



EUROPEAN DATA PROTECTION SUPERVISOR

Code of Conduct

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Foreword by the Director

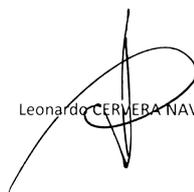
I am very pleased to write a few words of introduction for this new version of the Code of Conduct of the EDPS. Further to a bottom-up review conducted by representatives of all EDPS teams that was later validated by managers and the Supervisor, this new version of the Code builds on and modernises the previous versions of the original Code, which date from December 2006 and July 2014.

The EDPS is now 15 years old and many things have changed since our foundation by Supervisors Peter Hustinx and Joaquin Bayo Delgado. The culture of our institution, heavily influenced by our small size, has experienced some changes, in particular since the creation of the EDPB Secretariat, and new tasks and new technologies have also changed the way we work in practice. This new version of the code of conduct is our response to those changes.

I would like to use this foreword to pay a sincere tribute to Giovanni Buttarelli, who passed away in August 2019. This update of the code of conduct was his personal request. His visionary leadership took our small institution to levels of visibility and accountability we could not have even imagined a few years ago and his legacy as a data protection expert and amazing human being will live on for many years to come. It also gives me a lot of pleasure that this new version of the Code is adopted at the very early beginning of the mandate of the new Supervisor, Wojciech Wiewiórowski. I am sure that under his leadership, the Institution will continue increasing its accountability and its role at the centre stage of data protection in the EU and in the world.

I regard the adoption of this new version of the Code of Conduct as a further milestone in the maturity of our institution and I thank very much all colleagues who have worked on it and our Ethics Officer, Sylvie Picard, in particular.

I invite all EDPS colleagues to read this Code and to keep it always handy. By doing so, you will acquire the necessary knowledge to be able to conduct yourself with high ethical standards as it is required of all public servants of the EU institutions and bodies.


Leonardo CERMEJA NAVAS

6 December 2019

Introduction

This Code of Conduct (hereafter “the Code”) is a revised version of the EDPS code of conduct of 2006 and of 2014, building on our experience and the evolution of the institution over the last 15 years, including the creation of the EDPB Secretariat in 2018. The general mission of the EDPS is to ensure that the fundamental rights and freedoms of individuals, and in particular their right to privacy, are respected when the European institutions and bodies process personal data or develop new policies.

The EDPS also provides the Secretariat of the European Data Protection Board (EDPB). The EDPB’s mission is to ensure the consistent application of the GDPR and the Law Enforcement Directive across the EEA.

Article 75 of the GDPR stipulates that the Secretariat of the EDPB will be provided by the EDPS. Accordingly, this decision applies to all EDPS staff including the staff of the EDPB Secretariat¹.

This new Code also encompasses the Ethics Framework adopted on 17/10/2016 and revised on 12/11/2019.

The Code serves as a reference for our stakeholders and for the general public on the accountability of the EDPS and EDPB as independent European institutions or bodies in the field of data protection, following the new EU institutional framework in accordance with the principles of good governance, integrity and good administration.

The EDPS Rules of Procedure² put emphasis on principles driving the institution, the Supervisor and all EDPS staff members, notably the principle of efficiency and effectiveness, of cooperation, of coordination and due reporting, staff valorisation and delegation of tasks.

For the EDPS to fulfil its mission, your conduct and decision-making has to be guided by the following principles:

- **independence: your conduct and decision-making should be determined by the need to serve the common good and the public interest, and never by any other interests (whether private or otherwise, or as a result, for example, of political or lobbyist pressure);**
- **impartiality: in any decisions you are called upon to make, your approach should be unbiased;**
- **objectivity: when drawing conclusions, these should be balanced and based on a thorough analysis of the facts and the legal background;**
- **loyalty: your loyalty is essential to the EDPS maintaining its independence and achieving its mission. It is also necessary for the functioning of each service.**

1 See the Memorandum of Understanding between the EPDB and the EDPS signed on 25/05/2018 - Point V.5
2 [https://eur-lex.europa.eu/legal-content/EN/TXT/?qid=1396006447311&uri=CELEX:32013D0504\(03\)](https://eur-lex.europa.eu/legal-content/EN/TXT/?qid=1396006447311&uri=CELEX:32013D0504(03))

Putting these principles into practice requires:

- **circumspection: stopping and reflecting on the possible consequences and implications of potential actions, showing a degree of moderation and conducting yourself at all times with a due sense of proportion and propriety;**
- **a sense of responsibility: carrying out those tasks entrusted to you as dutifully as possible and looking for solutions, when difficulties are encountered. You also need to know and respect the legal obligations and administrative rules and procedures in force.**

In addition, the EDPB has its own Guiding principles, included in the EDPB Rules of Procedure and applicable to the EDPB Secretariat Staff. These include:

- **Independence and impartiality**
- **Good governance, integrity and good administrative behaviour**
- **Collegiality and inclusiveness**
- **Cooperation**
- **Transparency**
- **Efficiency and modernisation**
- **Proactivity**

As regards the new EU institutional framework, the entering into force of the the **General Data Protection Regulation (GDPR)**³ in May 2018 and the adoption of **Regulation (EU) 2018/1725**⁴ in October 2018 have brought new substantive areas of competences to the EDPS. Those include the provision of the Secretariat to the EDPB. The staff involved in carrying out the tasks conferred on the Board by the General Data Protection Regulation is subject to separate reporting lines from the staff involved in carrying out tasks conferred on the European Data Protection Supervisor (GDPR Article 75.3). The EDPB Secretariat performs its tasks exclusively under the instructions of the Chair of the EDPB (GDPR Article 75.2).

The **GDPR** is designed to ensure the data protection rights of data subjects, to harmonise the legal landscape and to ensure data can move easily across the EEA.

Regulation (EU) 2018/1725 brings the data protection rules for the EU institutions and bodies (EUI) in line with the standards imposed on other organisations and businesses by the GDPR.

Under the new rules, the EDPS remains responsible for ensuring the effective protection of individuals' fundamental rights and freedoms whenever their personal data is processed by the EU institutions or on their behalf, whether this is to ensure EU markets work better, to evaluate and supervise medicines in the EU or to fight against terrorism and organised crime. This role includes promoting public awareness and understanding of the risks to people's rights and freedoms in relation to the processing of personal data, as well as increased cooperation with national data protection authorities. The EU institutions are expected to lead by example in applying the new rules and ensure compliance from day one onwards.

³ OJ L 119, 4.5.2016, p. 1–88 and OJ L 127, 23.5.2018, p. 2–5.

⁴ <https://edpsnet.in.ep.europa.eu/files/live/sites/edpsnet/files/EDPS/edps-organisation/edps-procedures-notes-decisions/Regulation%202018-1725.pdf>

In its role as supervisory authority for the more than sixty EU institutions, bodies, offices and agencies, the EDPS has put particular emphasis on the importance of accountability, on the idea that EU institutions not only comply with the new rules, but that they are able to demonstrate this compliance. The EDPS expects top management to set the tone in this subject, by building data protection into their risk management plans and ensuring that data protection is engrained into the culture of their organisations. The specificity of these duties entails the institutional independence of the core supervisory and advisory activities.

The adoption of this revised Code confirms the commitment of the institution to aligning the ethical standards and rules laid down in the Staff Regulations and Conditions of Employment of EU officials

and other servants of the European Union, with a renewed emphasis on accountability, quality control and high professional standards, in particular in the dealings that the EDPS has with the public. As a result, we strive to develop an organisational culture of strong collaboration and high performance while providing for advanced working conditions, equal opportunities and personal and career development for the members of our staff.

This second revision is meant to modernise the professional conduct of the staff working for the EDPS, to simplify some of its aspects notably with the EDPS new external activities decision, to properly reflect the creation of the EDPB Secretariat in May 2018 and to bring more substance to two major issues: whistleblowing and transparency.

The Code is structured as follows:

- **The Code in brief**
- **Part I describes broadly the general principles guiding the conduct of officials when delivering a high quality service**
- **Part II presents, also in general terms, the principles guiding a staff member in his/her own governance**
- **Part III offers guiding principles for officials in relation with trust and transparency**
- **Part IV describes all possible actions to address concerns and possible consequences**
- **Part V describes the way in which the Code is administered and its possible revision.**
- **Annexes**

Sylvie Picard
Ethics officer

Note

The code of conduct is a binding instrument for all staff members.





How to read the new EDPS Code of Conduct

1 | Some basics about the new EDPS Code of Conduct



What is it?

A guide that sets out principles for the professional conduct of staff working for the EDPS and for the EDPB Secretariat.



Legal background:

Staff Regulations, the Conditions of employment of other servants (CEOS), and the regulations or instructions derived therefrom.

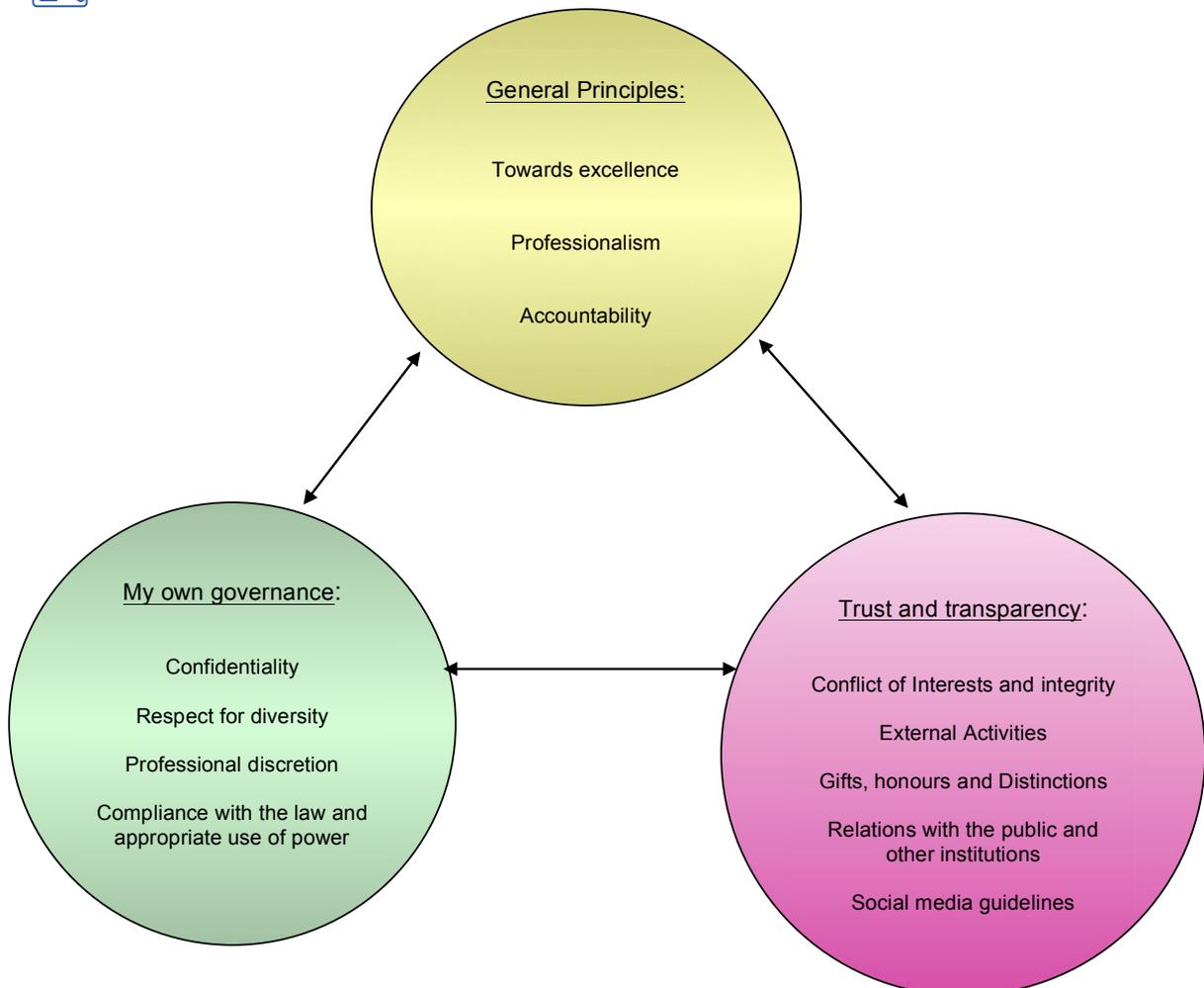


Purpose:

The new Code aligns the commitment of the institution to high ethical and professional standards and rules with the new organisational structure and the guiding principles and core values enshrined in the EDPS Rules of Procedure and in the guiding principles of the EDPB Rules of Procedure. It also serves as a reference for our stakeholders and the public at large on the accountability of staff.

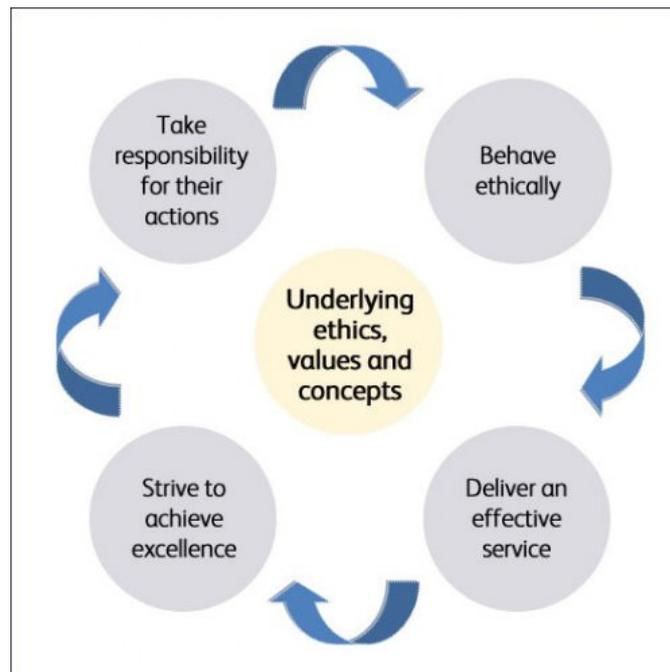


Principles:





Objectives



2 | The reflex



“How might this affect the image of the EDPS or EDPB as appropriate?”

Think first:

always be aware of the possible consequences of your actions (or inactions) (e.g. what you say when you participate in a meeting or when someone addresses a question to you).



“Do I need an authorisation?”

React with independence (from the outside world but with loyalty to the organisation):

always (re)act transparently, impartially and independently of any authority or person external to the EDPS or EDPB as appropriate but consulting your peers or hierarchy if necessary and appropriate.



“Does my conduct always reflect Professionalism?”

Reflex:

conduct yourself always at the highest personal and professional level, reflecting the EDPS core values and principles and/or the EDPB guiding principles, where applicable.

3 | A few examples of the kind of lessons you can learn from reading this document

DO	DON'T	REQUEST AUTHORISATION
Act independently	Incur in a conflict of interests	For any gift with a value of more than 100 Euros
Act professionally and strive for a high quality service	Forget your obligations of confidentiality	To publish a text dealing with the tasks and responsibilities of the EU institutions
Show loyalty and be transparent	Hold simultaneously another job elsewhere	For any external activities that may raise a conflict of interest or generating revenues
Comply with the law	Abuse procedures	For any candidacy for public office
Your best to enhance the EDPS' or EDPB's image, as appropriate	Criticise publicly the institution or your colleagues (where necessary you can rely on through your line manager or through the HR team)	To give an interview to the media
Show courtesy and respect	Harass or harm the dignity of colleagues	N/A



Part 1 General Principles



Truth is the daughter of time, not authority.



Francis Bacon



1.1 | Towards excellence

In carrying out their duties, EDPS officials shall conduct themselves at the highest personal and professional level at all times, both on duty and off duty.

Acting as guardians of data protection, EDPS officials should strive to enhance the image of the institutions. They act independently of any authority or person external to the EDPS or EDPB where applicable, showing exclusive loyalty and refraining from any action or statement that might cast doubt on their ability to do the work to the best of their abilities with full impartiality and honesty.

.....

- We serve the public interest to ensure that EU institutions comply with data protection policy and practice. We contribute to wider policy as far as it affects European data protection.
- Using our expertise, authority and formal powers, we aim to build awareness of data protection as a fundamental right and as a vital part of good public policy and administration for EU institutions.

.....



For example

- Demonstrate professional competence and mastery of subject matter.
- Develop clear goals that are consistent with agreed strategies.

1.2 | Professionalism

By professionalism we refer to:

- a style of behaviour in the work place that is courteous and efficient (at the disposal of the institution⁵, the duty to perform the tasks assigned, the duty to comply with the instructions of immediate superiors, assisting and tendering advices to superiors⁶ and being responsible for the performance of the duties assigned⁷, the duty to assist investigating authorities, and the duty of staff to fulfil their private obligations and comply with the laws and police regulations in force),
- delivering to the public a quality service and an administration that is open, accessible and properly run.

We also refer to autonomy at work, supporting teamwork and fair distribution of work.

In case of serious misconduct, the official may be subject to Article 22 of the Staff Regulations: *“an official (or other servant) may be required to make good, in whole or in part, any damage suffered by the Union as a result of serious misconduct on his part in the course of or in connection with the performance of his duties”*.

Ethical accountability requires us to develop our professional expertise by the use of Learning and Development Programmes, Mentorship programmes for newcomers, Budgetary and financial control tools, Risk management workshop, ensuring the full implementation of the Ethics framework, etc., to ensure continuous improvement of personal and overall organisational performance.



For example

- Plan in advance and identify priorities, allocating an appropriate amount of time, foreseeing risks and allowing for some contingencies
- Use time efficiently and monitor and adjust plans when necessary

5 Article 55.1 of the Staff regulations

6 EDPB Secretariat Staff is subject to different reporting lines

7 Article 21 of the Staff regulations

8 <https://edpsnet.in.ep.europa.eu/files/live/sites/edpsnet/files/EDPS/edps-organisation/ethics/edps-ethics-framework/Revised-Ethics-Framework-12-11-2019.pdf>

..... **Improve the use of EDPS human, financial, technical
and organisational resources**

Tips for personal and organisational performance through lifelong learning:

- Actively and proactively seek to develop yourself professionally, making proposals and taking actions
 - Contribute to the learning of colleagues and subordinates
 - Show willingness to learn from others
 - Seek feedback to learn and improve
 - Show willingness to learn new technologies and keep abreast of new technological challenges
-

1.3 | Accountability

The EDPS and EDPB are accountable to many different stakeholders. The relationships that the staff maintains with each of these stakeholders, and the extent to which it demonstrates the Core Values in interacting with them, collectively shape the EDPS/EDPB's reputation. This reputation gives the institutions credibility to move forward and work constructively on achieving their primary missions: to contribute to wider policy in data protection and its application within the EU institutions and, in case of the EDPB, to ensure a consistent application of the GDPR across the EEA.

The EDPS, as a modern public institution, acknowledges and incorporates accountability in every day practice. Administrative accountability is ensured using well-known tools and mechanisms such as internal rules (see EDPS Rules of Procedure adopted on 17/12/2012), Internal Audit and Internal Control Standards.

The Supervisor and his/her staff enjoy independence but they are also transparent and accountable to third parties. By public accountability and transparency, the EDPS seeks to enforce high standards of behaviour.

TRANSPARENCY

- Explaining what we are doing and the reasons behind in clear language that is accessible to all
- Having an open and proactive communication strategy



For example

- Accept your own responsibilities to support organizational success and hold yourself accountable for behaviours that drive results

Part 2

My own governance

*Recognition of the inherent human dignity
of all members of the human family
is the foundation of freedom, justice and peace.*

Universal Declaration of Human Rights - 1948 United Nations



2.1 | Confidentiality

The obligation of professional secrecy is of particular importance when working for the EDPS, including the EDPB Secretariat. For this reason, all our staff formally undertake to observe this obligation by signing a confidentiality commitment during the first days after their recruitment, usually in the presence of the Supervisor or the Director.

Upon the termination of their activity, staff should be aware of the fact that they are still bound by the obligation of confidentiality and to protect the information that has come to their knowledge.

Those obligations are specifically referred into Article 17 of the Staff Regulations and in Article 56 of Regulation (EU) 2018/1725.

For example

- Treat EDPS and EDPB documents carefully to protect their confidentiality, within and outside the office
- Do not disclose internal information unless there is a clear decision by the institution to do so or for the EDPB Secretariat, by the Head of the EDPB Secretariat, after consultation with the Chair of the EDPB
- In a social network always remain discreet about your professional activity inside the EDPS and EDPB Secretariat (please see point 3.5)
- The EDPB Secretariat should refrain from any such disclosure of information to the EDPS beyond the scope of information shared on the basis of its membership of the EDPB or beyond the appropriate information about the functioning of the Secretariat provided to the EDPS staff responsible for the administrative management of the Secretariat, including the Director.



2.2 | Respect for diversity

Diversity and inclusion are at the heart of how the EDPS defines organisational and professional excellence. The EDPS seeks to promote in house working relations based on mutual trust and respect. Relations between colleagues should be qualified by respect and understanding for differences in culture, nationality and sex.

We must work to achieve a positive work environment, characterised by professional, dignified, and respectful conduct — an atmosphere where every colleague is treated fairly. We must be particularly diligent in our multicultural environment to consider how our words or actions may be perceived.

When on duty, EDPS staff must never affront the dignity of colleagues, whatever their rank, by behaving improperly or using aggressive or slanderous language. Such behaviour, whether by actions or words, may result in disciplinary penalties^{9,10} EDPS staff must show consideration for others, be they their superiors, colleagues, or

subordinates. Outright discourtesy or lack of a minimum sense of solidarity is not acceptable, such as refusing to carry out instructions received, or refusing to work with or assist an overworked colleague, or reporting for work in a state unbefitting the dignity inherent in the performance of their duties. In particular, harassment, discrimination and bullying of any kind are utterly unacceptable.

Should any member of the EDPS staff witness any form of harassment, discrimination or inappropriate behaviour as mentioned above, they are duty-bound to assist the victim and where appropriate report the situation to the hierarchical superior, the Director or the Head of the HRBA Unit, as appropriate. For more guidance on this highly sensitive matter, staff are strongly advised to consult the 2014 EDPS decision on anti-harassment policy¹¹ and part 4 of this Code. You can also consult the Ombudsman Report on Dignity at Work¹².



For example

- Treat all people with dignity and respect
- Treat all colleagues as equal
- Do not discriminate against any individual or group

9 See provisions of Articles 12 and 12a of the Staff regulations

10 <https://edpsnet.in.ep.europa.eu/files/live/sites/edpsnet/files/EDPS/edps-teams/hrba/ethics-and-staff-conduct/staff-conduct/disciplinary-decision.pdf>

11 <https://edpsnet.in.ep.europa.eu/files/live/sites/edpsnet/files/EDPS/edps-teams/hrba/ethics-and-staff-conduct/staff-conduct/decision-anti-harassment-10-12-2014.pdf>

12 <https://www.ombudsman.europa.eu/en/correspondence/en/107799>

2.3 | Professional Discretion

The Staff Regulations provide that “*an official [or other servant] shall refrain from any action or behaviour which might reflect adversely upon his position*” (Article 12) and that “*an official shall refrain from any unauthorised disclosure of information ...*” (Article 17).

The above provision establishes a general obligation of professional discretion, whereby officials and other servants, while remaining free to express their opinions as guaranteed by fundamental rights, must observe a degree of moderation and conduct themselves at all times with a due sense of proportion and propriety.

The obligation of professional discretion does not prohibit officials from participating in public life both as citizens and as elected representatives, but the Staff Regulations lay down provisions concerning two instances, namely standing for election (see Annexes 4 & 5) and publication of documents (see Annex 6).

Although specific reference is made

to written material, officials and other servants must not underestimate the consequences of taking part in interviews or appearing on broadcasts on television, radio, or other media. The official expressing his views particularly on social media should always make clear when he is speaking on his personal capacity if an interview or programme relates directly to their duties, they must transmit the request to the EDPS or EDPB Information and Communication teams who will seek the necessary authorisation. This should not be understood as a sign of distrust towards staff but the simple acknowledgment that talking to journalists presents specific risks that need to be dealt with specific procedures. For more details, please see section 3.5.

Officials [and other servants] are entitled to exercise the fundamental right of freedom of association; they may in particular be members of trade unions or staff associations of European officials (Articles 24b of the Statute).

For example

- When contacted by a journalist for issues connected with your work, please refrain from answering any questions and refer the request immediately to the EDPB or EDPS I&C teams
- Always ensure a balanced, impartial and moderate participation in conferences
- Where possible and always after an authorisation has been obtained through I&C, ask for the questions in writing ahead of a planned interview, as this makes it easier to give answers that have been agreed and approved by your hierarchy.
- For all such interviews, and when participating in or attending events where spontaneous requests for an interview or comment could occur, make sure you have a few prepared short key messages and/or narratives that can be delivered.
- For print media, as a rule, you should not agree to be quoted when providing information in your field of technical expertise. However, this obviously does not apply if the article or interview has a human interest or personal-profile focus.



Practical tips on speaking to the media

Do's and don'ts

It is advisable to:

- Take your time
- Think before you answer
- Keep to your own area and level of expertise
- Say if you do not know, cannot or may not answer the question (explaining why, if possible)
- Stick to the facts
- Assume that everything you say may be used (i.e. “on the record”)
- Be firm, fair and honest
- Make it clear that you speak “in your personal capacity”



Do not:

- Give personal opinions
- Make political statements
- Discuss confidential information
- Use technical or institutional jargon
- Lie, guess or speculate

2.4 | Compliance with the law and appropriate use of power

EDPS staff shall act according to law and apply the rules and procedures laid down in European legislation. EDPS staff shall in particular ensure that the decisions, which affect the rights or interests of third parties, have a basis in law and that their content complies with the law.

Powers shall be exercised solely for the purposes for which they have been conferred by the relevant provisions. EDPS staff shall in particular avoid misusing procedures for purposes which have no

basis in the law or which are not motivated by any public interest.

Abuse of power is the misuse of authority in the course of performing work. It is important that EDPS staff use power wisely when performing their work. The effects can be damaging to working relationships. It can also be a factor in harassment. Requesting staff to do undue personal favours or personal assignments in an abusive manner will never be admitted.

..... IMPARTIALITY

- Working within the legislative and policy framework given to us
- Being independent and objective
- Finding the right balance between the interests at stake



For example

- Remain particularly vigilant when processing personal data
- Never pressure a staff member to distort facts or break rules
- Do not abuse your position within the institution for personal benefit



Part 3

Trust and transparency

Wisdom and virtue are like the two wheels of a cart.

Japanese proverb

3.1 | Conflicts of interest and integrity

EU staff may not hold any personal interest likely to conflict with the interests of the European Union or the institutions and bodies they work for. Staff members are entrusted with placing the interests of the EU institutions, ahead of personal interests. This commitment enables the EDPS and EDPB to achieve their missions.

Should any member of staff be required to negotiate or conclude a contract with or supervise an undertaking in which they hold an interest¹³ they must inform the Director. The Director will in turn obtain the views of the Head of Unit/Sector concerned and when necessary, will inform the Supervisor or EDPB Chair of this fact in writing without delay and decide whether it is necessary to transfer or relieve the staff member of their duties. If a staff member acquires without prior authorisation an interest in an undertaking that could create

such a conflict of interest, this may also result in disciplinary sanctions.

Given that the activity or interests of a staff member's spouse may also give rise to a conflict of interest, it is important that staff members declare the activities or interests of their spouses to enable a solution to be found whereby they can carry out their duties and conduct themselves solely with the interests of the European Union in mind, as required under Article 13 of the Staff Regulations (see Annex 3).

In general, the EDPS must be able to rely on the honesty and integrity of staff by asking them to inform the proper authority whenever their neutrality might be called into question or whenever their particular circumstances might cast doubt on their impartiality and hence on the impartiality of the EDPS and EDPB themselves.

..... INTEGRITY

- Upholding the highest standards of behaviour, doing what is right, not what is popular



For example

- Act with responsibility and without consideration of personal gain
- Ensure that all actions and decisions are taken in the institution's best interests
- Always follow an ethical approach

13 As referred to in Article 11a (3) of the Staff Regulations

3.2 | External Activities

In general, EDPS staff (including the staff of EDPB Secretariat) should maintain an institutional approach when interacting with others, as detailed in the EDPS decision of 13 September 2019¹⁴

EDPS staff (including the staff of EDPB Secretariat) may undertake non-remunerated and non-financial activities outside working hours in areas such as culture, education, sports, religion, social work or benevolent work, on condition that such activities do not have a negative impact on their obligations with regard to the EDPS.

Those activities do not need to be declared if **ALL** the following conditions are met:

- (a) they are unpaid or do not generate revenues;
- (b) they are neither pursued in a professional capacity nor are performed for a commercial entity;
- (c) they are performed outside the working hours agreed with the line manager of the staff member concerned or are covered by a duly approved leave or recuperation;
- (d) the impartiality and objectivity of the staff member while performing his duties are not compromised, or may not appear to be compromised in the eyes of third parties, because of interests which diverge from those of the institution;
- (e) the outside activity or assignment has not a negative impact on the reputation

or and/or on the trustfulness of the institution;

(f) the other obligations laid down in the Staff Regulations are complied with.

A contrario, when not the case, the activities should be declared.

Remunerated outside working hours of this nature require prior permission from the Director (see Annex 2), who will consult the EDPB Chair when required. The maximum net remuneration is of 10.000 € per year. The same applies to persons wishing to carry out an assignment outside the EU.

Permission depends on two conditions being met:

- the activity or assignment which the staff wishes to carry out must not be “*such as to interfere with the performance of the official’s duties*”;
- the activity or assignment must not be “*incompatible with the interests of the institution*”.

EDPS staff (including the staff of EDPB Secretariat) that might be employed simultaneously in a public and private capacity (e.g. authorisation to work as a translator, doctor, nurse, architect, full-time teacher, lawyer or typist or to carry on a business, etc.) should file for a prior authorisation.

In any case, irrespective of working full time or part time, or taking leave on personal grounds, staff should conform to the ethos of the European Public Service and should

¹⁴ https://edpsnet.in.ep.europa.eu/files/live/sites/edpsnet/files/EDPS/news/general-news/19-09-26_EDPS_external_activities_decision.pdf

not be in a position of a potential conflict of interest.

Particular caution is required when staff members are engaged in outside activities which might prejudice their independence and neutrality (e.g. political activities). Officials or other servants who are candidates for public office must inform the Appointing Authority, who will consult the EDPB Chair when required, and ensure that a distinction is drawn between their status as candidates and their official duties (See Annexes 4 & 5).

For all activities to be declared, permission will be refused if:

1. the activity in question is performed during the working hours agreed with the line manager of the official concerned and is not covered by a duly approved leave or recuperation; and/or
2. the activity in question is such as to interfere with the performance of the staff member's duties; and/or
3. the activity in question is incompatible with the interests of the institution, for example because it:
 - is detrimental to the reputation of the institution; and/or
 - damages public trust in the neutrality and objectivity of the institution; and/or
 - gives rise to an actual conflict of interest;and/or
4. the activity in question, by itself or combined with other authorised outside activities, gives rise to remuneration which exceeds the ceiling of 10.000€ referred to in Article 7(1).

When undertaking speaking engagements, EDPS staff should only aim at achieving the interests of the institution and should not accept a fee for speaking engagements. The EDPS has adopted an internal speaking engagements procedure to be followed by all EDPS staff members, excluding EDPB Secretariat staff¹⁵.

Staff may engage in research and academic activities and may associate with academic associations and groups solely in the event that they are acting in a private capacity. Their views may not bind or prejudice the position of the EDPS or EDPB, unless they have received an authorisation to represent the institution.

Staff are authorised to publish texts on condition that they indicate that the opinions set out in the text constitute the personal opinion of the author, since this will enable the image and reputation of the EDPS and EDPB to be maintained to the greatest possible degree. In the case of a staff member who intends to publish or cause to be published, whether alone or with others, any matter dealing with the work of the EU, they shall inform the Ethics officer and the Director in advance, who will seek the views of the Head of Unit/ Sector concerned and, when necessary, the Supervisor (see Annex 6) or EDPB Chair.

15 https://edps.europa.eu/about-edps/contact_en#invitespeakingevents



For example

- Always seek authorisation when required to participate in an event that may lead to a publication.
- Should you wish to pursue an external activity, always ask yourself whether:
 - It affects the activities of the institution
 - It affects the relations with stakeholders
 - It can create an impression of partiality
 - It overlaps with your role or responsibilities
 - It takes up time or resources

3.3 | Gifts, Honours and Distinctions

Gift giving of low intrinsic value is a widely accepted way of showing appreciation to the individuals with whom we form working relationships. At the same time, officials and other servants need to proceed with the utmost caution and when confronted with a gift, they must show tact and exercise some judgment.

In principle, EDPS staff are generally advised not to accept gifts connected with work performed in the line of duty, except if the intrinsic value of the gift is less than EUR 100 and if it seems appropriate (for example, a simple bottle of wine after the participation as a speaker in a conference). To determine whether a gift is acceptable or not, staff should consider the relationship between the parties involved and the obligations deriving from it. Should any member of staff wish to accept an honour, distinction or gift from an outside source with an intrinsic value higher than 100

Euros, explicit permission has to be obtained from the Ethics officer and the Director (see annex 1) who will obtain the views of the Head of Unit/Sector concerned and will inform, when necessary, the Supervisor or Chair.

Normal hospitality or reimbursement of expenses in the context of a mission paid by the organiser should not be regarded as a gift, provided that the hospitality offered corresponds to what it could be reasonably expected for a work assignment outside Brussels.

You must not accept any reward, decoration, title or other distinction unless you have been authorised to do so. When deciding whether to give permission, the Ethics officer and the Director will take into account the reasons for the distinction or decoration and any implications for EDPS and EDPB interests.



For example

- Always remain vigilant about gifts offered to you
- If you ever accept a small gift, do not feel obliged to pay back in any way (e.g. a lobbyist may treat you to lunch but he or she cannot then expect you to keep him/her duly informed about the evolution of a given file)
- You should avoid accumulating gifts (even below 100 euros and independently of the source) as this can be a source of conflict of interest
- Any sum of money must always be refused

3.4 | Relations with the public and other institutions

EDPS staff shall cooperate loyally with other EU bodies and national authorities. They shall provide them, to the possible extent, with the requested information and services guided by independence, efficiency and courtesy.

When dealing with requests from the public and taking decisions, EDPS staff shall ensure that the principle of equality of treatment is respected. Members of the public who are in the same situation shall be treated in a similar manner.

The EDPS respects the principle of non-discrimination and guarantees equal treatment for members of the public

irrespective of nationality, gender, colour, racial, ethnic or social origin, genetic features, language, religion or beliefs, political or any other opinion, membership of a national minority, property, birth, disability, age or sexual orientation. Any differences in treatment of comparable cases must be specifically justified by the objective relevant features of the particular case in hand.

They shall also refrain from processing personal data for incompatible non-legitimate purposes or the transmission of such data to non-authorized persons or third parties.



For example

- When dealing with the public, please keep in mind the public service principles of the European Code of good administration behavior (see section 5.1 below)

3.5 | Social media guidelines¹⁶

EDPS on social media

EDPS is actively present on three social media platforms (Twitter, LinkedIn and YouTube), reaching out to more than 25 000 users. Only the Supervisor and mandated staff are permitted to represent the official position of the EDPS, using official accounts.

EDPB on social media

EDPB is actively present on Twitter and LinkedIn, with over 10.000 followers (numbers July 2019). The EDPB I&C Team manages both social media accounts and, in line with an info note adopted by the Board in 2018, only represents official positions of the EDPB.

Public vs Private

Despite the existence of privacy options, many items published in social media are publicly accessible and it can be difficult to guarantee that sites are fully private. In addition, certain popular social media are designed to be public by default (e.g. Twitter).

As such, staff should always start with the assumption that anything can be read by anyone, anywhere, at any time and that the Internet has a long memory. Staff should always exercise good judgement when posting and be aware that inappropriate conduct can negatively affect the institution and himself.

Staff should apply the following test: “Would my manager, the Director or Supervisor be

happy to see this content published?”

Transparency

If a member of staff expresses comments about issues he/she works on, he/she should be open and transparent that he/she is speaking in a personal capacity. He/she should be thinking of himself/herself as an ambassador for the EDPS or EDPB. He/she will not give the impression of speaking on behalf of the EDPS or EDPB.

He/she will declare upfront that the views being expressed are personal. A disclaimer is recommended such as:

“The views expressed on this website/blog/account are my own and do not necessarily reflect those of my employer”

If a member of staff wants to use his/her account in a professional capacity during an external event, he/she should contact the EDPS or EDPB Information and Communication team beforehand in order to adapt the content and/or avoid duplicating messages. In case of EDPS staff, if informed in advance, the I&C Sector can also share the message with the EDPS audience, helping you to reach more people.

Accuracy

Posts should be accurate and fact-checked and capable of substantiation. If a mistake is made it should be corrected promptly. It is important to reference the earlier comment because even if the erroneous comment has been deleted, someone may

¹⁶ These guidelines should be read together with the EDPS Social Media dos and don'ts published in the EDPS intranet.

have saved it as an image or other format to use as evidence. The member of staff concerned should ensure that any criticism is backed up with solid evidence.

Professionalism

Staff should act in a professional and constructive manner and use sound judgement before posting. They should be polite and respectful of individuals' opinions, especially when discussions become heated. They will show proper consideration for other people's privacy.

Be fair and respectful

Staff should never post malicious, misleading or unfair content about their institution, colleagues, competitors or other stakeholders. They should not post content that is obscene, defamatory, threatening or otherwise illegal, or discriminatory to an individual, brand or entity. Neither should they post comments that they would not say directly to another person and consider how other people might react before they post. If a member of staff responds to published comments that he may consider unfair he will take care of being accurate and professional.

Authenticity, constructiveness and IP rights

Staff should bear in mind to respect other people's intellectual property including trade marked names and slogans and copyrighted material. Staff should assume that content online might be protected by copyright. They will make sure you to have permission to post copyright items, properly attribute the work to the copyright owner where required, and never use someone else's work as if it were their own. In case of uncertainty as to who might own an item of content, it is better to err on the side of caution and not post the content. In addition to the laws pertaining to copyright and IP, the staff should respect applicable EU and national laws and regulations in relation to privacy, data protection, and other relevant applicable laws when publishing on social media.

Confidentiality

Only publicly available information should be referenced. Staff are bound not to disclose any information that is confidential or proprietary to your institution (Article 17 of the Staff Regulations).

Duty of care

Staff should not use the EDPS or EDPB logo without permission on a website/blog or in a post unless it has been cleared for public use or been otherwise approved by the line manager responsible.



Part 4

Raising concerns

Our lives begin to end the day we become silent about things that matter.

Martin Luther King

It is not always easy to raise concerns when facing a challenging misconduct situation. In any case, EDPS staff members are advised to adopt a gradual and fair approach towards all parties involved with full consideration of their rights.

4.1 | Careful analysis and, where appropriate, dialogue

The first step when confronted with a potential misconduct situation is to make sure that indeed there is a clear wrongdoing. Cultural differences and misunderstandings in an international environment like the EU institutions should never be underestimated. If after this assessment, you are still convinced that a colleague might be involved in an inappropriate conduct, you are advised to discuss the matter in confidentiality, where appropriate, as it may be the case that this person is not aware of the consequences of his/her action.

You may also consider discussing the matter with your Head of Unit/Sector or the Director, who might be better placed to conduct further dialogue, or drawing the attention of the Ethics officer.

If this gradual approach does not help, it might be necessary to conduct more formal investigations in serious cases.

4.2 | Protection of confidentiality

Serious allegations and concern should only be raised with the Head of Unit/Sector, the Ethics Officer or the Director who will decide upon the procedure to engage and upon its urgency. Confidentiality is extremely important in the conduct of any investigation. The substance of an inquiry and/or the identity of staff members are only disclosed on a strict need-to-know basis. This is determined based on the facts needed to conduct a thorough investigation, respond appropriately, and resolve the situation.

Staff members have also at their disposal the ability to consult one of the two EDPS confidential counsellors who are trained to deal with this kind of cases. They also have the option of raising concerns or allegations anonymously, although this can impede the ability of the EDPS to follow up and take action on a concern.

In case a disciplinary action or an anti-harassment procedure is launched, both procedures will have to follow the Decisions adopted by the EDPS in 2014.

4.3 | Protection against retaliation

Retaliation is any direct or indirect detrimental action recommended, threatened, or taken because an individual has engaged in raising concerns. It undermines trust among staff members as well as between staff and management and can have a debilitating effect on morale and workplace productivity.

This can lead to serious consequences for the EDPS: nobody will bring issues forward if they fear retaliation. Retaliation in the workplace encompasses a range of behaviour, from something as small as a personal remark to something as serious as an administrative action affecting a staff

member's work program or employment. When taken as a means of retaliation, other examples can include: a written warning; a reprimand; a deferment of advancement to a higher step for a period of between one and 23 months; a relegation in step; a temporary downgrading for a period of between 15 days and one year; a downgrading in the same function group; a classification in a lower function group, with or without downgrading; a removal from post¹⁷.

Any staff member who raises a concern in good faith is protected from retaliation.

4.4 | Whistleblower protection

Staff members play a critical role in raising concerns, which help the EDPS better identify, address, and ultimately deter misconduct. The EDPS is committed to providing a safe environment for reporting and addressing suspected misconduct. The Ethics Officer is bound to offer confidential and impartial advice to any EDPS staff member disclosing information reporting possible illegal activity. This is without prejudice to the possibility of staff members to consult their line manager.

The Staff Regulations include rules on whistleblowing, to encourage staff to come forward and report any information pointing to corruption, fraud and other serious irregularities that they discover in the line of duty. While whistleblowing

is a right in many legal systems, it is an obligation for EU staff.

These rules are set out in Articles 22a and 22b of the Staff Regulations. If a member of staff becomes aware of any fraud, corruption or serious irregularity, he must transmit it in writing and without delay to his direct superior, his Director General, the Secretary General, or the European Anti-Fraud Office (OLAF). Article 22c is requiring all institutions to adopt internal rules and providing that complaints from whistleblowers be dealt with in a timely manner.

The EDPS has adopted on 24 September 2019 a revised decision concerning the terms and conditions for internal investigations in relation to the prevention of fraud, corruption and any illegal activity

17 See dispositions of Article 9 of Annex 9 of the Staff regulations

detrimental to the Union interests. It takes note of all new regulations and new EDPS decisions, puts emphasis on the information of the interested party and applies to all EDPS staff including the staff of EDPB Secretariat.

In accordance with Article 22.c, the EDPS has adopted its own decision on internal rules concerning whistleblowing on 14/6/2016¹⁸ and revised it on 29/11/2019. The rules are applying to every staff member working in the EDPS Secretariat, irrespective of their administrative position or status, including those working in the EDPB Secretariat. A whistleblower is a person who, in good faith, reports facts, which he or she honestly believes suggest the existence of serious irregularities in the EPDS.

The EDPS decision details all conditions and to what to report and the related

procedure to follow. The Ethics Officer remains at disposal of staff for any guidance and support, where needed. Staff members play a critical role in raising concerns, which help the EDPS better identify, address, and ultimately deter irregularities and misconduct. Therefore, the EDPS is protecting a whistleblower against any acts of retaliation or reprisal. Measures are described accordingly in the EDPS decision.

It may also be the case that in accordance with Article 25(1) of Regulation (EU) 2018/1725 the EDPS may restrict the rights of persons implicated, as referred explicitly in Article 2.1.b of EDPS decision of 2/4/2019 on internal rules concerning restriction of certain rights of data subjects in relation to the processing of personal data in the framework of activities carried out by the EDPS¹⁹.

18 https://edpsnet.in.ep.europa.eu/files/live/sites/edpsnet/files/EDPS/edps-teams/hrba/ethics-and-staff-conduct/staff-conduct/Whistleblowing_decision_29-11-2019.pdf

19 OJ EU L 99/1 of 10.04.2019

Part 5

Administration of the Code



5.1 | European Code of good administration behaviour

In June 2012, following a public consultation, the European Ombudsman published a high-level distillation of the ethical standards²⁰ to which the EU public administration adheres. These took the form of the following five public service principles:

1. Commitment to the European Union and its citizens
2. Integrity
3. Objectivity
4. Respect for the others
5. Transparency

Those principles are still referenced in the text of the European Ombudsman code of conduct.

These principles can be found in the present Code. In addition the EDPS publicly acknowledges and adheres to the principles in the European Code as the ethical foundations of an administrative culture of service, in which staff understands and internalise the principles of good administration.

5.2 | Administration of the code

The Staff Regulations lay down a number of obligations that extend beyond the sphere of performance and encompass life outside work. Infringements may be punished after conducting disciplinary proceedings and, depending on the seriousness of the case, they may result in prosecution.

The Ethics Officer is responsible for ensuring that the rules and guidelines laid down in this Code are properly observed and reasonably followed.

The Ethics Officer and the Director may deliver opinions at the request of any interested party on the application and interpretation of this Code seeking the opinion, where appropriate, of the Staff Committee of the institution. Staff members should address to the Ethics Officer and the Director, their requests, declarations or applications for authorisation, pursuant to the provisions of this Code.

This Code is published on the EDPS website and the Intranet.

20 <https://www.ombudsman.europa.eu/en/publication/en/11650>

5.3 | Future revision

All EDPS staff should apply the principles set out in this guide. They may seek further clarification and improvement of its content at any time. The Ethic Officer remains at their disposal for any guidance and assistance.

A specific section of the Intranet is devoted to this code of conduct and to provide ethical awareness-raising.

The EDPS shall review the implementation of this Code during the second half of the Fourth Mandate of the EDPS 2020-2024.

List of Annexes



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Annex 1

REQUEST FOR PRIOR AUTHORISATION under Article 11(2) of the Staff Regulations and Articles 11 and 81 of the CEOS

"An official shall not without the permission of the Appointing Authority accept from any government or from any other source outside the institution to which he belongs any honour, decoration, favour, gift or payment of any kind whatever, except for services rendered either before his appointment or during special leave for military or other national service and in respect of such service."

I. SUBMISSION OF REQUEST (to be completed by the applicant)

SURNAME and Forename:

Personnel No:

Grade:

Administrative status: Official/Temporary staff/Other

Post in the EDPS:

Phone:

Office address:

Nature of the request

Give details of:

- the purpose of the request: honour, decoration, favour, gift, etc.

- the source (government, department, companies, other bodies) and address

- reasons and any circumstances

II. FORWARDING OF REQUEST TO THE ETHICS OFFICER

Is this request compatible with the interests of the EDPS or of the EDPB as appropriate?

YES NO

If the answer is no, give reasons:

I hereby forward this request. My opinion is favourable/unfavourable.

Date:

Signature:

III. AUTHORISATION OF THE DIRECTOR

YES NO

If the answer is no, give reasons:

I hereby forward this request. My opinion is favourable/unfavourable.

Date:

Signature:



Annex 2

REQUEST FOR AUTHORISATION TO ENGAGE IN AN OUTSIDE ACTIVITY Article 12b of the Staff Regulations and Articles 11 and 81 of the CEOS

"Subject to Article 15, an official wishing to engage in an outside activity, whether paid or unpaid, or to carry out any assignment outside the Union, shall first obtain the permission of the Appointing Authority. Permission shall be refused only if the activity or assignment in question is such as to interfere with the performance of the official's duties or is incompatible with the interests of the institution. An official shall notify the Appointing Authority of any changes in a permitted outside activity or assignment, which occur after the official has sought the permission of the Appointing Authority under paragraph 1. Permission may be withdrawn if the activity or assignment no longer meets the conditions referred to in the last sentence of paragraph 1."

I. SUBMISSION OF REQUEST (to be completed by the applicant)

SURNAME and Forename:

Personnel No:

Grade:

Administrative status: Official/Temporary staff/Other

Post in the EDPS:

Phone:

Office address:

Nature of activity:(*)

Give full details of:

- teaching post :
- name of course, research, ancillary work, etc.:

Organisation where the activity will be performed:(*)

Name and address:

Information on the proposed activity:(*)

Place where the activity will be performed:

Total number of hours to be actually worked: per week or per month

This activity will take place (delete where inapplicable):

- a.) outside working hours:
- b.) in the evening
- c.) on Saturdays
- d.) on Sundays
- e.) during working hours (give dates and times):

The activity may involve a total absence of day(s)

Where application is being made for special leave, please include the leave form with this application.

Financial arrangements:(*)

Amount of any payment or fees to be received for:

- (a) the activity itself (total sum):
- (b) travel expenses:
- (c) subsistence allowances:

Publication:(*)

Will the activity give rise to any published work?

If so, indicate any fees:

(*) This information must be confirmed below by the organisation where the activity is to be performed:

Certified true

Stamp and signature

Date:

Signature of applicant:

II. FORWARDING OF REQUEST TO THE ETHICS OFFICER

Is this request compatible with the interests of the EDPS or of the EDPB as appropriate?

YES NO

If the answer is no, give reasons:

I hereby forward this request. My opinion is favourable/unfavourable.

Date:

Signature:

III. AUTHORISATION OF THE DIRECTOR

YES NO

If the answer is no, give reasons:

I hereby forward this request. My opinion is favourable/unfavourable.

Date:

Signature:



Annex 3

DECLARATION OF GAINFUL EMPLOYMENT OF SPOUSE Article 13 of the Staff Regulations and Article 11 of the CEOS

"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."

SURNAME and Forename of official/other servant:

Personnel No:

Grade:

Post in the EDPS:

Phone:

Office address:

SURNAME and forename of spouse:

Name of employer:

Duties performed by spouse:

The official or other servant hereby declares on his/her honour that the information given above is correct and undertakes to notify any change in the professional situation of his/her spouse.

Date

Signature of official or other servant

To be forwarded to the HR Unit for inclusion in personal file.



Annex 4

DECLARATION OF CANDIDACY for public office Article 15 of the Staff Regulations and Article 11 of the CEOS

"An official who intends to stand for public office shall notify the Appointing Authority. The Appointing Authority shall decide, in the light of the interests of the service, whether the official concerned: (a) should be required to apply for leave on personal grounds, or (b) should be granted annual leave, or (c) may be authorised to discharge his duties on a part-time basis, or (d) may continue to discharge his duties as before."

I. SUBMISSION OF REQUEST (to be completed by the applicant)

SURNAME and Forename:

Personnel No:

Grade:

Administrative status: Official/Temporary staff/Other

Post in the EDPS:

Phone:

Office address:

Please specify:

- the nature of the elective public office (Member of Parliament, Member of the European Parliament, local authority elections, etc.):
- the country and place where the elections are to be held:
- the name of the electoral list:
- the place occupied on that list:
- whether you intend to take part in an election campaign: YES / NO

If yes, state duration: from to.....

- during working hours: YES NO

I undertake to immediately inform the Appointing Authority if I am elected and to submit a declaration relating to the holding of public office.

Date:

Signature of applicant:

II. FORWARDING OF REQUEST TO THE ETHICS OFFICER

I hereby forward this request. My opinion is favourable/unfavourable.

Date

Signature:

III. AUTHORISATION OF THE DIRECTOR

YES

NO

(a) should be required to apply for leave on personal grounds, or

(b) should be granted annual leave, or

(c) may be authorised to discharge his duties on a part-time basis, or

(d) may continue to discharge his duties as before

If the answer is no, give reasons:

Date

Signature:

To be forwarded to the HR Unit for inclusion in personal file



Annex 5

DECLARATION RELATING TO THE HOLDING OF PUBLIC OFFICE Article 15 of the Staff Regulations of officials and Article 11 of the Conditions of employment of other servants

"An official elected or appointed to public office shall immediately inform the Appointing Authority. The Appointing Authority shall, having regard to the interests of the service, the importance of the office, the duties it entails and the remuneration and reimbursement of expenses incurred in carrying out those duties, take one of the decisions referred to in paragraph 1. If the official is required to take leave on personal grounds or is authorised to discharge his duties on a part-time basis, the period of such leave or part-time working shall correspond to the official's term of office."

I. SUBMISSION OF REQUEST (to be completed by the applicant)

SURNAME and Forename:

Personnel No:

Grade:

Administrative status: Official/Temporary staff/Other

Post in the EDPS:

Phone:

Office address:

Give details of:

- the nature of the duties which the office entails (Member of Parliament, Member of the European Parliament, local authority elections, etc.):
- the country and place where the elections were held:
- the date of taking up office and the duration:
- working hours and frequency of work:
- expected monthly remuneration:

Date:

Signature of applicant:

II. FORWARDING OF REQUEST TO THE ETHICS OFFICER

Is this request compatible with the interests of the EDPS or of the EDPB as appropriate?

YES NO

If the answer is no, give reasons:

I hereby forward this request. My opinion is favourable/unfavourable.

Date:

Signature:

III. AUTHORISATION OF THE DIRECTOR

YES NO

If the answer is no, give reasons:

I hereby forward this request. My opinion is favourable/unfavourable.

Date:

Signature:



Annex 6

REQUEST FOR PRIOR AUTHORISATION to publish a text dealing with the work of the Communities under Article 17a of the Staff Regulations and Articles 11 and 81 of the CEOS

"Without prejudice to Articles 12 and 17, an official who intends to publish or cause to be published, whether alone or with others, any matter dealing with the work of the Union shall inform the Appointing Authority in advance. Where the Appointing Authority is able to demonstrate that the matter is liable seriously to prejudice the legitimate interests of the Union, the Appointing Authority shall inform the official of its decision in writing within 30 working days of receipt of the information. If no such decision is notified within the specified period, the Appointing Authority shall be deemed to have had no objections."

I. SUBMISSION OF REQUEST (to be completed by the applicant)

SURNAME and forename:

Personnel No: Grade:

Administrative status: Official/Temporary staff/Other

Office address: Phone:

Post in the EDPS:

Publication (attach the full text)

State the purpose and if possible give a brief summary of the matter to be published:

Name and address of newspaper, magazine, etc., or of publisher:

Financial arrangements

Amount of any payment or fees to be received for the publication:

Date:

Signature of applicant:

II. FORWARDING OF REQUEST TO THE ETHICS OFFICER

Is the document to be published liable to prejudice the interests of the Communities?

YES NO

If the answer is yes, give reasons:

I hereby forward this request. My opinion is favourable/unfavourable.

Date:

Signature:

III. AUTHORISATION OF THE DIRECTOR

YES NO

If the answer is no, give reasons:

To be forwarded to the HR Unit for inclusion in personal file



Annex 7

EDPS ETHICS FRAMEWORK REVISED DECISION

DECISION OF THE EUROPEAN DATA PROTECTION SUPERVISOR ON THE ADOPTION OF AN ETHICS FRAMEWORK AND THE APPOINTMENT OF AN ETHICS OFFICER

THE EUROPEAN DATA PROTECTION SUPERVISOR,

Having regard to the Treaty on the Functioning of the European Union,

Having regard to the Staff Regulations of Officials and the Conditions of Employment of Other Servants of the European Union, laid down in Regulation (EEC, Euratom, ECSC) No 259/68²¹

Having regard to Regulation (EU) 2018/1725 of the European Parliament and of the Council of 23 October 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) N° 45/2001 and Decision N° 1247/2002/EC²².

Whereas:

- (1) In accordance with Article 55.1 of Regulation 2018/1725, the Supervisor shall act in complete independence in the performance of his or her duties.
- (2) In accordance with Article 54.4 of Regulation 2018/1725, the Supervisor shall be assisted by a Secretariat, whose members are exclusively subject to his or her direction.
- (3) In accordance with Article 3(2) of the Rules of Procedure, the Supervisor shall ensure the proper functioning of the services available for the performance of

²¹ OJ L 56, 4.3.1968, p. 1 Last amended by Regulation (EC, Euratom) No 723/2004 (OJ L 124 of 27.4.2004, p. 1).

²² <https://edpsnet.in.ep.europa.eu/files/live/sites/edpsnet/files/EDPS/edps-organisation/edps-procedures-notes-decisions/Regulation%202018-1725.pdf>

the tasks of the institution, taking into account the principles of good governance, good administrative behaviour and good management.

In accordance with Article 15 of the Rules of Procedure, the core values of the institution are impartiality, integrity, transparency and pragmatism.

- (4) The guarantee of Ethics is a collective endeavour for the whole organisation, but its promotion and definition is the responsibility of the Supervisor.
- (5) The EDPS is committed to take the necessary raising awareness actions to ensure that current and future members of the Secretariat and the Supervisor are aware and have understood their obligations under this Ethics Framework.
- (6) The EDPS, in the Code of Conduct for Staff²³ has put in place measures to avoid situations where any staff member may have a conflict of interest resulting from previous occupational activities or from personal relationships.
- (7) The EDPS, in the Code of Conduct for the Supervisor, has put in place procedures to reaffirm the principles from which the Supervisor will act impartially and objectively when performing his/her tasks, following the highest professional standards, integrity and transparency.
- (8) The EDPS, in the Decision on Disciplinary Proceedings and Administrative Investigations, has taken the necessary measures to ensure a solid and professional conduct when dealing with administrative inquiries and disciplinary procedures.
- (9) The EDPS, in the Decision on Whistleblowing, has put in place procedures to ensure that all staff members understand their obligations on reporting any possible illegal activity that they may be aware.
- (10) The EDPS, in the Anti-harassment Decision has put in place formal and informal procedures to prevent and to deal effectively and efficiently with any actual or potential cases of psychological or sexual harassment at the workplace.
- (11) The EDPS, as a credible and respectful institution, is aligned with the principles of impartiality, integrity, transparency and pragmatism²³.

²³ Article 15 of the Rules of Procedure - EDPS decision of 17/12/2012 (OJ L273/41 of 15/10/2013)

(12) Members of staff shall comply with the provisions of the EDPS ethics framework.

The conduct of staff shall neither undermine their professional integrity and impartiality nor harm the reputation of the institution.

(13) In the event of a conflict of interest or long-term absence of the Ethics Officer, it will be necessary to appoint a Deputy Ethics Officer.

Having consulted the Staff Committee of the EDPS,

HAS DECIDED AS FOLLOW:

CHAPTER I

Ethics Framework

Article 1

The Ethics Framework of the EDPS governs the conduct of the Supervisor and all the staff members, including detached national experts, trainees and all other external staff, in their relations with other EU Institutions, with other stakeholders, and with the general public at large.

Save as otherwise provided by the Memorandum of Understanding between the EDPS and the EDPB²⁴, the conduct of members of the Secretariat providing assistance to the Secretariat of the EDPB shall also be governed by this Ethics Framework.

Article 2

The Ethics Framework includes the following administrative decisions and policies documents as:

- a) Code of Conduct for Staff Members
- b) Code of Conduct for the Supervisor
- c) Whistleblowing Decision
- d) Decision on Disciplinary Proceedings and Administrative Investigations
- e) Anti- Harassment Decision, and
- f) Any other future legal or policy document adopted in the future, which refers to this Ethics framework and which will be joined in an Annex by decision of the Director.

CHAPTER II

²⁴ Art. 75.4 of the General Data Protection Regulation

The Ethics Officer of the EDPS

Article 3

An Ethics Officer shall be appointed for a maximum period of 5 years, renewable once. He or she shall ensure the institution's internal control on ethics, reporting of improprieties, allegations, complaints and potential conflicts of interest. He or she shall raise awareness so the behaviour of the Supervisors and the members of the Secretariat is aligned with the standards laid down, ensuring that they are accountable for the highest levels of ethical standards.

Article 4

In the event of a conflict of interest or long-term absence of the Ethics Officer a Deputy Ethics Officer shall be appointed.

Article 5

The tasks of the Ethics Officer shall include:

- a) Raising awareness of the administrative decisions and policy documents of this Ethics Framework and proposing amendments to these texts where necessary and developing and maintaining ethics declaration forms;
- b) Providing advice on ethics issues upon request;
- c) Hearing reports of improprieties, allegations, complaints and potential conflicts of interest, intervening and where appropriate reporting any detected deviations as provided in the administrative decisions and policy documents of this Ethics Framework;
- d) Report to the Management Board of the EDPS, where appropriate and at least once per year, on the implementation of the Ethics Framework of the EDPS; where appropriate, and subject to the Memorandum of Understanding between the EDPS and the EDPB, the Chair of the EDPB will also be informed.

Article 6

This decision shall enter into force on the date of its signature.

Brussels, 12 November 2019

Wojciech WIEWIOROWSKI
Assistant Supervisor



www.edps.europa.eu



@EU_EDPS



EDPS



European Data Protection Supervisor

Relationships