



DECISION OF THE MANAGEMENT BOARD

Rules on the prevention and management of conflicts of interests for Management Board members, independent experts, seconded national experts and other staff not employed by Cedefop

Reference: Article 5(1)(g) of Regulation (EU) 2019/128 of the European Parliament and the of the Council ⁽¹⁾

GENERAL PRINCIPLES

Article 1 – Scope

These rules lay down the guidelines for the management of potential or actual situations of conflict of interests for:

- Management Board members (full and alternate members; hereinafter 'Management Board members');
- Independent expert(s) appointed to the Management Board of Cedefop by the European Parliament;
- Seconded national experts and other staff ⁽²⁾ not employed by Cedefop.

Article 2 – Definitions

Conflict of interests situations can occur almost in any workplace at any time. If they are not handled correctly, they can negatively affect the decision-making process, give rise to scandals and cause reputational damage. They can also lead to wrongdoings and compromise legality and regularity of operations. When public bodies are concerned, it can also lead to a loss of faith in their ability to operate impartially and in the best interest of society.

The management of (potential) conflict of interests situations is a key element of good governance and management of EU institutions and bodies and it is crucial for maintaining the trust of stakeholders and citizens in their work.

⁽¹⁾ OJ L 30/90 of 31.1.2019

⁽²⁾ This includes staff that is not under the Staff Regulation and the Conditions of Employment of Other Servants, e.g. trainees or visiting researchers.

For the purposes of these rules:

- a) An 'interest' may be of financial or non-financial nature. It may concern a personal or a family relationship (to be understood as close family circle: parents, stable partner, children) or a professional affiliation. It should be noted that having an interest does not necessarily mean having a conflict of interests.
- b) 'Legitimate interests' are interests of a particular individual in his/her capacity as representative of an organisation or group within the Management Board of the Agency. There is no expectation that legitimate interests should lead to a conflict of interests.
- c) A 'potential conflict of interests' exists where a person falling under the scope of these rules has interests in his/her private capacity which could cause a conflict of interests to arise if that person was to become involved in relevant (i.e. conflicting) official responsibilities in the future.
- d) 'Conflict of interests' is a situation where the impartiality or objectivity of a decision, opinion or recommendation is or might be perceived as being compromised by an interest held by an individual. A conflict of interests might be actual or perceived. Appearance of a conflict of interests can constitute a reputational risk for the Agency.
- e) 'Declaration of interests' means the written declarations to be submitted according to the provisions of these rules.

Article 4 – Specificity of the Agency

Considering the specificity of the Agency, the mere fact that a person falling under the scope of these rules has a function in an entity which has a contractual or any other kind of relationship with the Agency is not *per se* to be regarded as a conflict of interests situation that would exclude the person concerned from exercising their functions for Cedefop.

Article 5 – Declaration of interests

- (1) In order to detect, assess and address situations of potential and actual conflict of interests, Cedefop requests a declaration of interests upon appointment of the persons falling under the scope of these rules, using the template provided for that purpose. Written declarations are to be signed by these persons and to be assessed according to the procedures described in these rules.
- (2) The persons falling under the scope of these rules shall declare any interests corresponding to the definitions in article 2.

Article 6 – Roles and responsibilities

- (1) **All persons falling under the scope of these rules** shall not deal with any matter, directly or indirectly, in which they have any interests that could impair their independence and impartiality in the performance of their duties. They have a responsibility to provide, without undue delay, information regarding the existence of interests and actual or potential conflicts of interests.
- (2) **Cedefop** shall take all appropriate measures to ensure that all persons falling under the scope of these rules are aware of their obligations and, accordingly, that in all its processes impartial decisions are taken. **Cedefop** shall ensure that the Agency's administrative processes allow for transparency of the procedure and the documentation of related information, in line with Regulation (EU) 2018/1725 ⁽³⁾.
- (3) As legal representative of Cedefop and responsible for the daily management of the Agency, the **Executive Director** shall ensure proper implementation of these rules. This entails providing secretariat to the Management Board in the application of these rules and ensuring that appropriate communication and training actions are delivered to all persons falling under the scope of these rules.

PROCEDURE FOR IDENTIFYING CONFLICTS OF INTERESTS FOR MEMBERS OF THE MANAGEMENT BOARD

Article 7 – Submission of a declaration of interests

- (1) Management Board members, including the independent expert appointed by the European Parliament and observers, shall carry out their duties objectively and impartially. They have a primary obligation to disclose at any time the existence of interests that may result in a conflict of interests and place Cedefop at risk. They shall submit a written declaration of interests within the first month following their appointment and they shall update it without delay if relevant changes occur to their interests, or at any point in time upon request by the Chairperson of the Management Board. It should be noted that having an interest does not necessarily mean having a conflict of interests.
- (2) The declaration of interests will be used by the Chairperson of the Management Board to assess and manage any actual or potential conflict of

⁽³⁾ 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.

interests (see Article 8). It will be published, with signatures redacted, on Cedefop's website in line with Article 4(4) of Regulation 2019/128 ⁽⁴⁾.

- (3) Further to the declaration of interests, and as soon as any situation of actual or potential conflict of interests arises, the members of the Management Board shall submit, without undue delay, a written statement describing the particular situation to the Executive Director, who will inform the Chairperson of the Management Board.

Article 8 – Assessment of declarations of interests

- (1) The Chairperson of the Management Board shall be informed of the declared interests of any other members of the Management Board, in order to take an informed decision on whether or not there is a potential or actual conflict of interests and, accordingly, if the member(s) in question continue(s) to meet the obligation of independence and impartiality.
- (2) To determine the significance of the potential or actual conflicts of interests, the Chairperson, in consultation with the Executive Board and the Executive Director, shall take into consideration the nature of the presumed interest (direct, indirect, etc.) and carry out an assessment on the basis of the following criteria and principles:

Criteria:

- The likelihood that decisions, opinions and recommendations would be unduly influenced by an interest that goes beyond the legitimate interests of the individual;
- The seriousness of the potential harm or wrong that could result from such influence;
- The availability of mitigating measures that can reduce the likelihood or limit the harm.

Principles:

- Proportionality and efficiency, i.e. taking account of the balance of expected benefits and risks;
 - Fairness, i.e. equal treatment of individuals in similar situations;
 - Transparency, i.e. using the pre-defined criteria, documentation and communication to the concerned individuals and stakeholders.
- (3) On the basis of the type and nature of the interests declared, the Chairperson shall take all necessary measures to ensure that the independence and

⁽⁴⁾ Regulation (EU) 2019/128 of the European Parliament and of the Council of 16 January 2019 establishing a European Centre for the Development of Vocational Training (Cedefop) and repealing Council Regulation (EEC) No 337/75.

impartiality of the Management Board's deliberations and decisions are not undermined.

- (4) Should the Chairperson find him- or herself in a situation of potential conflict of interests, the Executive Board shall designate another member to assess the existence of an actual or potential conflict of interests.

PROCEDURE FOR IDENTIFYING CONFLICTS OF INTERESTS FOR SECONDED NATIONAL EXPERTS AND OTHER STAFF NOT EMPLOYED BY CEDEFOP

Article 9 – Applicable principles

- (1) Seconded national experts (SNEs) and other staff not employed by Cedefop shall carry out their duties and conduct themselves solely with the interests of Cedefop in mind. They shall neither seek nor take instructions from any government, authority, organisation or person outside Cedefop. They shall carry out their duties objectively, impartially and in keeping with their duty of loyalty to Cedefop.
- (2) SNEs and other staff not employed by Cedefop shall not deal with matters in which, directly or indirectly, they have an interest such as to impair their independence and, in particular, family or financial interests. They may neither keep nor acquire, either directly or indirectly, any interests that might impair their independence in the performance of their duties.

Article 10 – Declaration of interests

- (1) Before appointing an SNE and other staff not employed by Cedefop, the Executive Director shall examine whether the candidate has any interests such as to impair his/her independence or any other conflicts of interests. To that end, the candidate shall submit a declaration of interests.
- (2) The Executive Director shall assess, based on the declaration of interests, if there is a case of potential or actual situations of conflict of interests and take this into account in a duly reasoned opinion.
- (3) To determine the significance of a conflict of interests, the Executive Director shall take into consideration the nature of the declared interests and carry out an assessment on the basis of the following criteria and principles:

Criteria:

- The likelihood that decisions, opinions and recommendations made would be unduly influenced by an interest that goes beyond the legitimate interest of the individual;
- The seriousness of the potential harm or wrong that could result from such influence;

- The availability of mitigating measures that can reduce the likelihood or limit the harm.

Principles:

- Proportionality and efficiency, i.e. taking account of the balance of expected benefits and risks;
- Fairness, i.e. equal treatment of individuals in similar situations;
- Transparency, i.e. using the pre-defined criteria, documentation and communication to the concerned individuals and stakeholders.

- (4) In case an SNE or other staff not employed by Cedefop encounters a conflict of interests, as defined in Article 2 of the present rules, he/she shall immediately inform the Executive Director in writing. The latter shall take this into account in a duly reasoned opinion.

Article 11 – Provisions regarding outside activities

SNEs and other staff not employed by Cedefop wishing to engage in an outside activity, whether paid or unpaid, or to carry out an assignment outside Cedefop, shall be subject to Cedefop's rules on prior authorisation for Cedefop staff ⁽⁵⁾.

Article 12 – Actions and sanctions

- (1) In case of actual or potential conflicts of interests, the person concerned shall be informed about the outcomes of the assessment and be reminded of his/her obligations as arising from these rules.
- (2) The person concerned should abstain from taking up roles that seem not compatible with his/her situation of conflict of interests.
- (3) In the Management Board, the member shall be invited by the Chairperson to abstain from taking part in discussions and/or deliberations and voting (if applicable) where his/her opinion or vote may be perceived as biased in the light of the actual or potential conflict of interests. The member may be replaced by his/her alternate; other parties who could contribute to the mitigation of the potential conflict of interests shall be notified (e.g. the Deputy Chairperson or the coordinator of the relevant group).
- (4) In case the actual or potential conflict of interests has already materialised or the person concerned either failed to declare his/her interests deliberately or because of gross negligence, actions may include: (a) in the case of a Management Board member, review or withdrawal of the decision taken with the contribution of the concerned member, and (b) in the case of SNEs and

⁽⁵⁾ Cedefop/DGE/38/2019: General implementing rules on outside activities and assignments and on occupational activities after leaving the service.

other staff not employed by Cedefop, notification of the Executive Director and the Anti-Fraud Office of the European Commission, as appropriate.

FINAL PROVISIONS

Article 13 – Raising awareness

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

Article 14 – Personal data protection

- (1) Declarations shall be processed pursuant to Regulation (EU) 2018/1725 of the European Parliament and of the Council of 23 October 2018 on the protection of natural persons with regard to the processing of personal data by the Union institutions, bodies, offices and agencies and on the free movement of such data.
- (2) The Executive Director is the data controller for handling the declarations of interests of data subjects identified in this policy.
- (3) Data subjects also are entitled to have recourse at any time to the European Data Protection Supervisor.

Article 15 – Repeal

The present rules repeal DIR/RB (2014)02388 of 22 October 2014 'Policy on the prevention and management of conflicts of interests at Cedefop'.

Article 16 – Entry into force

The present rules shall enter into force on the day of its adoption by the Management Board and shall be published on the website of Cedefop.

Done on 2 October 2019

For the Management Board,


Tatjana Babrauskiene

Chairperson of the Management Board

