mission of the Agency which might be considered prejudicial to their independence.

Article 2

The Rules governing the prevention and management of conflicts of interest in the Management Board and Scientific Committee shall be regularly reviewed by the Management Board upon assessment conducted by the Agency services. They shall be amended as appropriate in the light of past experiences and new recommendations from inside or outside the Agency.

Article 3

This decision repeals Management Board decision 2014/14 of 12 December 2014 and shall enter into force on the day following that of its adoption.

Done at Vienna, 16 December 2022.

For the European Union Agency for Fundamental Rights



Jim Clarken

Chairperson of the Management Board

Rules governing the prevention and management of conflicts of interests in the Management Board and Scientific Committee of the European Union Agency for Fundamental Rights

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TITLE I GENERAL PRINCIPLES

ARTICLE 1 SCOPE

- 1.1 The present provisions are applicable to the following persons:
- a) members of Management Board of the Agency. This body is responsible for the supervision of the Agency's activities and makes strategic decisions. It is, therefore, important that its members act in the full interest of the specific mission entrusted to the Agency;
 - b) members of the Scientific Committee of the Agency. By providing scientific and technical advice they play a crucial role, especially when their opinions form the basis of subsequent Management Board's decisions.

ARTICLE 2 DEFINITIONS

- 2.1. For the purposes of this decision:
- (a) A conflict of interest generally refers to a situation where the impartiality and objectivity of a decision, opinion or recommendation of the Agency is or might be perceived as being compromised by a personal interest held or entrusted to a given individual.
 - (b) Relevant personal interest may be of 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.
 - (c) Not only actual independence but also perception of independence is important, since it can impact on 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.
 - (d) "Member of the Management Board" should be understood as referring also to "the alternate member of the Management Board" pursuant to Article 12.2 of the Founding Regulation.
- 2.2 For the purposes of this decision, an interest should be understood as:
- (a) Financial interests - any financial interests in a company/institution operating in a related field, including holding of stocks and shares, equity, bonds, partnership interest in the capital of a company, one of its subsidiaries or a company in the capital of which it has a holding.

the need to serve the common good and the public interest, and never by any other interests whether personal or otherwise or as a result, for example, of political pressure.

3.1.2 The members of the Management Board and the members of the Scientific Committee shall not, in the performance of their duties, deal with a matter, directly or indirectly, that they have any personal interests in such as to impair their independence or perceived independence and, in particular, interests as defined in Article 2 of this decision.

3.2. IMPARTIALITY

In any decisions the members of the Management Board and the Scientific Committee are called upon to make, their approach should be unbiased.

3.3 OBJECTIVITY

When drawing conclusions, these should be balanced and based on a thorough analysis of the facts and the legal background.

3.4. LOYALTY

Loyalty towards the Agency is essential for maintaining its independence and achieving its mission.

3.5 TRANSPARENCY

3.5.1 The best way to foster integrity and accountability is to ensure transparency in all instances, within the limits of the respect of personal dignity, in compliance with the data protection legislation, in particular Regulation (EU) 2018/1725 on the processing of personal data whilst avoiding a disproportionate administrative burden.

3.5.2 The individuals concerned should assume individual responsibility by declaring their interests or absence of interest in good faith.

3.5.3 Transparency should be complemented by a culture of declaring interests and possibly abstaining from the respective decision making process in cases where a conflict of interest exists or could be perceived. Withdrawal should not automatically imply full resignation. In certain situations of conflicts of interest, declaring the interest while abstaining from contributing, giving advice or participating in the decision-making, could be considered proportionate.

3.6 SPECIFICITY OF THE AGENCY

3.6.1 The Agency was created in order to respond to very specific needs identified by the EU in the areas of fundamental rights. To meet the objectives entrusted to the Agency, the Agency needs the highest level of expertise available in the respective fields. Such expertise is built over time, through contact and collaboration with the relevant stakeholders in a specific sector.

situation should be stated in that meeting's minutes and the appropriate follow-up identified in the minutes.

5.2 The written declarations of interest should be available for public scrutiny including on the Agency website, with due respect to EU rules on protection of personal data. A summary of the Curriculum Vitae with the professional experience is also made available on the website.

5.3 The members of the Management Board and the members of the Scientific Committee shall submit to the Agency's services the written Annual Declaration of Interest within the first month following their appointment.

ARTICLE 6 INTERESTS TO BE DECLARED

The members of the Management Board and the members of the Scientific Committee shall declare, in the declarations of interests, any interest belonging to the categories defined in Article 2 of this decision with respect to all activities in which they are involved or have been involved during five years preceding the submission of the respective declaration.

ARTICLE 7 SCREENING AND ASSESSMENT OF DECLARATIONS OF INTERESTS OF MEMBERS OF THE MANAGEMENT BOARD AND THE SCIENTIFIC COMMITTEE

7.1 The Agency's services shall ensure, in close cooperation with the members of the Management Board and the Scientific Committee that all relevant material necessary for the Agency's review, such as the declaration of interests, confidentiality form and commitment of independence (where applicable), and the summary of the curriculum vitae, have been made available.

7.2 The Agency's services shall screen and analyse declared information within the curriculum vitae and the declarations of interest, and provide a written report to the Management Board. The screening should in particular analyse the contractual relations between the Agency and the institutions where the persons concerned had\have interest.

ARTICLE 8 ACTIONS AND SANCTIONS

8.1 In accordance with Article 12.4 of the Founding Regulation, a member or alternate member of the Management Board who no longer meets the criteria of independence shall resign forthwith and notify the Commission and the Director of the Agency. In such cases, the party concerned shall appoint a new member or a new alternate member for the remaining term of office. Moreover, the party concerned shall also appoint a new member or a new alternate member for the remaining term of office if the Management Board has established, based on a proposal of one third of its members or of the Commission, that the respective member or alternate member no longer meets the criteria of

9.3 With due regard to Article 6 of this decision, on the basis of the type and nature of interests noted in the declarations, the Management Board / Scientific Committee, by majority of all members, could consider various options such as incompatibility with the performance of certain functions or tasks, temporary exclusion from the meeting, abstention from the debate and/or the vote.

9.4 In case of lack of independence of a member of the Management Board/Scientific Committee the provisions of Articles 8.1 and 8.2 shall apply.

ARTICLE 10 OBLIGATIONS AFTER LEAVING THE MANAGEMENT BOARD OR SCIENTIFIC COMMITTEE

10.1 If the member of the Management Board or Scientific Committee intends to be engaged in occupational activities with entities having contractual relationship with the Agency during, or up to one year after the term of the mandate of the Board/Committee, then the member shall inform the Director of the Agency accordingly, who should formulate an opinion to the Management Board and if necessary propose mitigating actions in line with the principles laid down in this decision.

10.2 This decision and its elements will be regularly reviewed by the Management Board upon assessment conducted by the Agency services at least annually. It shall be amended as appropriate in the light of past experiences and new recommendations from inside or outside the Agency.

Annex I Breach of trust procedure

A breach of trust is defined as a failure to declare an actual or potential conflict of interest or failure to comply with the Agency's conflict-of-interest policy.

The following procedural steps apply for cases of breach of trust:

1. In case Agency has knowledge of information that is not consistent with the information included in the declaration of interests, and such information should have been declared, the Agency's services will inform the person in writing, asking them to clarify the situation, in particular by providing the rationale for the absence of the information to be declared, and to complete the declaration of interests with the missing information. The Chairperson of the Management Board (Chairperson) will also be informed.
2. While awaiting the person's reply, their involvement in Agency activities may be suspended until the aforementioned information has been received and assessed by the Agency. The person as well as the Chair will be notified of this suspension.
3. Once the information requested has been received, the Agency's services shall assess this information in order to establish whether the omission of the person needs to be considered as a breach of trust vis-à-vis the Agency, if it is found that:

Annex II Guidance on gifts, favours (hospitality offers) and payments

Members of the Management Board and Scientific Committee should not accept gifts, favours or payments from governments or any other source outside the institution without prior authorisation by the Chair of the Management Board. As a general rule, they should decline offers that have more than merely symbolic value (such as diaries, calendars, small desk items, an invitation for coffee etc.). In some exceptional circumstances (for instance if required by social, courtesy or diplomatic usage) and if there is clearly no risk for the interests and public image of the Agency, the member may accept some gifts or hospitality.

Hospitality offers are considered to be a kind of favour. The acceptance of hospitality will depend on the same factors as those outlined above for gifts. However it may be difficult to assess the value of hospitality offers and this is why the nature of the offer should first be considered. For instance offers of working lunches or dinners in which the member participates in the exercise of their duties, and where there is no risk of conflict of interest, can be accepted without prior authorisation. The same applies for the offers of simple meals, refreshments and snacks.

If they are offered a gift with an estimated value of more than €50, they must apply for permission to accept it. In any event, permission will not be granted if the value exceeds €150. Accumulating gifts should be avoided (even below €50 and independently of the source) as this can give rise to a negative image.

For all other offers and in case of doubt, the member should request a prior authorisation by the Chairperson.

When deciding on a request to accept a gift, the Chairperson takes into consideration the following factors.

- the nature of the source offering the gift;
- the apparent motive behind offering the gift;
- the link between the entity offering the gift and the Agency;
- the possible consequences for the Institution's interests;
- the individual or collective destination of the offer;
- the nature and estimated value of the gift;
- the Management Board/ Scientific Committee member's work.

Any sum of money must always be refused, except payments for work actually done and declared in the declaration of interest.