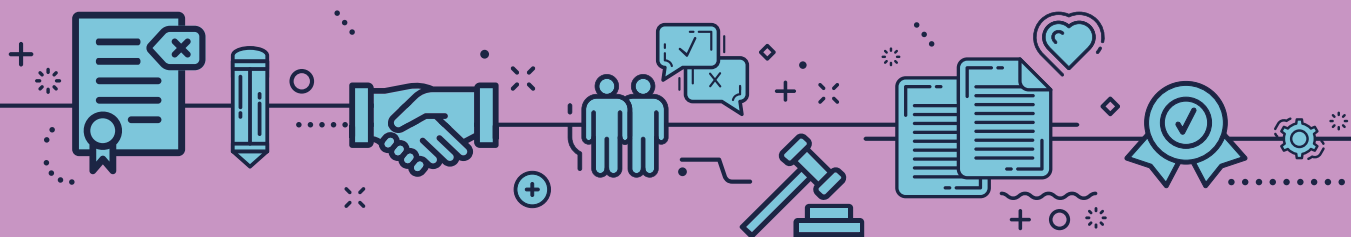




European Commission **Ethics Guide**



EUROPEAN COMMISSION

Secretariat-General

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European Commission
Ethics Guide

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4 GOLDEN RULES

on ethics in the Commission

1.



Think before you act

The European Commission is under constant scrutiny.

Acts that might at first sight seem insignificant can turn out to have a large impact on the public perception of the Commission and of the European Union as a whole.

Therefore, it is essential to pause for a short moment and think before, for example, accepting a gift, meeting people from outside the institutions, taking on an external commitment or engaging in any other interaction or activity. The questions to ask in every case are: would the behaviour conflict with the applicable ethical rules? Could it compromise the Commission's independence in any other way? And even if it does not, could it be perceived as such? Are there any measures, which can provide reassurance that the ethical rules were respected?

2.



Always keep the general interest in mind

According to the Treaty on European Union, the Commission's overall objective is to promote the general interest of the Union and take appropriate initiatives to that end.

All of the Commission's actions should be geared towards that overriding aim.

Whilst the EU Treaty provides for an open, transparent and regular dialogue with representative associations and civil society, the Commission and its staff should at all times avoid undue influence by national, sectorial or private interests on their decisions.

Promoting the Union's general interest also means striving for the highest quality of outputs and policies and being continuously aware of the Commission's public function.

3.



Be loyal towards the Commission

Loyalty towards the Commission as a whole is essential in order to safeguard the institution's independence and achieve the Commission's objectives.

Whilst everyone has a right to have a personal opinion, it is important to defend the Commission's decisions in public.

4.



Ask for guidance in case of doubt

The ethical rules have been refined and clarified over time. Nevertheless, they cannot possibly cater for every situation that might arise. What is the right way to act in our day-to-day work is not always easy to determine in practice.

In case of doubt, everyone should seek guidance from line management, from the relevant Commission department or in case of Members of the Commission from the President.

The specialised 'ethics' reference points listed at the end of each section are available for general guidance on the Commission's general practice and the interpretation of the applicable rules.

Part 1

*Ethical obligations
for Members of the
Commission*

1. Overview of the main rules and obligations for Members of the European Commission

Members of the European Commission shall behave and perform their duties with independence, integrity, dignity, loyalty and discretion. They shall observe the highest standards of ethical conduct. The Treaties and the Code of Conduct for the Members of the European Commission lay down the rules in this respect.

The Treaty on European Union and the Treaty on the Functioning of the European Union give the general framework of principles and rules in which the Members of the European Commission operate. The purpose is to guarantee that Members of the Commission perform their tasks in complete independence from any government or other entity, and refrain from any action incompatible with their duties. Therefore, Members must abstain, for example, from dealing with files where they have a conflict of interest. While each Member is responsible for the compliance with these rules and principle, the President of the European Commission has as particular role to ensure their respect.

The Code of Conduct for Members of the European Commission sets out in detail the principles enshrined in the Treaties. Such a code exists since 1995 and has been revised several times since then. An entirely overhauled new Code was adopted in January 2018.

The Code of Conduct contains obligations incumbent on Members of the Commission, notably with regard to the use of Commission resources, gifts, decorations, external activities and new occupations after they leave office. It also includes transparency measures, such as the obligation for Members to publish declarations of interests, and to provide details of their travel expenses every two months. It also integrates the European Commission's Decision of 2014 to publish information on meetings Members have with interest representatives.

The Code of Conduct sets up an Independent Ethical Committee to provide advice to the Commission on ethical issues and to make recommendations. The Code also provides that the European Commission can express a reprimand and make it public in case of violation of the Code. This complements the possibility for the Commission and the Council set out in the Treaty to bring action before the Court of Justice in case of serious misconduct.

The Code furthermore contains rules regarding the participation in national and European politics during the mandate. It provides for the possibility for Members of the Commission to participate as candidates in the European elections (including as '*Spitzenkandidat*') without having to take a leave of absence, as reflected in the Framework Agreement on Relations between the European Parliament and the European Commission.

The specific principles and rules that apply to Members of the Commission can be found in the following section.

2. Contact points regarding ethical obligations of Members of the Commission

Article 13(2) of the Code of Conduct for Members of the European Commission provides that Members or former Members shall inform the President in a timely manner if they have doubts with regard to the application of this Code before acting on the matter relating to which the doubts arise.

The Secretariat-General is also available in case of questions (unit SG.C2 — 'Ethics, Good Administration & Relations with the European Ombudsman').

3. Applicable legal provisions (Members of the Commission)

3.1. List of applicable legal provisions by domain

| <i>List of main reference documents regarding ethical obligations of Commission Members by domain</i> | |
|---|---|
| <i>Main ethical principles applicable to Commission Members</i> | <ol style="list-style-type: none"> 1. Article 17(3) of the Treaty on European Union – OJ C 202, 7.6.2016, p. 13–388 2. Article 245 of the Treaty on the Functioning of the European Union – OJ C 202, 7.6.2016, p. 1–388 3. Code of Conduct for the Members of the European Commission – OJ C 65, 21.2.2018, p. 7–20 4. Article 339 of the Treaty on the Functioning of the European Union – OJ C 202, 7.6.2016, p. 1–388 5. Article 5(2–3) of the Code of Conduct for the Members of the European Commission – OJ C 65, 21.2.2018, p. 7–20 |
| <i>Conflicts of interest</i> | <ol style="list-style-type: none"> 4. Articles 2(6) and 4 of the Code of Conduct for the Members of the European Commission – OJ C 65, 21.2.2018, p. 7–20 |
| <i>Declarations of interests</i> | <ol style="list-style-type: none"> 5. Articles 3 and 4 and Annex 1 of the Code of Conduct for the Members of the European Commission – OJ C 65, 21.2.2018, p. 7–20 |
| <i>External activities during term of office</i> | <ol style="list-style-type: none"> 6. Article 8 of the Code of Conduct for the Members of the European Commission – OJ C 65, 21.2.2018, p. 7–20 |
| <i>Participation in politics</i> | <ol style="list-style-type: none"> 7. Articles 2(3), 9, and 10 of the Code of Conduct for the Members of the European Commission – OJ C 65, 21.2.2018, p. 7–20 8. Point 4 of the Framework Agreement on relations between the European Parliament and the European Commission – OJ L 304, 20.11.2010, p. 47–62 9. Guidelines on Ethical Standards for the Participation of the Members of the European Commission in the Election Campaign – Commission Decision C(2019) 990 |
| <i>Gifts and hospitality</i> | <ol style="list-style-type: none"> 10. Article 6(4–6) of the Code of Conduct for the Members of the European Commission – OJ C 65, 21.2.2018, p. 7–20 |
| <i>Post term of office activities</i> | <ol style="list-style-type: none"> 11. Articles 2(7) and 11 of the Code of Conduct for the Members of the European Commission – OJ C 65, 21.2.2018, p. 7–20 |
| <i>Transparency</i> | <ol style="list-style-type: none"> 12. Articles 6(2) and 7 of the Code of Conduct for the Members of the European Commission – OJ C 65, 21.2.2018, p. 7–20 13. Point 5 of the Working Methods of the European Commission 2014–2019 – Commission Decision C(2014) 9004 14. Agreement between the European Parliament and the European Commission on the transparency register for organisations and self-employed individuals engaged in EU policy-making and policy implementation – OJ L 277, 19.9.2014, p. 11–24 15. Commission Decision of 25 November 2014 on the publication of information on meetings held between Members of the Commission and organisations or self-employed individuals – OJ L 343, 28.11.2014, p. 22–24 |
| <i>Breaches</i> | <ol style="list-style-type: none"> 16. Article 17(6) of the Treaty on European Union – OJ C 202, 7.6.2016, p. 13–388 17. Article 247 of the Treaty on the Functioning of the European Union – OJ C 202, 7.6.2016, p. 1–388 18. Article 13(3) of the Code of Conduct for the Members of the European Commission – OJ C 65, 21.2.2018, p. 7–20 |

3.2. Text of the applicable legal provisions

| | |
|---|-----------|
| Treaty on European Union and Treaty on the Functioning of the European Union | 10 |
| Code of Conduct for Commissioners (C(2018) 700 final) | 12 |
| Publication of meetings (2014/839/EU, Euratom) | 26 |
| Agreement between the European Parliament and the European Commission (OJ L 45 of 17.02.2018) | 29 |

Treaty on European Union and Treaty on the Functioning of the European Union

Article 17(1) of the Treaty on European Union:

'The Commission shall promote the general interest of the Union and take appropriate initiatives to that end. It shall ensure the application of the Treaties, and of measures adopted by the institutions pursuant to them. It shall oversee the application of Union law under the control of the Court of Justice of the European Union. It shall execute the budget and manage programmes. It shall exercise coordinating, executive and management functions, as laid down in the Treaties. With the exception of the common foreign and security policy, and other cases provided for in the Treaties, it shall ensure the Union's external representation. It shall initiate the Union's annual and multiannual programming with a view to achieving interinstitutional agreements.'

Article 17(3) of the Treaty on European Union:

'The Commission's term of office shall be five years. The members of the Commission shall be chosen on the ground of their general competence and European commitment from persons whose independence is beyond doubt. In carrying out its responsibilities, the Commission shall be completely independent. Without prejudice to Article 18(2), the members of the Commission shall neither seek nor take instructions from any Government or other institution, body, office or entity. They shall refrain from any action incompatible with their duties or the performance of their tasks.'

Article 17(6) of the Treaty on European Union:

'The President of the Commission shall:

- (a) lay down guidelines within which the Commission is to work;
- (b) decide on the internal organisation of the Commission, ensuring that it acts consistently, efficiently and as a collegiate body;
- (c) appoint Vice-Presidents, other than the High Representative of the Union for Foreign Affairs and Security Policy, from among the members of the Commission.

A member of the Commission shall resign if the President so requests. The High Representative of the Union for Foreign Affairs and Security Policy shall resign, in accordance with the procedure set out in Article 18(1), if the President so requests.'

Article 245 of the Treaty on the Functioning of the European Union:

'The Members of the Commission shall refrain from any action incompatible with their duties. [...] The Members of the Commission may not, during their term of office, engage in any other occupation, whether gainful or not. When entering upon their duties they shall give a solemn undertaking that, both during and after their term of office, they will respect the obligations arising therefrom and in particular their duty to behave with integrity and discretion as regards the acceptance, after they have ceased to hold office, of certain appointments or benefits. In the event of any breach of these obligations, the Court of Justice may, on application by the Council acting by a simple majority or the Commission, rule that the Member concerned be, according to the circumstances, either compulsorily retired [...] or deprived of his right to a pension or other benefits in its stead.'

Article 247 of the Treaty on the Functioning of the European Union:

'If any Member of the Commission no longer fulfils the conditions required for the performance of his duties or if he has been guilty of serious misconduct, the Court of Justice may, on application by the Council acting by a simple majority or the Commission, compulsorily retire him.'

Article 248 of the Treaty on the Functioning of the European Union:

‘[T]he responsibilities incumbent upon the Commission shall be structured and allocated among its members by its President [...]. The President may reshuffle the allocation of those responsibilities during the Commission's term of office. The Members of the Commission shall carry out the duties devolved upon them by the President under his authority.’

Article 339 of the Treaty on the Functioning of the European Union:

‘The members of the institutions of the Union, the members of committees, and the officials and other servants of the Union shall be required, even after their duties have ceased, not to disclose information of the kind covered by the obligation of professional secrecy, in particular information about undertakings, their business relations or their cost components.’

Code of Conduct for Commissioners (C(2018) 700 final)

COMMISSION DECISION of 31.1.2018

on a Code of Conduct for the Members of the European Commission

THE EUROPEAN COMMISSION,
Having regard to the Treaty on European Union,
Having regard to the Treaty on the Functioning of the European Union,
Having regard to the Treaty establishing the European Atomic Energy Community,
Whereas:

The Treaties, in particular Article 17(3) of the Treaty on European Union and Article 245 of the Treaty on the Functioning of the European Union, have laid down the essential principles that govern the conduct of Members of the Commission;

In accordance with these provisions, Members of the Commission are chosen on the ground of their general competence and European commitment from persons whose independence is beyond doubt. They shall be completely independent and neither seek nor take instructions from any Government or other institution, body, office or entity, they shall refrain from any action incompatible with their duties or the performance of their tasks and they may not engage in any other occupation, whether gainful or not;

Members of the Commission have political responsibility and the Commission is accountable to the European Parliament. According to Article 10 of the Treaty on European Union, political parties at European level contribute to forming European political awareness and to expressing the will of citizens of the Union. European and national political parties make known the candidates for President of the Commission they support and the candidate's programme in the context of the elections to the European Parliament. The President of the European Commission is elected by the European Parliament on a proposal of the European Council, taking into account the elections to the European Parliament and after having held the appropriate consultations; and the Commission as a whole is subject to a vote of consent by the European Parliament. This increases the democratic legitimacy of the decision-making process in the Union of which Members of the Commission are part;

When entering upon their duties, Members of the Commission give a solemn undertaking that, both during and after their term of office, they will respect the obligations arising therefrom and in particular their duty to behave with integrity and discretion as regards the acceptance, after they have ceased to hold office, of certain appointments or benefits;

The Code of Conduct for Commissioners of 20 April 2011 ⁽¹⁾, which defines and clarifies the obligations applicable to Members and former Members of the Commission, should be revised in order to take account of the experience gained in its application and be up to the high ethical standards that are expected of Members of the Commission;

It is appropriate that the Code of Conduct applies to the person proposed as candidate for President of the European Commission as well as Commissioners-Designate as regards disclosure of their interests in due time before their hearing in the European Parliament;

This Code of Conduct should be applied in line with the Rules of Procedure of the Commission ⁽²⁾;

Members of the Commission are subject to transparency requirements with regard to meetings they hold with organisations or self-employed individuals laid down in the Commission's Decision ⁽³⁾ on that matter;

Article 339 of the Treaty on the Functioning of the European Union provides that the Members of the institutions of the Union shall be required, even after their duties have ceased, not to disclose information of any kind covered by the obligation of professional secrecy, in particular information about undertakings, their business relations or their cost components;

⁽¹⁾ C(2011) 2904.

⁽²⁾ C(2000) 3614 of 29 November 2000.

⁽³⁾ C(2014) 9051 of 25 November 2014.

Former Members of the Commission are also bound during the period for which they are entitled to the monthly transitional allowance to make the declarations foreseen in accordance with Article 10(4) of Council Regulation (EU) 2016/300 ⁽⁴⁾;

An Independent Ethical Committee should assist the Commission in the application of this Code of Conduct by providing independent advice;

A Member of the Commission shall resign if the President so requests in conformity with Article 17(6) of the Treaty on European Union;

Members of the Commission no longer fulfilling the conditions required for the performance of their duties or guilty of serious misconduct may be compulsorily retired or deprived of pension rights or other benefits in accordance with Articles 245 and 247 of the Treaty on the Functioning of the European Union;

This Code of Conduct should be applied in good faith and with due consideration to the proportionality principle and individual rights;

This Code of Conduct should replace the Code of Conduct for Commissioners of 20 April 2011 ⁽⁵⁾;

The European Parliament was consulted ⁽⁶⁾ on the revision of the Code of Conduct in conformity with the Framework Agreement on relations between the European Parliament and the European Commission ⁽⁷⁾ and delivered its opinion on 23 January 2018 ⁽⁸⁾.

HEREBY ADOPTS THIS CODE OF CONDUCT:

Article 1 – Scope

This Code of Conduct shall apply to the Members of the Commission and, where explicitly specified, to former Members of the Commission, to the person proposed as candidate for President of the European Commission and to Commissioners-Designate.

Article 2 – Principles

(1) Members shall devote themselves fully to the performance of their duties in the general interest of the Union.

(2) Members shall behave and perform their duties with complete independence, integrity, dignity, with loyalty and discretion, in compliance with the rules laid down in the Treaties and as spelled out in this Code of Conduct. They shall observe the highest standards of ethical conduct.

(3) Members have the responsibility to maintain political contacts in view of the accountability of the Commission to the European Parliament and the European electorate and in view of the role of European political parties in the democratic life of the Union.

(4) Members shall act collegially and assume collective responsibility for any decision taken by the Commission.

(5) Members shall respect the dignity of their office and shall not act or express themselves, through whatever medium, in a manner which adversely affects the public perception of their independence, their integrity or the dignity of their office.

⁽⁴⁾ Council Regulation (EU) 2016/300 of 29 February 2016 determining the emoluments of EU high-level public office holders (OJ L58, 4.3.2016, p. 1).

⁽⁵⁾ See footnote 1.

⁽⁶⁾ Letter of the President of the Commission of 13 September 2017 to the President of the Parliament.

⁽⁷⁾ OJ L304, 20.11.2010, p. 47.

⁽⁸⁾ Letter of the President of the European Parliament of 23 January 2018 to the President of the Commission.

(6) Members shall avoid any situation which may give rise to a conflict of interest or which may reasonably be perceived as such. A conflict of interest arises where a personal interest may influence the independent performance of their duties. Personal interests include, but are not limited to, any potential benefit or advantage to Members themselves, their spouses, partners ⁽⁹⁾ or direct family members. A conflict of interest does not exist where a Member is only concerned as a member of the general public or of a broad class of persons.

(7) Former Members shall respect the obligations arising from their duties that continue to have an effect after their term, in particular the duty to behave with integrity and discretion as regards the acceptance of certain appointments or benefits in line with Article 245 of the Treaty on the Functioning of the European Union, and the obligations specified in this Code of Conduct.

Article 3 – Declaration of interests

(1) Members shall declare any financial or other interests or assets which might create a conflict of interest in the performance of their duties or are otherwise relevant for the performance of the duties. For the purposes of this Article, a Member's interests can include the interests of spouses, partners ⁽¹⁰⁾ and minor children. Each Member shall do so by submitting the completed declaration form set out in Annex 1, which sets out all the information that Members are required to declare under this Code, and shall assume responsibility for its content.

(2) The requirements in paragraph (1) shall also apply to the person proposed as candidate for President of the Commission and to Commissioners-Designate who shall submit the declaration to the European Parliament in due time in order to allow the Parliament to examine the declarations.

(3) Declarations shall be re-submitted on an annual basis on 1 January, and in case of a change in the information to be declared during a Member's term of office, a new declaration shall be submitted at the earliest opportunity and at the latest within two months of the change in question.

(4) The declaration shall identify:

(a) financial interests, including assets and liabilities, that might be considered to be capable of giving rise to a conflict of interest, and in any case where the value of an investment exceeds EUR 10,000. These financial interests may be in the form of a specific financial holding in an entity's capital, in particular, shares, or any other form of financial interest, such as bonds or investment certificates. This obligation applies to financial interests of spouses, partners ⁽¹¹⁾ and minor children where those might be considered to be capable of giving rise to a conflict of interest;

(b) all activities, professional or otherwise, distinguishing between activities engaged in over the last ten years which ended before the Member took up office, such as company board member, advisor or consultant, member of a foundation or similar body or of an educational institution, and those functions of an honorary nature and/or attributed for life or functions which are formally suspended by direct effect of the law during the Member's mandate, which are maintained while respecting Article 8(2);

(c) every entity in which the Member has an interest or in which or for which he or she exercised an activity as specified in sub-paragraphs (a) and (b) above, except entities in which the Member owns holdings which are managed on an independent basis by a third party, unless they are linked to specific industries like sector or thematic funds. In the case of a foundation or similar body, the purpose of the entity shall be stated;

(d) membership of associations, political parties, trade unions, non-governmental organisations or other bodies, if their activities, in public or private, are intended to influence the exercise of public functions;

⁽⁹⁾ Stable non matrimonial partner as defined in Article 1(2)(c) of Annex VII of the Staff Regulations.

⁽¹⁰⁾ See footnote 7.

⁽¹¹⁾ See footnote 7.

(e) any property owned either directly or through a real estate company, with the exception of homes reserved for their exclusive use and that of their family;

(f) the ongoing professional activities of spouses or partners, setting out the nature of the activity, the title of the position held, and if applicable the name of the employer.

(5) Declarations shall be made public in an electronic and machine-readable format.

Article 4 – Procedure for conflicts of interest

(1) Members shall recuse themselves from any decision or instruction of a file and from any participation in a discussion, debate or vote in relation to a matter that falls under Article 2(6).

(2) Declarations submitted under Article 3 shall be scrutinised under the authority of the President.

(3) Members shall inform the President of any situation that falls under Article 2(6) as soon as they become aware of it.

(4) The President shall take any measure he considers appropriate, in the light of the information referred to in paragraphs (2) and (3) or other available information, if necessary after consultation of the Independent Ethical Committee, such as:

(a) the reallocation of a file to another Member or to the responsible Vice-President. The President shall inform the President of the European Parliament in due time of any such reallocation;

(b) the request for the sale or placing in a blind trust of the financial interests referred to in Article 3(4)(a) where these give rise to a conflict of interest in the area of the Member's portfolio responsibilities.

Article 5 – Collegiality and discretion

(1) Members shall comply with the duty of loyalty towards the Commission and discretion in discharging their duties. They shall act and express themselves with the restraint that their office requires.

(2) Members shall refrain from disclosing what is said at meetings of the Commission.

(3) Without prejudice to the disciplinary provisions applicable to officials and other agents, Members are responsible for the proper handling and any external transmission by members of their Cabinets of classified documents, of sensitive information or of confidential documents submitted to the College for adoption or information.

(4) Members shall not make any comment that would call into question a decision taken by the Commission or which may harm the Commission's reputation.

Article 6 – Specific provisions with regard to the principle of integrity

(1) Members shall manage the material resources of the Commission in a responsible manner. They shall use their Cabinets and the Commission's infrastructure and resources in full compliance with the relevant rules.

(2) Members shall conduct missions in compliance with the rules in the Financial Regulation, the internal rules on the implementation of the general budget of the European Union, the Guide to Missions and the rules set out in Annex 2. A mission is defined as travel in the exercise of his or her duties by a Member away from the Commission's place of work. Free travel offered by third parties must not be accepted unless it is in accordance with diplomatic or courtesy usage or unless the President has authorised it beforehand. For reasons of transparency, the Commission will publish an overview of mission expenses per Member every two months covering all missions undertaken unless publication of this information would undermine the protection of the public interest as regards public security, defence and military matters, international relations or the financial, monetary or economic policy of the Union or a Member State.

(3) Members shall comply with the rules governing receptions and professional representation in the relevant Commission decision ⁽¹²⁾ ⁽¹³⁾. Expenses not covered by that decision will be paid from the Member's flat rate allowance provided for in Article 7 of Regulation 2016/300.

(4) Members shall not accept any gift with a value of more than EUR 150. When, in accordance with diplomatic and courtesy usage they receive gifts worth more than this amount, they shall hand them over to the Commission's Protocol Department. In case of doubt as to the value of a gift, an evaluation shall be undertaken under the authority of the Director of the Office of Infrastructure and Logistics in Brussels, whose decision on the matter shall be final. The Commission's Protocol Department shall keep a public register of the gifts handed over in accordance with this paragraph which shall identify the donor.

(5) Members shall not accept hospitality, except in accordance with diplomatic and courtesy usage. Attendance upon invitation to any events where Members represent the Commission shall not be considered as hospitality.

(6) Members shall notify the President of any decoration, prize or honour awarded to them. Should a prize include a sum of money or valuables, it should be donated to a charity of their choice; valuable objects can also be handed over to the Protocol Department.

(7) Members shall choose the members of their Cabinets in line with the rules set by the President ⁽¹⁴⁾ and on the basis of objective criteria taking into account the demanding nature of the function, the professional profiles requested and the need to establish a relationship based on mutual trust between the Member and the member of Cabinet. Members may not choose spouses, partners and direct family members to form part of their Cabinet.

Article 7 – Transparency

(1) Members and their members of Cabinet shall meet only those organisations or self-employed individuals, which are registered in the Transparency Register established pursuant to the Inter-institutional agreement on this matter between the European Parliament and the Commission of 16 April 2014 ⁽¹⁵⁾ inasmuch as they fall under its scope.

(2) They shall make public information on such meetings in accordance with the Commission Decision of 25 November 2014 on the publication of information on meetings held between Members of the Commission and organisations or self-employed individuals ⁽¹⁶⁾.

Article 8 – External activities during term of office

(1) Members shall not exercise any professional activity, gainful or not, or public functions of whatever nature, other than those resulting from the performance of their duties. This paragraph is without prejudice to maintaining functions of an honorary nature and/or attributed for life, or functions which are formally suspended by direct effect of law during the Member's mandate as Commissioner, as long as the independence of the Member is guaranteed.

(2) Members may engage in the following external activities, while respecting Articles 2 and 5:

(a) giving occasionally unpaid courses in the interests of European integration, provided that the President is duly informed, and other communication activities on areas of European interest;

(b) publishing a book provided that any royalties in a work published in connection with a Member's functions are paid over to a charity of their choice, and provided that the President is duly informed;

(c) writing articles, delivering speeches or taking part in conferences provided that either no payment is made or, should a payment be made, it is paid over to a charity of their choice;

⁽¹²⁾ C(2007) 3494 of 18 July 2007.

⁽¹³⁾ For the use of the College's global envelope, see Annex 2.

⁽¹⁴⁾ C(2014) 9002 of 1 November 2014.

⁽¹⁵⁾ OJ L 277, 19.9.2014, p.11.

⁽¹⁶⁾ C(2014) 9051 (OJ L 343, 28 November 2014, p. 22).

(d) holding honorary unpaid posts in foundations or similar bodies in the political, legal, cultural, artistic, social, sporting or charitable fields or in educational or research establishments, provided that the President is duly informed. "Honorary posts" means posts in which the holder has no management role, no decision-making power and no responsibility or control of the operations of the body in question. The expression "foundations or similar bodies" means not-for-profit establishments or associations which carry out activities in the general interest in the fields referred to in the first sentence. The post must not involve any risk of conflict of interest. Such risk exists in particular when a body receives financing from the EU budget.

Article 9 – Participation in national politics during the term of office

(1) Members may participate in national politics as members of national political parties or an organisation of the social partners (such as trade unions) or in a national election campaign, including regional or local elections, provided that this does not compromise their availability for service in the Commission and the priority given to their Commission duties over party commitment. Participation as members of national political parties or an organisation of the social partners includes the holding of honorary or non-executive functions in bodies of the party structure, but excludes management responsibilities. Political contacts in the capacity as Member of the Commission remain unaffected.

(2) Members shall inform the President of their intention to participate in a national, regional or local election campaign and the role they expect to play in the campaign. If they intend to stand for election or otherwise play an active role in the election campaign, they must withdraw from the work of the Commission for the entire period of active implication and at least for the duration of the campaign. In other instances, the President, taking into account the particular circumstances of the case, shall decide whether the envisaged participation in the election campaign is compatible with the performance of the Member's duties. Members so withdrawing from the work of the Commission shall be granted "unpaid electoral leave" by the President and may not use the Commission's human or material resources during that period. The President shall duly inform the President of the European Parliament of the granting of this leave and of which Member will take over the relevant responsibilities during the period of leave.

(3) Members shall abstain from making public statements or interventions on behalf of any political party or organisation of the social partners of which they are members, except when standing for election/ participating in an election campaign in accordance with paragraph (2). This is without prejudice to the right of Members to express their personal opinions. Members so participating in electoral campaigns shall undertake to refrain from adopting a position in the course of the campaign that would not be in line with the duty of confidentiality or infringe the principle of collegiality.

Article 10 – Participation in European politics during the term of office

(1) Members may participate in European politics as members of European political parties or organisations of the social partners at European level provided that this does not compromise their availability for service in the Commission and the priority to be given to their Commission duties over party commitment. Participation as members of European political parties or organisations of the social partners at European level includes the holding of political, honorary or non-executive functions in bodies of the party structure, but excludes management responsibilities. Political contacts in the capacity as Member of the Commission remain unaffected.

(2) Members may participate in electoral campaigns in elections to the European Parliament, including as candidates. They may also be chosen by European political parties as lead candidate ("*Spitzenkandidat*") for the position of President of the Commission.

(3) Members shall inform the President of their intention to participate in an election campaign within the meaning of paragraph (2) and the role they expect to play in the campaign.

(4) The President shall inform the European Parliament in due time whether one or more Members will stand as candidates in electoral campaigns for elections to the European Parliament, as well as of the measures taken to ensure the respect of the principles of independence, integrity and discretion provided by Article 245 of the Treaty on the Functioning of the European Union and this Code of Conduct.

(5) Members standing as candidates or participating in an electoral campaign within the meaning of paragraph (2) may not use the Commission's human or material resources for activities linked to the electoral campaign.

(6) Members shall abstain from making public statements or interventions on behalf of any European political party of which they are members, except when standing for election or participating in an election campaign in accordance with paragraphs (3) and (4). This is without prejudice to the right of Members to express their personal opinions. Members so participating in electoral campaigns shall undertake to refrain from adopting a position in the course of the campaign that would not be in line with the duty of confidentiality or infringe the principle of collegiality.

Article 11 – Post term of office activities

(1) After ceasing to hold office, former Members shall continue to be bound by their duty of integrity and discretion pursuant to Article 245 of the Treaty on the Functioning of the European Union. They shall continue to be bound by the duties of collegiality and discretion, as laid down in Article 5, with respect to the Commission's decisions and activities during their term of office.

(2) Former Members shall inform the Commission with a minimum of two months' notice of their intention to engage in a professional activity during a period of two years after they have ceased to hold office. For the purposes of the present Code, "professional activity" means any professional activity, whether gainful or not, other than any unpaid activity which has no link with the activities of the European Union and which does not give rise to lobbying or advocacy vis-à-vis the Commission and its services such as:

- (a) charitable or humanitarian activities;
- (b) activities deriving from political, trade unionist and/or philosophical or religious convictions;
- (c) cultural activities;
- (d) the mere management of assets or holdings or personal or family fortune, in a private capacity;
- (e) or comparable activities.

(3) The Commission shall examine the information provided in order to determine whether the nature of the planned activity is compatible with Article 245 of the Treaty on the Functioning of the European Union, and if the planned activity is related to the portfolio of the former Member, it shall decide only after having consulted the Independent Ethical Committee.

Without prejudice to the possibility for the President to seek its opinion in cases of doubt, the Independent Ethical Committee does not need to be consulted where former Members intend to:

- (a) continue to serve the European interest in an Institution or Body of the European Union;
- (b) take up functions in the national civil service of a Member State (at national, regional or local level)
- (c) engage with international organisations or other international bodies dealing with public interests and in which either the EU or one or several of its Member States are represented;
- (d) engage in academic activities;
- (e) engage in one-off activities for a short duration (1 or 2 working days);
- (f) accept honorary appointments.

(4) Former Members shall not lobby ⁽¹⁷⁾ Members or their staff on behalf of their own business, that of their employer or client, on matters for which they were responsible within their portfolio for a period of two years after ceasing to hold office.

(5) In the case of a former President, the periods set out in paragraphs (2) and (4) shall be three years.

(6) The duties set out in paragraphs (2) and (4) shall not apply where the former Member is engaging in public office.

(7) Decisions taken under paragraph (3) determining compatibility with Article 245 of the Treaty on the Functioning of the European Union and related opinions of the Independent Ethical Committee shall be made public with due consideration to the protection of personal data.

Article 12 – The Independent Ethical Committee

(1) The Commission hereby establishes an Independent Ethical Committee. On request of the President, the Committee shall advise the Commission on any ethical question related to this Code and provide general recommendations to the Commission on ethical issues relevant under the Code.

(2) The President shall set the time limit within which an opinion shall be given.

(3) Members or former Members concerned shall co-operate fully with the Committee, in particular by providing all the relevant additional information requested. They shall have the possibility to be heard if the Committee considers issuing a negative opinion.

(4) The Committee shall consist of three members selected for their competence, experience, independence and professional qualities. They shall have an impeccable record of professional behaviour as well as experience in high-level functions in European, national or international institutions. The composition of the Committee should reflect experiences in different institutions or functions. The members are appointed by the Commission, on a proposal from the President. They shall sign a declaration on the absence of conflicts of interest. Their term is three years, renewable once. If a member ceases office before the completion of the term, the Commission appoints, on a proposal from the President, a new member for the remainder of the term.

(5) The Committee shall elect a permanent chairperson from among its members. The chairperson convenes meetings further to receiving a request from the President.

(6) The deliberations of the Committee shall be confidential.

(7) Where an opinion is not adopted unanimously, it shall include any dissenting point of view.

(8) The Commission, in accordance with the relevant administrative rules, shall reimburse travel and subsistence expenses for the Committee's meetings, and shall provide secretarial support to the Committee ⁽¹⁸⁾.

Article 13 – Application of the Code

(1) The President, assisted by the Independent Ethical Committee, shall ensure the proper application of this Code of Conduct.

(2) Members or former Members shall inform the President in a timely manner if they have doubts with regard to the application of this Code before acting on the matter relating to which the doubts arise.

(3) In case of an infringement of this Code of Conduct which does not warrant a referral to the Court of Justice in accordance with Article 245 or 247 of the Treaty on the Functioning of the European Union, the Commission may decide, taking into account the opinion of the Independent Ethical Committee and on proposal of the President, to express a reprimand and,

⁽¹⁷⁾ All activities falling under the scope of the Transparency Register, see Article 7.

⁽¹⁸⁾ This is without prejudice to other administrative provisions concerning the status of the members and their rights.

where appropriate, make it public.

(4) The Commission shall publish annually a report on the application of this Code of Conduct including the work of the Independent Ethical Committee. The reports shall be published on a website dedicated to the application of this Code of Conduct.

Article 14 – Entry into force

(1) The present Code of Conduct shall repeal and replace the Code of Conduct of 20 April 2011 and the Decision establishing the ad hoc ethical committee of 21 October 2003 ⁽¹⁹⁾. The current Committee and its members shall fulfil the remainder of their mandate under the present Code.

(2) As regards former Members whose term has ended before the entry into force of this decision, Article 11(2) to (6) does not apply. Section 1.2 of the Code of Conduct of 20 April 2011 remains applicable to them.

(3) It shall enter into force on 1 February 2018.

(4) Article 10(2) to (5) shall apply from the date of entry into force of the amended Framework Agreement on relations between the European Parliament and the European Commission. Until that date, Section 1.1, paragraphs 8, 9 and 10 of the Code of Conduct for Commissioners of 20 April 2011 ⁽²⁰⁾ shall continue to apply to the participation of Members of the Commission in electoral campaigns in elections to the European Parliament.

⁽¹⁹⁾ C(2003) 3750 of 21 October 2003.

⁽²⁰⁾ See footnote 1.

EN - ANNEXES

CODE OF CONDUCT FOR MEMBERS OF THE EUROPEAN COMMISSION

ANNEX 1 – DECLARATION OF INTERESTS

Full name:

I. PREVIOUS ACTIVITIES (Article 3(4)(b) and (c) of the Code)

- I.1. Posts held over the last 10 years, in foundations or similar bodies
(Please indicate the nature of the post, the name of the body and its objective/activity)
- I.2. Posts held over the last 10 years in educational institutions
(Please indicate the nature of the post and the name of the institution)
- I.3. Posts held over the last 10 years in the governing, supervisory and advisory organs of companies and other bodies devoted to commercial or economic activities.
(Please indicate the nature of the post and the name and the business of the company or other body)
- I.4. Other professional activities held over the last 10 years, including services, liberal profession, consulting activities.
(Please indicate the nature of the activity)

II. CURRENT OUTSIDE ACTIVITIES in line with Article 8 of the Code (Article 3 (4)(b) and (c) of the Code)

(Unpaid courses, publications and speeches – Article 8(2)(a) to (c) of the Code – do not have to be declared)

- II.1. Honorary posts currently held in foundations, similar bodies or educational or research establishments (Article 8(2) (d) of the Code)
(Please indicate the nature of the post, the name of the body and its objective/ activity)
- II.2. Additional relevant information on other functions (e.g. other functions of an honorary nature and/or attributed for life)

III. FINANCIAL INTERESTS (Article 3(4)(a) and (c) of the Code)

Please indicate all financial interests, including assets as well as liabilities, which could be considered to be capable of giving rise to a conflict of interest. Bank accounts, specific goods or loans for the purchase of real estate for private purposes do normally not have to be declared.

Investments of a value of more than EUR 10,000 have to be declared in all cases.

Please indicate in both cases

- the kind of interest (e.g. shares, bond, loans);
- the entity concerned (e.g. company, bank, fund) - if the investment is managed on an independent basis by a third party, the name of the entity does not have to be declared unless the investment is linked to specific industries like sector or thematic funds);
- the size of the interest (e.g. number of shares and their current value, percentage of participation).

IV. FINANCIAL INTERESTS OF SPOUSES, PARTNERS ⁽¹⁾ AND MINOR CHILDREN WHERE THOSE MIGHT BE CONSIDERED TO BE CAPABLE OF GIVING RISE TO A CONFLICT OF INTEREST (Article 3(4)(a) of the Code)

(Please provide in that case, in principle, the same information as under III)

⁽¹⁾ Stable non matrimonial partner as defined in Article 1(2)(c) of Annex VII of the Staff Regulations.

V. MEMBERSHIP OF ASSOCIATIONS, POLITICAL PARTIES, TRADE UNIONS, NON-GOVERNMENTAL ORGANISATIONS OR OTHER BODIES IF THEIR ACTIVITIES, IN PUBLIC OR PRIVATE, ARE INTENDED TO INFLUENCE OR AFFECT THE EXERCISE OF PUBLIC FUNCTIONS (Article 3(4)(d) of the Code)

(Please specify the name of the organisation and its area of activity; membership of clubs in the cultural, artistic, social, sporting or charitable fields does not have to be declared)

VI. REAL ESTATE (Article 3(4)(e) of the Code)

(Homes reserved for the exclusive use of the owner and his or her family do not need to be declared)

VII. SPOUSE'S/ PARTNER'S ⁽²⁾ PROFESSIONAL ACTIVITY (Article 3(4)(f) of the Code)

(Please set out the nature of the activity, the title of the position held and the name of the employer)

I hereby declare that the information given above is correct.

Date:

Signature:

This declaration will be made public in line with Article 3(5) of the Code.

CODE OF CONDUCT FOR MEMBERS OF THE EUROPEAN COMMISSION ANNEX 2 – USE OF THE COLLEGE'S GLOBAL ENVELOPE AND TRAVEL ON OFFICIAL BUSINESS (MISSIONS) BY COMMISSIONERS ⁽³⁾

1. BUDGET

The Commission's global envelope, which covers mission expenses and receptions and professional representation expenses, is fixed annually by the budgetary authority. It is distributed between all Members of the Commission according to their respective portfolios and real needs, under the responsibility of the President. Global envelope expenses are authorised by the Head of Cabinet of the Member concerned ⁽⁴⁾ (legal authorising officer), who also certifies the validity of invoices. They are paid on the basis of the invoice and proof of payment, under the responsibility of the Director of the Office for the Administration and Payment of Individual Entitlements (PMO – authorising officer for budgetary commitments and payments).

Mission expenses incurred by Members of the Commission travelling on official business are covered by an allocation from budget item 25.010213. Mission expenses for the staff of Cabinets are covered (in accordance with the Commission's Guide to Missions) from budget item 25.010211.01.01.10

2. NOTIFICATION OF MISSION - CANCELLATION OF MISSION

A travel order, signed by the Member of the Commission concerned, must be drawn up for all missions using the appropriate form (MIPS). It must set out the following:

- purpose of the mission,
- the place of mission,
- means of transport to be used,
- date and time of departure and return,
- start and completion of work.

⁽²⁾ See footnote 17.

⁽³⁾ In the absence of specific rules, the general rules in the Guide to Missions are applicable by analogy.

⁽⁴⁾ The Head of the President's Cabinet may sub-delegate this power to the Director of Coordination and Administration in the President's Cabinet.

In the event of a mission being cancelled, the Member of the Commission must immediately:

- see that the travel tickets and reservations issued by the travel agency are cancelled in writing,
- ensure that hotel reservations are also cancelled in writing.

3. MEANS OF TRANSPORT

Members of the Commission may use any means of transport appropriate for the purposes of the mission based on its cost-effectiveness and taking into account the needs of the Institution and in line with Article 6 of the Code.

4. TICKETS AND TRAVEL EXPENSES

According to the Guide to Missions, travel expenses reimbursed in the context of a mission are in principle for travel between Brussels and the place of the mission.

Tickets are issued on request by the Commission's official travel agency. The costs are borne in full by the Member of the Commission's mission allocation. Any unused, including partly unused, tickets or reservations must be returned promptly to the travel agency. Any private travel will be personally paid for by the Member, who will pay the travel agency directly by credit card.

5. CHARTERING AIR TAXIS

The use of air taxis must be authorised by the President. As a general rule, the air taxi may be authorised only under exceptional circumstances, either when commercial flights are not available to reach a destination or when they cannot fit with the Member of the Commission's diary, or for security reasons. A careful check of all options should be made, including agenda planning, so that the air taxi is only envisaged as a last option.

Requests completed with all practical details (place, date, programme, participants, justification, etc.), and the contractor's offer, must receive the approval from the PMO before being submitted for authorisation by the President. For travellers other than the Member of the Commission, financial participation equivalent to the cost of a regular flight ticket is foreseen ⁽⁵⁾. The PMO will implement the necessary distribution between budget lines.

6. DURATION OF A MISSION

The duration of a mission is reckoned from the time of departure to the time of arrival back at the place of employment by the means of transport used.

7. MISSIONS COMBINED WITH LEAVE

Missions combined with leave are reckoned as starting at the beginning of the official work if the leave is taken before the mission and is finishing at the close of the official engagement if the leave follows the mission. The same applies in the case of public holidays and weekends, unless the work schedule provides otherwise. Even if this is the case, however, no allowances are paid for the public holidays/weekends if the official engagement is in the country of origin of the Member of the Commission.

8. DAILY SUBSISTENCE ALLOWANCE

The daily subsistence allowance payable to Member of the Commission is the allowance payable to officials plus 5%. This is calculated using the rules applicable to officials in the Guide to Missions.

9. HOTEL EXPENSES

Hotel expenses (excluding breakfast and other meals) are reimbursed on presentation of the bill. If hotel expenses exceed € 300 per day, a justification shall be attached to the statement of expenses.

⁽⁵⁾ For the purpose of the publication under Article 6(2) of the Code, the individual travel cost of the Member of the Commission will be based on the average cost per person (Members and staff) on the flight. This is without prejudice to the overall responsibility of the Member of the Commission on the mission.

10. OTHER EXPENSES

Other expenses justified by the nature of the mission are reimbursed on application and on presentation of supporting documents. Entertainment and representation expenses must be claimed separately in line with a Commission decision governing such expenses.

11. EXPENSES CLAIMS

Members of the Commission will be reimbursed on the basis of a statement of mission expenses to be sent as soon as possible for the reimbursement of mission expenses to the PMO using the appropriate form (MIPS).

Claims must contain the following details:

- the purpose of the mission,
- the place of mission,
- date and time of departure and arrival at the place of employment by the means of transport used,
- starting and finishing times of the work,
- number of days' leave, if any, combined with the mission,
- transport costs paid on the spot by the Member of the Commission,
- hotel expenses (excluding breakfast and other meals),
- any meals paid by third parties for the Member of the Commission,
- other expenses for which reimbursement is claimed.

All supporting documents must be attached.

12. CERTAIN EXPENSES PAID BY REPRESENTATIVE OFFICES AND EU DELEGATIONS IN OTHER COUNTRIES

In certain cases authorisation may be given for expenses incurred during a mission to be paid at the destination by Representative Offices and Delegations. This is an exceptional procedure which is authorised only when expenses incurred on mission cannot be paid with the corporate credit card or directly billed to the PMO ⁽⁶⁾. Given the heavy administrative burden involved, such requests should be limited to the strict minimum.

13. SPECIAL RULES CONCERNING MISSIONS BY THE DRIVERS OF COMMISSION MEMBERS AND THE USE OF THE CAR POOLS OF COMMISSION REPRESENTATIONS AND EU DELEGATIONS IN OTHER COUNTRIES

Under Article 14 of the Commission's Decision of 14 September 1979, all Members of the Commission have an official car and driver assigned to them at all times. Drivers may not be asked to make private journeys if this involves overtime or mission expenses for the driver, unless security dictates.

Daily commuting between the Belgian residence of the Member of the Commission and the office (or the station and airport) shall be considered professional travel.

Drivers are covered by a travel order when driving the official car of a Member of the Commission, even if the Member or an official of the Cabinet is not in the car, when returning from an official destination or bringing the car back from there. Claims for mission expenses should be filled in by the driver using the appropriate form (MIPS) and signed by the Head of Cabinet, giving the following particulars:

- the purpose of the mission,
- the place of mission,
- route taken,
- date and time of departure and return to workplace,
- hotel expenses (excluding breakfast and other meals),
- other details included on the claims form.

⁽⁶⁾ Article 66 of the implementing rules of the Financial Regulation limit the use of imprest accounts to cases where, owing to the limited amounts involved, it is materially impossible or inefficient to carry out payment operations by budgetary procedures.

Drivers' mission expenses are covered by the Cabinet's own mission budget.

A Member of the Commission visiting a Commission Representation or an EU Delegation is entitled to an official car within the limits of the resources available to the Representation or the Delegation. If a Member of the Commission's visit obliges to contract transportation services outside the normal functioning of the Representation, the respective costs are charged to the Member's mission allocation. For visits to Delegations, the rules or arrangements agreed between the Commission and the EEAS which are in effect at the time apply.

Publication of meetings (2014/839/EU, Euratom)

COMMISSION DECISION of 25 November 2014 on the publication of information on meetings held between Members of the Commission and organisations or self-employed individuals

THE EUROPEAN COMMISSION,

Having regard to the Treaty on European Union,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 249 thereof,

Having regard to the Treaty establishing the European Atomic Energy Community, and in particular Article 106a thereof,

Whereas:

(1) In accordance with Article 11(1) and (2) of the Treaty on European Union (TEU), the institutions must, by appropriate means, give citizens and representative associations the opportunity to make known and publicly exchange their views in all areas of Union action. They are also required to maintain an open, transparent and regular dialogue with representative associations and civil society. Further, in accordance with Article 2 of Protocol No 2 on the application of the principles of subsidiarity and proportionality, and with Article 11(3) TEU, the Commission has to consult widely before proposing legislative acts.

(2) For these purposes, the Members of the Commission, and members of their Cabinets, regularly meet with organisations or self-employed individuals, in order to learn about the difficulties they are confronted with and to understand their views on Union policies and legislation.

(3) In accordance with Article 10(3) TEU, in order to facilitate the participation of European citizens in the democratic life of the Union and to ensure that decisions are taken as openly as possible, it is important to enable citizens to know what contacts the Members of the Commission and members of their Cabinets have with organisations or self-employed individuals.

(4) Citizens already have a right of access to documents of the institutions pursuant to Regulation (EC) No 1049/2001 of the European Parliament and of the Council ⁽¹⁾. This Decision does not concern access to documents nor the application of Regulation (EC) No 1049/2001.

(5) In line with the Political Guidelines of 15 July 2014 laid down by the President of the Commission, the Commission is committed to enhancing transparency in respect of contacts with stakeholders and lobbyists.

(6) While there is no need for further measures with regard to the participation of Members of the Commission and members of their Cabinets in public events, since such information is already in the public domain, the publication of information on meetings held with organisations or self-employed individuals would further enhance the transparency of the action of the Commission.

(7) The Members of the Commission should therefore make public information on meetings held by them or by members of their Cabinets with organisations or self-employed individuals on issues relating to decision-making and policy implementation in the Union.

(8) Meetings with representatives of other Union institutions or bodies, which reflect the ordinary course of interinstitutional relations, are not covered by this Decision. Meetings with representatives of public authorities of the Member States are not covered by this Decision as those authorities pursue the general interest and contribute to the work of the Commission under the principle of sincere cooperation. In order to protect the international relations of the Union, meetings with representatives of public authorities of third countries and of international organisations are not covered by this Decision. This Decision is not applicable to the High Representative for Foreign Affairs and Security Policy/Vice-President of the Commission for the meetings she holds in her capacity as High Representative.

⁽¹⁾ Regulation (EC) No 1049/2001 of the European Parliament and of the Council of 30 May 2001 regarding public access to European Parliament, Council and Commission documents (OJ L 145, 31.5.2001, p. 43).

(9) In order to respect the specific character of the dialogue with the social partners, provided for in Article 154 of the Treaty on the Functioning of the European Union (TFEU), as well as the specific character of the dialogue with churches and philosophical and non-confessional organisations, provided for in Article 17(3) TFEU, meetings taking place in those contexts should not be covered by this Decision.

(10) In view of the specific role of political parties recognised by Article 10(4) TEU, and given that the Inter-institutional agreement between the European Parliament and the European Commission of 16 April 2014 on the transparency register for organisations and self-employed individuals engaged in EU policy-making and policy implementation ⁽²⁾ provides that the register does not apply to political parties, meetings with representatives of political parties should also not be covered by this Decision.

(11) Since in certain specific cases the publication of information on meetings may undermine the protection of the life, the integrity or privacy of an individual, the financial, monetary or economic policy of the Union, the market stability or sensitive commercial information, the proper conduct of court proceedings or inspections, investigations, audits or other administrative procedures; or the protection of any other important public interest recognised at Union level, the publication of such information should be withheld in such cases.

(12) In accordance with Article 5(a) of Regulation (EC) No 45/2001 of the European Parliament and of the Council ⁽³⁾, the names of Members of the Commission as well as of members of the Cabinets who attend meetings with organisations or self-employed individuals can be made public; other individuals must have unambiguously given their consent.

(13) This Decision is without prejudice to more enhanced transparency requirements or commitments resulting from Union legislation or international agreements concluded by the Union,

HAS ADOPTED THIS DECISION:

Article 1

1. The Members of the Commission shall make public information on all meetings held by them and members of their Cabinet with organisations or self-employed individuals on issues relating to policy-making and implementation in the Union, in accordance with the provisions of this Decision.

2. The information to be made public shall consist of the date of the meeting, the location, the name of the Member of the Commission and/or member of the Cabinet, the name of the organisation or self-employed individual and the subject of the meeting.

Article 2

For the purpose of this Decision the following definitions shall apply:

(a) ‘meeting’ means a bilateral encounter organised at the initiative of an organisation or self-employed individual or a Member of the Commission and/or a member of his/her Cabinet to discuss an issue related to policy-making and implementation in the Union. Encounters taking place in the context of an administrative procedure established by the Treaties or Union acts, which falls under the direct responsibility of the Member of the Commission, as well as encounters of a purely private or social character or spontaneous encounters are excluded from this notion;

(b) ‘organisation or self-employed individual’ means any organisation or individual, irrespective of their legal status, engaged in activities carried out with the objective of directly or indirectly influencing the formulation or implementation of policy and the decision-making processes of the institutions of the Union, irrespective of where these activities are undertaken and of the channel or medium of communication used.

⁽²⁾ OJ L 277, 19.9.2014, p. 11.

⁽³⁾ Regulation (EC) No 45/2001 of the European Parliament and of the Council of 18 December 2000 on the protection of individuals with regard to the processing of personal data by the Community institutions and bodies and on the free movement of such data (OJ L 8, 12.1.2001, p. 1).

This notion does not include representatives of other Union institutions or bodies, national, regional and local authorities of Member States and of third countries or international organisations. However, it covers any association or network created to represent regions or other sub-national public authorities collectively.

Article 3

1. This Decision shall not apply to meetings held with social partners at Union level in the context of the social dialogue, or to meetings held in the context of the dialogue with churches, religious associations or communities, as well as with philosophical and non-confessional organisations.

2. This Decision shall not apply to meetings held with representatives of political parties.

Article 4

1. The information set out in Article 1(2) shall be published in a standardised format on the websites of the Members of the Commission within a period of two weeks following the meeting.

2. The publication of the information may be withheld where such publication could undermine the protection of one of the interests referred to in Article 4(1), (2) and (3) of Regulation (EC) No 1049/2001, in particular the life, the integrity or privacy of an individual, the financial, monetary or economic policy of the Union, the market stability or sensitive commercial information, the proper conduct of court proceedings or inspections, investigations, audits or other administrative procedures; or the protection of any other important public interest recognised at Union level.

Article 5

The names of individuals (acting on behalf of organisations or self-employed individuals) or Commission officials (other than members of the Cabinets) attending meetings shall not be made public unless they have unambiguously given their consent

Article 6

The organisations and self-employed individuals shall be informed of the fact that the information set out in Article 1(2) will be made public.

Article 7

This Decision shall enter into force on the day following that of its publication in the Official Journal of the European Union.

It shall apply from 1 December 2014.

Agreement between the European Parliament and the European Commission (OJ L 45 of 17.02.2018)

Agreement between the European Parliament and the European Commission

amending point 4 of the Framework Agreement on relations between the European Parliament and the European Commission

THE EUROPEAN PARLIAMENT AND THE EUROPEAN COMMISSION,
having regard to the Treaty on European Union, the Treaty on the Functioning of the European Union, in particular Article 295 thereof, and the Treaty establishing the European Atomic Energy Community,

AGREE AS FOLLOWS:

Point 4 of the Framework Agreement on relations between the European Parliament and the European Commission is replaced by the following:

‘4. Each Member of the Commission shall take political responsibility for action in the field of which he/she is in charge, without prejudice to the principle of Commission collegiality.

The President of the Commission shall be fully responsible for identifying any conflict of interest which renders a Member of the Commission unable to perform his/her duties.

The President of the Commission shall likewise be responsible for any subsequent action taken in such circumstances and shall inform the President of Parliament thereof immediately and in writing.

The participation of Members of the Commission in electoral campaigns is governed by the Code of Conduct for the Members of the European Commission.

Members of the Commission may participate in electoral campaigns in elections to the Parliament, including as candidates. They may also be chosen by European political parties as lead candidate (‘Spitzenkandidat’) for the position of President of the Commission.

The President of the Commission shall inform Parliament in due time whether one or more Members of the Commission will stand as candidates in electoral campaigns for elections to the Parliament, as well as of the measures taken to ensure the respect of the principles of independence, integrity and discretion provided for by Article 245 TFEU and the Code of Conduct for the Members of the European Commission.

Any Member of the Commission standing as candidate or participating in an electoral campaign for elections to the Parliament will undertake to refrain from adopting a position, in the course of the campaign, that would not be in line with his/her duty of confidentiality, or that would infringe the principle of collegiality.









Members of the Commission standing as candidates or participating in electoral campaigns for elections to the Parliament may not use the Commission’s human or material resources for activities linked to the electoral campaign.’

Done at Strasbourg, 7 February 2018.

Part 2

*Ethical obligations
for Commission
staff*

9 KEY PRINCIPLES regarding staff conduct

-  **1. Serve the public interest**, by acting with integrity and being objective and impartial in their work;
-  **2. Be loyal to the Commission;**
-  **3. Provide citizens and others with the quality service** they would expect themselves;
-  **4. Remember that they are the human face of the Commission** and that others will judge the Commission on the basis of what they see and experience;
-  **5. Carry out the tasks assigned to them with responsibility and to the best of their ability;**
-  **6. Treat their colleagues with respect;**
-  **7. Make sure their conduct is beyond reproach**, by not knowingly being a party to an activity that could bring the Commission into disrepute or could cause their impartiality to be questioned;
-  **8. Ensure that they are aware of the relevant legal obligations, rules and procedures;**
-  **9. If they are unsure whether something (they do or are asked to do) is ethical, staff members should consult the relevant information — including the Code of Good Administrative Behaviour — and if in doubt ask their superior or the 'staff ethics' contact point in their Account Management Center.**

Disclaimer

This Practical Guide to Staff Ethics and Conduct aims to make professional ethics standards and obligations and relevant procedures more transparent and easier to understand.

It is for information purposes only, and is not legally binding.

Only the legal texts are binding and these must be referred to either by the Commission administration or by any Commission staff member in any legal or administrative proceedings.

1. Scope

1. Scope

Ethical behaviour is a way of life and applies to your interactions within the Commission, be it with your manager, colleagues, citizens or external stakeholders. At work, you may be faced with many different types of situations, which constantly require your good judgement and common sense, in line with the ethical principles and standards required of Commission staff.

This section looks at how these ethical standards should be applied by the individual staff member, on three levels — relations with the public, behaviour at work and individual obligations. A breach of these standards can lead to disciplinary measures.

The [Staff Regulations](#) (and the Conditions of Employment of Other Servants of the European Union) lay down the basic principles governing relations between the EU institutions and their staff. Of particular importance with regard to staff ethics and conduct is Title II of the Staff Regulations (see Annex for full text), which deals with the rights and obligations of officials, and to which reference is frequently made in this Guide. The Staff Regulations are complemented by decisions and guidance in specific domains, as well as by the [Financial Regulation](#).

The [Code of Good Administrative Behaviour](#) provides guidance on how Commission staff should serve the public. The Code does not have the same legal status as the Staff Regulations and the Financial Regulation, but it constitutes a set of internal rules which staff members are obliged to follow.

This section is addressed to Commission statutory staff (officials, temporary agents, contract agents, and special advisers). However, other staff working for the Commission such as persons employed under private law contracts, experts on secondment from national administrations (seconded national experts), trainees, and external experts can use it as a point of reference in addition to the specific rules regarding their specific employment situation ⁽¹⁾.

This section provides wide-ranging information and advice on a variety of issues, from behavioural tips to compliance with legal obligations under the Staff Regulations, a violation of which could lead to disciplinary measures, or even criminal sanctions.

When it comes to individual obligations, it should be kept in mind that the details of each case vary and staff must therefore exercise sound judgement and common sense in weighing up the particular aspects of a given situation. This section provides tools to help staff in this process.

The Staff Matters portal provides dedicated pages per ethical topic where additional concrete examples of real-life situations triggering ethical questions can be found as well as any changes to the rules and procedures explained in this document.

⁽¹⁾ For persons employed under private law — terms of contract; for SNEs — Commission Decision [C\(2008\) 6866](#); for trainees — Commission Decision [C\(2005\) 458](#); for external experts, see Decision C(2016) 3301.

2. Relations with the public

IN A NUTSHELL

Serving the citizen

- Lawfulness
- Non-discrimination and equal treatment
- Proportionality
- Consistency
- Objectivity and impartiality
- Timely answer to citizen's queries

Requests for information and documents

- For non-published document, contact your DG coordinator for the handling of applications for access to documents.
- Refer any journalist directly to the Spokesperson's Service.
- Do not discuss matters on which the Commission has not adopted an official position.

2. Relations with the public

Relations with the public form an essential part of the Commission's mission to serve the public interest. In all their contacts with the public, staff should be guided by the principles of openness and transparency, while behaving with circumspection, as well as with courtesy, helpfulness, and efficiency.

All staff members can have an impact on how the Commission, and, by extension, on how the EU, is seen — through their professional activities, as well as in their life outside work. How they act will influence the image that people form of the Commission and its staff. Staff should think of themselves at all times as 'ambassadors' for the Commission and the EU Institutions.

Serving the citizen

Serving the public means putting citizens first. Relations with the public should be based on the following standards:

- **Lawfulness** — staff should act in accordance with the law and apply the rules and procedures laid down in EU legislation and implementing rules.
- **Non-discrimination and equal treatment**
 - staff should respect the principle of non-discrimination and, in particular, guarantee equal treatment for members of the public irrespective of sex, race, colour, ethnic or social origin, genetic features, language, religion or belief, political or any other opinion, membership of a national minority, property, birth, disability, age or sexual orientation.
- **Proportionality** — staff should ensure that the measures taken are proportional to the aim pursued.
- **Consistency** — staff should be consistent in their administrative behaviour and follow the Commission's normal practice. Any exceptions to this principle should be duly justified.
- **Objectivity and impartiality** — staff should always act objectively and impartially, in the EU interest, and for the public good. They should act independently and within the framework of the policy fixed by the Commission. Their conduct should never be guided by personal or national interest or political pressure.

The citizen's right to information

Any EU citizen or any natural or legal person residing or whose registered office is in a Member State is entitled to expect a speedy response when they address queries to the Commission. Furthermore, Article 15 of the Treaty on the Functioning of the European Union (TFEU) grants them a right of access to European Parliament, Council and Commission documents.

For written correspondence, a substantive answer should be provided within 15 working days.

Code of Good Administrative Behaviour

Dealing with enquiries (correspondence, telephone calls and e-mails)

The Commission undertakes to answer enquiries from citizens in the most appropriate manner and within a reasonable time.

As a rule, **for written correspondence**, a substantive answer should be provided within 15 working days (Code of Good Administrative Behaviour). If this is not possible, a holding response should be given within this period. Answers should be in the same language as the request, provided this is one of the EU official languages. Contact details should also be included. Written responses must be registered and filed.

When **answering telephone calls**, staff should clearly identify themselves or their department and treat the caller at all times in a courteous and efficient manner. They should return calls as promptly as possible. When dealing with enquiries in their field of responsibility, they should establish the caller's identity and check whether the information has already been made

public or is accessible to the public before giving it out. If this is not the case, they should explain why the information cannot be disclosed. For subjects outside their field of competence, staff should direct the caller to the appropriate service. When in doubt, staff should request confirmation in writing of telephone enquiries or draft a note to the file recalling the content of the conversation.

It is important to guarantee continuity of service by ensuring, wherever possible, that phones are answered or use made of voice mail.

Where correspondence can reasonably be considered as 'repetitive, abusive and/or pointless' (Code of Good Administrative Behaviour), the Commission reserves the right to discontinue any such exchanges. Each service is responsible for taking such a decision.

E-mails should be answered promptly in line with the guidelines on telephone calls and documents. An e-mail is, by its nature, the equivalent of a document (in the sense of Regulation (EC) 1049/2001). If specifically treated as a letter/document, it should be handled according to the guidelines on written correspondence, including being registered and filed and should be subject to the same deadlines. To guarantee continuity of service, staff should use the 'out of office' function when they are not available and give the name, telephone number and e-mail of a contact point. These provisions do not apply to messages and comments received on the Twitter and/or social media accounts of the Commission, Commissioners or Commission staff.

More information

For more information on how to apply the Code of Good Administrative Behaviour and contact points, please see the [Commission GoPro Guide](#).

Regarding your obligations with regard to non-disclosure of information, please see the relevant section below.

For inquiries outside your field of professional competence, it may be appropriate to redirect a citizen to the responsible department or the Commission's Europa Website.

For more information regarding the use of social media see [Social Media Guidelines for staff — Administrative Notice No 04/08.01.2019](#).

For questions regarding 'staff as ambassadors', please see the General Guidelines for ['Staff as Ambassadors' \(SEC \(2007\) 912/9\)](#).

Requests for information and documents

The principle of transparency requires giving the citizen the opportunity to request access to the documents held by the Commission. Specific guidance for officials on how to deal with these requests is available on GoPro and on the MyIntracomm webpages concerning access to documents.

What do you do if you receive a request from a citizen for a specific document?

The legal framework governing the [right of access to documents](#) is laid down in [Regulation \(EC\) 1049/2001](#).

The term 'document' in the sense of this regulation means 'any content whatever its medium (written on paper or stored in electronic form or as a sound, visual or audio-visual recording)'. However, the right to request access to documents concerns only already existing documents held by the Institution. Furthermore, [access to a document has to be refused](#) (totally or partially) [if its disclosure would undermine the protection of one or several of the public or private interests](#) covered by the exceptions defined in Article 4 of Regulation 1049/2001. These include, amongst others, privacy and the integrity of the individual, public security, the protection of the purpose of inspections, audits and investigations, and the protection of the decision-making process against serious harm.

If the document requested has been published, you should direct the person making the request to the relevant webpage on the Europa site where the document is available, to the Publications Office's sales agents, or to the nearest documentation or information centre.

If a document has not yet been made public, you may still be able to make it available, but this must be checked first and the relevant procedures followed. You should contact the person appointed in your DG as coordinator for the handling of applications for access to documents.

More information

For guidance on access to documents and contact details, see the [guidance on the My Intracomm website](#).

What should you do if contacted by a journalist?

As a rule, DG Communication and the Spokesperson's Service are responsible for contacts with the media. Especially where a request is of a political nature, you should refer the journalist directly to the Spokesperson's Service, giving them the contact details if necessary.

However, when requests for information concern technical subjects falling within your specific areas of responsibility, you may answer them, subject to prior clearance from your line management and/or your DG's information and communication unit or media/ public relations officer. Offer to call back if necessary. There is no justification for not giving a journalist an item of factual, technical information that would be given to any member of the public. It is, nevertheless, advisable to consider carefully the nature of the information in question and in any event to notify the Spokesperson responsible, so that they can decide to answer themselves or supplement the information given to the journalist, if necessary. In this respect, certain individual DGs have their own supplementary guidance.

Be aware that you should avoid discussing any matter which is still at the preparation or discussion stage and on which the Commission has not adopted an official position. Information on questions of this kind is a matter for the spokespersons, in consultation with the Cabinets concerned, unless they have given specific authorisation to the contrary.

As a DG expert, you may be asked by the Spokesperson to provide expert information to the media. As a rule, this will always be done on a 'background' basis.

When participating at conferences or other external events as part of your duties, be aware that there may be members of the media present, and prepare for questions that may arise, in coordination with your DG's information and communication unit or media officer.

In addition, you may also be faced with a request for an interview on a topic which, while not part of your professional duties or domain of competence, is nevertheless about the work of the EU. An example might be if your local media wants to interview you about your experience on your work with the Commission. In this sort of situation, you should check with your communications unit and the spokesperson's service. You will also need to put in a request for an outside activity, as this activity is not directly connected to your duties.

Please note that Directors-General and other senior officials are often called on to talk to the media on subjects falling under their responsibility. They will coordinate their statements with the Commissioner concerned, the SPP, and DG COMM, especially in the case of policy statements on matters still under discussion within the DG or service or within the Commission itself, in order to ensure that the Institution puts out a consistent message.

More information

See the Commission Guide to procedures (GoPro) and the [General Guidelines for 'Staff as Ambassadors' \(SEC \(2007\) 917/9\)](#).

Rights of parties with a direct interest in administrative decision-making

When dealing with administrative decisions, you should bear in mind, in accordance with the (sometimes very specific) rules governing the relevant administrative procedure, the following duties:

- **Listen to all parties with a direct interest.** Where EU law provides that interested parties should be heard, staff, in accordance with the conditions set out by that law, should ensure that an opportunity is given to them to make their views known.
- **Justify decisions.** As a rule, full justification for decisions should be given. Where this may not be possible on an individual basis, provision should be made for standard replies to be given. These should include the principal reasons justifying the decision taken. However, an interested party who expressly requests a detailed justification should be provided with one, while respecting the rules on non-disclosure of information (see relevant section below). The reasons to be given may vary according to the applicable specific rules.
- **State arrangements for appeals.** Where EU law provides for it, when notifying an interested party of a measure, you should clearly state the possibility of lodging an appeal and describe how to submit it (the name and office address of the person or department with whom the appeal must be lodged and the deadline for doing so).

Contacts with interest groups (lobbies)

As the Commission has the right of initiative in the EU legislative process, it is a natural target for interest representation with regard to a policy issue or a legislative initiative. Lobbies operate around the European institutions in Brussels and beyond, representing practically every policy area and sector of commerce, trade, industry, services, consumer protection, regional policy, etc. Various organisations may lobby, including professional consultancies, law firms, trade associations, companies, non-governmental organisations, academic institutions, and others. They seek to influence the law-making and policy implementation processes of the EU institutions.

The Commission has an obligation to listen to all parties as well as citizens, civil society, and representative associations. The Commission's overriding principles regarding contacts with interest representatives are transparency, integrity, and equality of access.

On the one hand, interest groups operating in a healthy democratic system can provide valuable input in order to initiate and implement legislation and policies that take full account of the specificities of the domain concerned.

On the other hand, they can also represent a risk for an administration, as the staff involved in policy-making might – even inadvertently – be exploited for the purposes of a specific interest group with possible detrimental effects for the general interest of the European Union.

In more general terms, to preserve the independence of the decision-making process in the Commission, and/or the balance of institutional powers, circumspection and discretion need also to be maintained in other types of contacts, such as with the other EU institutions and bodies and other organisations, as well as in the management of programmes and projects and calls for proposals/ tenders. It is important that staff keep these potentially conflicting aspects in mind in order to preserve their professional and personal independence.

The Commission has an obligation to listen to all parties as well as citizens, civil society, and representative associations.

Since 1 December 2014, Commissioners, Members of Cabinets and Directors-General can only hold meetings on issues relating to policy-making or implementation with organisations and self-employed individuals that are registered in the Transparency Register. Information on these meetings, as well as those involving Directors-General, is published on Europa.

For all other staff, it is recommended to check the credentials of a given interest's representative to make sure that they are in the Transparency Register, which includes a binding Code of Conduct for interest representatives. If they are not in the Register, staff should always invite them to register before having further contacts.

Where meetings with interest group representatives are considered appropriate, these should be held in a professionally correct manner, if possible on Commission premises, with an agenda and in the presence of another colleague, i.e. in a way that cannot give rise to any reputational issues. Staff should inform their line management about the meeting in advance as well as about the outcome. A written record of such meetings should be ensured where these contain important information or may involve action by the Commission. Such reports should be registered and filed.

The European Ombudsman has issued a list of '[Dos and Don'ts](#)' to help EU officials deal with lobbyists ensuring that they do not inadvertently breach ethical norms. The Commission has endorsed these practical recommendations and has asked all services to follow them.

Protection of personal data

The protection of privacy and the protection of natural persons in relation to the processing of personal data are fundamental rights. Article 8 of the Charter of Fundamental Rights of the EU and Article 16 of the TFEU provide that everyone has the right to the protection of personal data concerning them.

In the EU Institutional context, the individual's legally enforceable rights and the obligations of the Institution concerned with regard to the processing of personal data are set out in [Regulation \(EC\) 2018/1725](#). This Regulation builds on the same principles and concepts as the [General Data Protection Regulation \(GDPR\)](#), which applies to Member States since 25 May 2018. It replaces [Regulation \(EC\) 45/2001](#).

Personal data processing operations cover a wide range of activities such as the collection, transfer or storage of personal data. Except for well-defined special circumstances, it is prohibited to process data on racial or ethnic origin, political opinions, religious or philosophical beliefs or trade union membership, health, sex life, or sexual orientation.

More information

[Transparency Register](#) & [Dos and Don'ts list](#). Follow training on lobbying: consult courses available in [EU Learn](#).

The data subject (meaning the person whose personal data are concerned) has the right to be informed of the personal data processing operations (before the first occurrence) and has the right to access, rectify, and, where appropriate, block or erase data, object to the processing and receive compensation for any damage. Staff who fail to comply with the obligations under the data protection rules shall be liable to disciplinary or other action, in accordance with the Staff Regulations.

Personal data means any information relating to a natural person who can be identified, directly or indirectly, in particular by reference to an identifier or to one or more factors specific to the physical, physiological, genetic, mental, economic, cultural or social identity of that natural person.

More information

[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](#).

Non-disclosure of information

Without prejudice to the legislation on the protection of personal data, as a member of staff, or former member of staff, you have an obligation not to disclose, without authorisation, information to which you have been exposed in the course of your work, unless that information has already been made public or is accessible to the public (Article 17 of the Staff Regulations).

You may have to deal with sensitive information in the course of your work. Such information must be managed with the utmost discretion. For example, this applies to commercially sensitive economic data, politically sensitive information, sensitive information for the decision-making process or staff data in DG HR (for example medical or personnel matters).

EU non-classified information must be protected through appropriate markings and consequent handling when needed (e.g. proceedings of an open competition selection board), as must information which has come to your knowledge in the course of your duties and relates to persons (e.g. medical secrecy, family life, or financial or tax affairs). Professional secrecy regarding human resources individual data to which defined persons have privileged access (given on a need to know basis) is a fundamental obligation for all staff working in the departments responsible for administering the affairs of Commission staff.

The Commission takes a strong line on the leaking of information by staff, and this can include disciplinary consequences.

Confidentiality of business information

Staff members are specifically required to respect the confidentiality that intrinsically applies to business information provided by applicants at particular stages of a programme or project or specific proceedings. This applies particularly to information relating to the content of tenders submitted for evaluation and selection (for example, details of a project applicant's financial situation or accounts), business information submitted in, for example, competition or trade defence cases.

Ensure that confidentiality of business information does not fall into unauthorised hands, if necessary by storing it in secure locations.

You must always ensure that such information does not fall into unauthorised hands, if necessary by storing it in secure locations. The unauthorised disclosure of such information can be harmful and the Commission could be held liable for loss sustained if the act is attributable to you and the Commission could, in turn, bring proceedings against you if you are personally seriously at fault (Article 22 of the Staff Regulations). As a member of staff, you have no personal rights over such information, and its use for purposes other than those required for the performance of your tasks would constitute a misuse of information. Disclosure of such information must always take place respecting the official channels.

Classified documents

With four levels of classification (top secret, secret, confidential and restricted), the Commission's security provisions are aimed at protecting sensitive information produced or handled by the Commission from being compromised, disclosed without authorisation, or from espionage. These provisions are in line with the rules on public access to documents. If a staff member has to deal with documents falling under the security provisions they are expected to know the rules. In general, this means considering what needs to be done in your immediate environment to protect the information you are dealing with. Staff who compromise EU classified information by letting it fall into the hands of unauthorised persons face disciplinary procedures and/or criminal prosecution.

Get familiar with the Commission's security provisions before dealing with:

- **top secret,**
- **secret,**
- **confidential and**
- **restricted documents.**

More information

See the [Commission Security Notices](#).

Representation expenses for official purposes

The duty of ethical behaviour also concerns the handling of representation expenses which you may incur in your professional capacity. You are obliged to deal with public funds in a right and proper way.

Certain officials may be granted a fixed allowance if by reason of their duties they regularly incur representation/ entertainment expenses (Art 14 of Annex VII of the SR). If such situations occur from time to time only and as a result of special instructions, the amount of entertainment allowance is determined in each instance on the basis of specific conditions and supporting documents. In particular Directors-General, Heads of Service and Heads of Cabinet (and in some exceptional cases other officials or agents) are allowed to incur such expenses.

Such expenses include, for example, official receptions, dinners, and in general, reasonable expenses corresponding to diplomatic and courtesy usage.

Guests must come from outside of the Commission or other institutions and bodies (with the exception of members of the Court of Justice, the Court of Auditors, the European Parliament, the Economic and Social Committee and the Committee of the Regions).

More information

Please consult the internal rules regarding representation expenses of officials — SEC (95)819.

For more information regarding rules managing entertainment expenses of the members of the College please consult C(2007) 3494.

Expenses linked to the presence of family members of the official authorised to engage such expenses are not reimbursed. Nevertheless, an exception can be granted when justified by diplomatic or courtesy usage, or when the expenses occur in the official's home.

Finally, the number of officials from the institutions cannot be higher than the number of participants from the outside.

3. Behaviour at work

IN A NUTSHELL

Relations with management

- You are responsible for the performance of the duties assigned to you
- Carry out your duties to the best of your abilities
- Assist and tender advice to your superiors

Relations among colleagues

- Treat colleagues with respect and impartiality
- Good working relationships involve:
 - teamwork
 - polite and clear communication
 - conflict resolution
 - zero tolerance for any form of harassment

Commission means of communication

Do not use them:

- for illegal or improper purposes
- in any way that might disrupt the functioning of the service, or
- in any manner contrary to the interests and reputation of the European Union

3. Behaviour at work

Relations with management

Whatever your grade, you have the obligation to ‘assist and tender advice’ to your superiors and you are responsible for the performance of the duties assigned to you, that is, you must do your job properly (Article 21 of the Staff Regulations). The responsibility of a subordinate does not release the official from his or her own responsibility.

A member of staff must follow instructions, unless they are manifestly illegal or constitute a breach of the relevant safety standards. You should not confuse this with simple disagreements or differences of opinion.

If your superior instructs you to do something which you consider to be irregular or likely to give rise to serious difficulties, you should ask for the instruction to be confirmed in writing by your immediate superior, and then, if necessary, by his or her immediate superior. If the latter confirms the instructions in writing, you should carry them out, unless they are manifestly illegal or breach safety standards (Article 21a of the Staff Regulations).

Relations among colleagues

Colleagues should be treated with respect and impartiality, regardless of their position. In a multi-cultural workplace, mutual respect and tolerance of differences are essential ingredients of any good working relationship.

This also involves:

- a. **Teamwork** — working together to achieve common goals;
- b. **Polite and clear communication** — engaging colleagues by showing respect and encouraging efficiency through clarity of instructions;
- c. **Conflict resolution** — finding workable solutions through discussions and better mutual understanding;
- d. **Zero tolerance for any form of psychological and sexual harassment.**

Use of Commission means of communication

Computer equipment, e-mail and Internet access, telephones, mobile phones and photocopiers are provided for official use. However, you may make occasional, limited use of these means of communication for private purposes, provided that you do not use them:

- e. for illegal or improper purposes
- f. in any way that might disrupt the functioning of the service itself, or
- g. in any manner contrary to the interests and reputation of the European Union.

For telephones and mobile phones, occasional personal use is permitted at your expense. For telephones, you need to request a personalised code, to be used for private communication. The cost of the private calls is then deducted from your salary. For Commission owned mobile phones, you should indicate your private calls on the monthly statements on e-Gestel, the cost of which is then deducted from your salary.

For photocopiers and email, incidental personal use is acceptable. With regard to e-mail, be aware that you should not send messages to a wide or indiscriminate numbers of addressees (within or outside the Commission), or ask others to send out such messages widely. With respect to Internet use for private purposes, again, incidental use is acceptable. However, Commission server(s) may not be used where, for example, offensive, racist, discriminatory, sexually explicit or other equally inappropriate websites are accessed or where other personal use exceeds reasonable limits (see also section on Social Media).

Given that the Commission's servers can be used both directly from the office and via remote access from outside Commission premises, do not forget that, usually, e-mails or other messages sent through the Commission's system will indicate your Commission e-mail address and thereby establish a link to the Commission.

Be aware that the Commission is entitled to monitor the use of information and communication technologies (ICT) services and that it does so. In the case of any suspected abuse, your Director-General may ask DG HR to open an investigation into your use of these services.

More information

On the Commission policy regarding use of means of communication, see the Guidelines for staff on the use of the Commission's information and communications technology (ICT) services ([Administrative Notice No 24/2016 of 18 May 2016](#)) and the Communication from the President on Commission policy on the internal use of e-mail (SEC (2009) 1412).

4. Individual obligations

IN A NUTSHELL

Conduct reflects on your position

- Professional and private behaviour inside or outside the Commission should not bring the European civil service into disrepute

Giving evidence in legal proceedings and immunity

- Seek prior permission to give evidence in legal proceedings related to your work
- Immunity from legal proceedings covers only acts relating to professional life

Avoid conflicts of interest

- Inform the Appointing Authority immediately if you have to deal, in the performance of your duties, with a matter in which, directly or indirectly, you have a personal interest, such as to impair your independence
- Declare your partner's gainful employment
- Seek prior authorisation for outside activities
- Seek prior authorisation for any work you may wish to undertake, for a period of two years after leaving the service
- Declare gifts, decorations & honours

Obligations after leaving the service

- Behave with integrity and discretion
- Seek prior authorisation for any work you may wish to undertake, for a period of two years after leaving the service
- Do not disclose confidential information you received during service
- Seek permission to give evidence in legal proceedings related to your work

Freedom of expression

- Pay due respect to the principles of loyalty and impartiality
- Show restraint, moderation and caution and respect confidentiality
- Inform the Appointing authority before publishing anything dealing with the work of the EU
- Refrain from any statements, including in social media, that might reflect adversely upon your position and the Commission

4. Individual obligations

To maintain the Commission's independence and credibility, as a member of staff, you are subject to certain requirements which affect the exercise of your duties and which can have implications for your private life. For this reason, you are required to request authorisations or provide notifications in various situations (such as conflicts of interest, gifts, outside activities, spouse's employment, or publications or speeches on EU-related matters). This must be done at your own initiative.

In this chapter, frequent reference will be made to the concept of an 'Appointing Authority'. This term describes a system of graduated authority. In practice, the Commission delegates authority in personnel matters to the appropriate levels of senior and middle management. These managers are the faces behind the expression 'Appointing Authority'.

In general terms, for most procedures, the Appointing Authority's powers are exercised by your Directorate-General. For other obligations addressed in this chapter, these powers are exercised by DG HR (its Director-General or a directorate or unit to which Appointing Authority powers have been subdelegated).

Given the specific arrangements concerning delegation of the Appointing Authority's powers, you should consult the relevant tables of the Appointing Authorities or ask for guidance by consulting HRE3 (Ethics and Ombudsman).

This section examines these situations (addressed mostly in the Staff Regulations, Title II on Rights and Obligations of Officials — see Annex 1 for full text) and the procedures to follow.

Conduct reflecting on your position

In general terms, you should refrain from any action or behaviour that might reflect adversely on your position, as stated in the Staff Regulations (Article 12). This means that your conduct even outside the office must be exemplary. Professional and private behaviour inside or outside the Commission should not bring the European civil service into disrepute.

Acts or behaviour that risk bringing the Commission into disrepute can lead to disciplinary proceedings. This could be the case, for example, if you were to be convicted of a crime or a misdemeanour.

Avoidance of conflicts of interest

The overriding idea behind avoiding any conflict of interest or appearance of a conflict of interest is to avoid possible accusations of bias and partiality in any decision-making process you may be involved in, so as to maintain the Commission's independence and credibility. Key in this context is therefore how best to prevent such situations from happening in the first place. Anyone can find themselves in a conflict of interest situation, despite taking all precautions. If this happens, it is essential to know how to react.

The key steps to avoiding or remedying such situations:

- a. declaring your spouse's or partner's gainful employment,
- b. providing immediate declaration, if, in the course of your duties, you are called on to decide on a matter in which you have a personal interest which could impair your impartiality,
- c. seeking prior authorisation for outside activities you may wish to undertake during active service or leave on personal grounds,
- d. seeking prior authorisation for any work you may wish to undertake, for a period of two years after leaving the service,
- e. declaring beforehand your intention to stand for public office,
- f. declaring beforehand the intention to publish any texts on matters dealing with the work of the EU.

Anyone can find themselves in a conflict of interest situation, despite taking all precautions. If this happens, be clear about what to do. Declaring an ad hoc conflict of interest.

Apart from the specific situations and obligations foreseen by the Staff Regulations mentioned below, and as stipulated in Article 11a of the Staff Regulations, you may not, during the performance of your duties, deal with any matter in which you have a direct or indirect personal interest that may compromise your independence and, by extension, the Commission's interests.

Such situations can arise when:

- g. there is some link between your work and your private interests, or those of your family or partner;
- h. you find yourself in a situation that could reasonably lead to allegations being made of bias or partiality, in light of your personal interests.

If you find yourself in such a situation or are in any doubt as to whether your circumstances could give rise to concerns over a conflict of interests you should inform the Appointing Authority immediately by filling in the appropriate declaration form. It is also advisable to inform your own line management. Conflicts of interest that may arise within the framework of a budgetary action are addressed by the Financial Regulation (Article 61).

Gifts, favours, payments, honours and decorations

Gifts, favours (hospitality offers) and payments

Article 11 of the Staff Regulations states that you should not accept gifts, favours or payments from governments or any other source outside the institution, without obtaining prior permission from the Appointing Authority. As a rule, you should decline all such 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 Commission, you may accept some gifts or hospitality.

If you are offered a gift with an estimated value of more than EUR 50, you must apply for permission to accept it. In any event, permission will not be granted if the value exceeds EUR 150. You should avoid accumulating gifts (even below EUR 50 and independently of the source) as this can be a source of conflict of interest.

When deciding on a request to accept a gift, the Appointing Authority takes into consideration the following factors:

- i. the nature of the source offering the gift;
- j. the apparent motive behind offering the gift;
- k. the link between the entity offering the gift and the Commission;
- l. the possible consequences for the Institution's interests;
- m. the individual or collective destination of the offer;
- n. the nature and estimated value of the gift;
- o. the staff member's work.

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 staff member participates in the exercise of his/her duties and in agreement with the hierarchy, and where there is no risk of conflict of interest, or perceived conflict of interest, can be accepted without prior authorisation. The same applies for the offers of simple meals, refreshments and snacks. For all other offers and in case of doubt, you have to request prior authorisation from the Appointing Authority.

Seek permission to accept a gift with an estimated value of more than EUR 50.

More information

Communication from Vice-President Šefčovič to the Commission on Guidelines on Gifts and Hospitality for staff members ([SEC\(2012\) 167](#)). Guide to missions and authorised travel (C(2017) 5323) — points 2.9 and 3.3.6.

Any sum of money must always be refused.

Regarding payments for work actually done, such as conferences or publications (on EU matters), see section below on 'Freedom of expression'.

As to missions where the costs are to be covered by an external source, they should be accepted only when they are in the interests of the service and if there is no risk of any real, apparent, or potential conflict of interests. Before the beginning of the mission, the Authorising Officer must check that there is no such conflict of interest and confirm this in the travel order. In many DGs such missions must be approved by the Director-General.

If certain costs were covered by the external source during the mission, a note confirming that there is no (potential) conflict of interest and signed by the Authorising Officer must be attached to the statement of expenses.

Honours and decorations (medals)

Bearing in mind the overriding principle of independence, you should not accept an honour or decoration from any government or other source without prior permission from the Appointing Authority. There is an exception for services rendered before your appointment at the Commission or during special leave for military or other national service and in respect of such services. Otherwise, it might reasonably be considered that the honour has been granted for services rendered to an outside body or national government while the staff member was working for the Commission, which requires an assessment by the Appointing Authority.

Only national honours and decorations awarded by a sovereign state or official medals awarded by a sovereign state or an official organ of that state (ministry, regional or local authorities, universities etc.), or recognised by an official authority outside the institution (Prix Charlemagne, Carnegie Hero Fund, etc.) are subject to the restrictions outlined in Article 11 of the Staff Regulations. Pure 'fantasy decorations' are not covered.

In assessing these requests, the Appointing Authority will take into consideration the following factors:

- p. the reason for the honour or decoration;
- q. the possible consequences for the Institution's interests.

These rules also apply to former staff if the decoration or honour has any link with their work at the Commission.

Declaring the gainful employment of your spouse

Under Article 13 of the Staff Regulations, you must inform the Appointing Authority if your spouse is 'in gainful employment', i.e. is doing paid work. This is notably in order to prevent any appearance of a conflict of interest that could arise because of your respective professional activities. In this respect, unmarried, but legally recognised partners are regarded as spouses (for precise details, see Article 1(2)(c) of Annex VII of the Staff Regulations).

If there is any change in your spouse's professional situation, or indeed, your own, you must also declare this to the Appointing Authority, which will decide on any issue of conflict of interest.

If the nature of your spouse's employment is considered incompatible with yours and you are unable to give an undertaking that your spouse's activity will cease within a specified period, the Appointing Authority may decide to transfer you to another post, after consulting the Joint Committee. Please note that declarations under Article 13 are different from the declarations you need to make to the Paymaster's Office (PMO) that may affect your allowances, health insurance for your spouse etc.

Requesting prior permission for outside activities during active service or leave on personal grounds

Under the Staff Regulations and the Conditions of Employment of Other Servants of the European Union ('CEOS'), an official or agent wishing to engage in an outside activity shall first obtain the permission of the Appointing Authority.

There are fundamental reasons for ensuring that all Commission staff ask prior authorisation to take on outside activities going beyond what can be considered to be a hobby, paid or unpaid, in order to ensure your, and thereby the Institution's, independence and integrity. At a practical level, such an outside activity should not:

- r. be so time consuming as to impact negatively on your work at the Commission, or constitute a job in itself;
- s. give rise to any possible appearance of a conflict of interest or risk bringing the Commission into disrepute.

To give guidance on the application of the Staff Regulations and the CEOS, a new Commission Decision on outside activities was adopted in 2018, which introduces a series of clarifications, simplifies processes, and takes into account experience gained from the practical applications of the previous rules.

The 2018 Decision on outside activities clarifies that there is no obligation to seek prior permission from the Appointing Authority for unpaid activities that meet cumulative conditions (they are unpaid; not pursued in a professional capacity; not performed for an outside entity, they are performed outside agreed working hours; do not compromise the impartiality or objectivity of staff member; the activity does not have negative impact on the reputation of the Institution; other Staff Regulation obligations are complied with). The Appointing Authority's permission is deemed to be granted because these activities are considered not to interfere with the performance of the staff member's duties and to be compatible with the interests of the Institution. Examples of activities for which prior permission is deemed to be granted include unpaid charitable, teaching, well-being, and sport, cultural or political activities, provided all conditions set in the Decision are met.

Some activities cannot be permitted in any case by the Appointing Authority. These are activities, which, by their very nature, are liable to interfere with the performance of the staff member's duties and/or are incompatible with the interests of the Institution. This is for example the case of activities performed during working hours or giving rise to a conflict of interest. The activity is also prohibited when the remuneration of that activity, by itself or combined with the remuneration of other permitted activities, exceeds the ceiling of EUR 10,000 net per calendar year.

An outside activity should neither impact negatively on your work at the Commission nor give rise to any possible appearance of a conflict of interest or risk bringing the Commission into disrepute.

All the activities for which prior permission is not deemed to be granted as referred to above, will have to be submitted for authorisation and will be assessed on a case-by-case basis by the Appointing Authority. This will, for example, include paid teaching activities and paid activities related to sport or wellbeing.

More information

Commission Decision on outside activities and assignments and on occupational activities after leaving the Service ([C\(2018\) 4048](#)) and the [Administrative Notice No 22/2011](#) — Practical guidance for staff wishing to engage in volunteer activities. Guide to missions and authorized travel C(2017) 5323 — points 2.9 and 3.3.6.

Commercial or professional activities are no longer subject to a blanket ban but rather to a case-by-case analysis. These activities should be notified.

As a rule, any request should be submitted two months before you plan to start the activity in question, to allow sufficient time for the request to be processed. Before making its decision, the Commission assesses each case on its own merits with regard to the type of work proposed.

If the Commission authorises you to undertake certain outside activities, you need to keep in mind that you will be subject to the relevant national income tax rules and social legislation. In addition, no outside work may be performed either on the premises of the Institutions or during normal working hours.

For outside activities while in active service, any permission granted under Article 12b of the Staff Regulations is valid for the period indicated in the request. A new request is needed only if there is a change in outside activity or in job duties.

It should also be noted that if you apply for 'leave on personal grounds' ('congé de convenance personnelle' or CCP) and request authorisation to work in this context, the Appointing Authority may make its acceptance subject to reasonable and proportionate conditions, in view of your intended activity during the period requested, and may even refuse to grant such leave, if appropriate.

Standing for public office, being elected or appointed

If you wish to stand for public office, such as a candidate in municipal, regional, national or European elections, you must first inform the Appointing Authority, in accordance with Article 15 of the Staff Regulations. After your Director-General has given his/her opinion, the Appointing Authority will decide whether, in the period leading up to the date of the election or appointment, you:

- must take leave on personal grounds;
- must take annual leave;
- may be authorised to work part-time; or
- may continue to work with no change to your hours.

If elected or appointed to a position, you must also inform the Appointing Authority immediately by filling in an appropriate form.

Then, on the basis of your Director-General's opinion and taking into consideration the interests of the Commission, the importance of the public office in question, the duties it would involve and the remuneration and expenses to which you would be entitled, the Appointing Authority will decide whether you:

- must make a request for leave on personal grounds;
- must take annual leave;
- can be authorised to work part-time; or
- can continue to work with no change to your hours.
- Current administrative practice is for the Appointing Authority to require staff elected to national parliaments (either upper or lower house where applicable) or the European Parliament to take leave on personal grounds (CCP) for the whole term of office.

If the Appointing Authority decides to allow you to continue working as normal at the Commission, special leave of no more than 12 days a year may be granted for this activity based on a duly substantiated formal request.

For **more information**, consult Commission Decision [C\(2019\) 1120](#) final on the conduct of officials and other staff during the European elections campaign in 2019.

Giving evidence in legal proceedings and immunity

Depending on your area of activity and your particular responsibilities, you should be aware of how to deal with requests to give evidence in legal proceedings and how the Commission applies the immunity covering your professional activities as a member of Commission staff.

Giving evidence in legal proceedings

If you are called on to give evidence in legal proceedings related to your work, you must request prior authorisation from the Appointing Authority, in line with Article 19 of the Staff Regulations. This applies also to procedures that are analogous to legal proceedings such as arbitration, in which witnesses may be compelled to appear as in Court proceedings. This obligation continues to apply even after leaving the Commission. This, however, does not apply for giving evidence before the Court of Justice of the European Union or before a Disciplinary Board of one of the EU Institutions.

To submit such a request for authorisation, you or the Commission department responsible (the Anti-Fraud Office, DG HR's Security Directorate, your Directorate-General, etc.) should send it, along with supporting documents (in particular the judicial body's request),

to the Appointing Authority. These files are processed by DG HRE3.

Immunity from legal proceedings

Article 11(a) of the [Protocol on the Privileges and Immunities of the European Union \(PPI\)](#) stipulates that officials and other servants of the Union shall ‘...be immune from legal proceedings in respect of acts performed by them in their official capacity, including their words spoken or written. They shall continue to enjoy this immunity after they have ceased to hold office.’ Be aware that this immunity exists solely in the interests of the Union (Article 17 of the PPI) and covers only acts relating to professional life.

For matters relating to private life, the question of immunity does not even arise and the official is subject to national civil and criminal law ⁽²⁾.

Requests to lift immunity made by national judicial authorities are dealt with by DG HR’s Investigation and Disciplinary Office (IDOC). Any final decision to lift immunity is adopted by the Commission. Where the national judicial authorities ask for the procedure to be secret, the Commission must comply with that request. In addition, Article 23(2) of the Staff Regulations requires officials to inform the Appointing Authority (i.e. the Director-General for Human Resources and Security) immediately if immunity is in dispute.

Right of freedom of expression (publications, conferences and speeches)

Article 17a of the Staff Regulations grants you the right to freedom of expression ‘with due respect to the principles of loyalty and impartiality.’

These principles are primarily of relevance when you express yourself on EU matters, especially with regard to publications or speeches that will or may be published.

Publications

Publications on EU matters

If you want to publish or to have published, either on your own or with other parties, a document, such as an article or a book, on anything dealing with the work of the EU, you must inform your Appointing Authority in advance, as provided by Article 17a of the Staff Regulations.

In this respect, you must provide the Appointing Authority with any relevant information, in particular a copy, in electronic form, of the document you intend to publish. This must be accompanied by a summary, in electronic form, in one of the Commission’s working languages.

Where the Appointing Authority can demonstrate that the matter is liable to prejudice seriously the legitimate interests of the European Union, it has to inform you of its decision within 30 working days of receipt of the information. If it does not reply within this time limit, the Appointing Authority is considered to have no objections. However, the lack of a reaction does not prejudice the possible application of a provision such as Article 12 of the Staff Regulations, if the publication turns out to contain material, which is, for example, defamatory or insulting. Nor does it preclude the possible application of Article 24 of the Staff Regulations, if other officials request assistance against what they may see as defamatory statements about their work. The author remains personally responsible for the published material. This is the case even if there is a disclaimer on the publication.

These rules and procedures also apply to speeches and any form of public or private communication outside the scope of

⁽²⁾ As has been confirmed by rulings of the European Court of Justice, Article 23 of the Staff Regulations stipulates that officials ‘shall not be exempt from fulfilling their private obligations or from complying with the laws and police regulations in force.’

your duties, where they relate to EU matters and are or may be published.

Publications on non EU matters

For publications which are not related to European matters, staff members do not require any authorisation to publish.

However, if the publication (including its writing/ preparation) could be considered an outside activity, notably, if carried out on a regular basis (e.g. if the staff member signed a contract to regularly provide pieces for publication), staff members must ask their Appointing Authority for prior authorisation.

Conferences and speeches on EU matters

Participation to conferences or giving speeches on the same domain of your work at the Commission or on general matters related to the work of the Commission should be declared as an outside activity where it is not performed as part of your duties. If the content of the speech or the conference would subsequently be published, the staff member should also inform their Appointing Authority, using the publication declaration form (Article 17a(2) of the Staff Regulations).

Limitations on the freedom of expression

While the Staff Regulations (Article 17a(1)) grant officials and other staff the right to freedom of expression, when it comes to your professional activity this is subject to the following conditions being met:

- you must show restraint and caution in expressing opinions, especially when these obviously diverge from well-known policies of the institution; this is particularly the case if you occupy a management post;
- such opinions or any others regarding EU policies must be expressed with moderation and under your sole responsibility (i.e. with a disclaimer);
- you need to pay due respect to the principles of objectivity, loyalty and impartiality;
- you are also subject to the rules concerning non-disclosure of information and the confidentiality requirement

Remuneration

If the publication (including its writing/preparation) or speech would entitle you to any financial payment, you must indicate it when you ask your Appointing Authority for prior authorisation.

Royalties received for publications (and more generally artistic proceeds), to which the Appointing Authority raised no objections, are not subject to the net annual ceiling of EUR 10,000 that applies to work you are authorised to undertake outside the Commission.

If a publication or speech forms part of your work during a mission for the Commission (e.g. it may happen that you are offered a fee for a speech you make while on outside assignment, which would count as part of your normal work), you must specify the exact amount in your travel request (mission order form) or at least in your subsequent expenses claim (mission declaration of expenses). If you receive the payment after your expenses for the assignment are reimbursed, you must inform the service responsible for dealing with reimbursement of mission expenses. If you make a speech in the same location as your place of work, you must declare any amounts you receive to the Remunerations section of the PMO. These are then deducted either from the balance of your expenses claim or from your next salary payment.

More information

[Administrative Notice No 04/2019:](#)
[Social Media Guidelines for staff](#)

Social media

Regarding social media (Twitter, Facebook, YouTube....), staff should refer to the Social Media Guidelines that cover the

personal use of social media when communicating on EU matters. These Guidelines do not cover the situation of the staff members who have been specifically authorised to represent the Commission's views (mandated staff members).

Staff members should remember that they must, as a matter of principle, only use social media in their personal capacity. This should be clarified in an appropriate way (for instance in the 'profile'). Statements and opinions are personal and do not represent the Commission's position, and should not give the impression of doing so. In any event, when using social media, you should act responsibly and therefore refrain from any actions or statements that might reflect adversely upon your position and the Commission (Article 12 of the Staff Regulations). The core principles of circumspection, confidentiality, objectivity, impartiality and loyalty to the European Union should always be kept in mind.

When activities in social media amount to actual publications on EU-related matters, prior notification is required. This would be the case for opinions which go beyond a short appreciation and amount to a structured stand-alone text.

In doubt, contact your manager and/or your communication unit/team. If the question relates specifically to Ethics rules, contact the Central Ethics service HR.E3.

Obligations after leaving the service

During their professional life, officials acquire not only professional experience but also may have had access to sensitive information. This is why even after leaving the service, former officials and staff are still subject to certain obligations. In particular, they must 'behave with integrity and discretion', as stipulated in Article 16 of the Staff Regulations.

Former officials and staff are therefore bound not to accept any duties or professional activities after leaving the service that would be incompatible with the interests of the European Union. If you are intending to engage in an occupational activity, whether paid or unpaid, within two years of leaving the service, you must inform the Commission, based on a specific form. If that activity is related to the work carried out during your last three years of service and could lead to a conflict with the legitimate interests of the Commission, the Appointing Authority could forbid you from undertaking it or give its approval subject to any conditions it sees fit. The Commission has 30 working days to notify you of its decision. If no such notification has been received by the end of this period, this is deemed to constitute implicit acceptance.

There is no need to declare activities that meet the following conditions:

- taking up a post in an European Union institution or body (support for interinstitutional mobility)
- the activity is part of the limited list of permissible non-remunerated activities carried out in the staff member's personal capacity and does not give rise to lobbying or advocacy vis à vis staff of their former institution.

If in doubt, please contact DG HR.E3 and you will be told what details are needed to assess your case.

Recipients of an invalidity allowance or an invalidity pension may only take up gainful employment if they have first been authorised to do so by the Appointing Authority.

See: Article 4 para 3 of the Decision [C\(2018\) 4048](#) final of 29 June 2018 on outside activities and assignments and on occupational activities after leaving the Service.

According to Article 339 of the TFEU '(...) the officials and other servants of the Union shall be required, even after their duties have ceased, not to disclose information of the kind covered by the obligation of professional secrecy, in particular information about undertakings, their business relations or their cost components.' Former officials and staff must also at all times and without limitation in time 'refrain from any unauthorised disclosure of information received in the line of duty, unless that information has already been made public or is accessible to the public', in line with Article 17 of the Staff Regulations. Staff members leaving the service are required by DG HR to sign a 'Declaration of Honour' which includes a

commitment to return, at the time of departure, any document or written notes belonging to the files or the series of non-public documents managed by the official during his/ her activities at the Commission.

Former officials and staff are bound not to accept any duties or professional activities after leaving the service that would be incompatible with the interests of the European Union.

Under Article 19 of the Staff Regulations, former officials and staff also continue to be bound by the obligation with regard to giving evidence in legal proceedings (see section above).

More information

Commission Decision on outside activities and assignments and on occupational activities after leaving the Service ([C\(2018\) 4048](#)).

5. Prevention and sanctions

IN A NUTSHELL

Ethical reasoning

- Analyse the situation, identify possible options
- Consider the potential consequences
- Check whether other persons involved agree with these options
- Take action based on the best option identified
- Evaluate the real impact of your action

Financial liability

- Deliberate, improper behaviour or gross negligence could lead to financial liability if you have caused financial damage

Reporting serious wrongdoing

- Report facts pointing to a possible illegal activity or to a serious failure to comply with the professional obligations of Commission staff
- Whistle-blowers are protected from adverse consequences

Harassment

- Informal procedure: attempt to resolve the problem through conciliation with the support of a Confidential Counsellor or the Commission Mediator
- Formal procedure aims to determine whether the allegations can be proven, to assess the facts and, when appropriate, to apply sanctions

5. Prevention and sanctions

What if something goes wrong? The Commission has a series of means for addressing these problems, ranging from prevention to disciplinary procedures.

This section of the guide seeks to offer general advice about what to do when confronted with ethical problems. It is important to know what to do if confronted with some difficult situations as the result of the behaviour or conduct of other colleagues, such as serious wrongdoing or harassment.

It is also important to know how the Commission investigates reported violations of obligations and, where appropriate, pursues disciplinary proceedings.

Ethical reasoning

In trying to resolve possible ethical dilemmas, which can arise when different values and principles come into conflict with one another, think about the following suggestions:

- a. analyse the situation by looking at the facts, circumstances and relevant rules, in order to identify possible options;
- b. consider the consequences of the different options, as well as the consequences of not acting;
- c. check whether other persons involved (hierarchy, colleagues) agree with the options you identify or see alternatives;
- d. take action based on the best option identified;
- e. evaluate the real impact of your action and any feedback as such experience can serve as a precedent or a good point of departure when faced with a similar situation in the future.

Financial liability

As laid down in Article 22 of the Staff Regulations, as a member of staff, you could be required to make good, in whole or in part, any damage suffered by the European Union as a result of serious misconduct in connection with the performance of your duties. Financial liability could be invoked if you have caused financial damage through deliberate, improper behaviour or gross negligence. In such cases, all relevant circumstances are taken into account before any decision is taken. For more information, see the guidelines for applying Article 22 (SEC(2004) 0730).

For comprehensive information on budget management and implementation, accounting and financial reporting, internal control issues, procurement and other related issues, you should consult DG Budget, or consult BudgWeb.

For **more information** on internal audit activities, see the Internal Audit Service's website on Europa:
<https://ec.europa.eu/info/departments/internal-audit-service>

For **more information** on the anti-fraud activities, see OLAF's website on Europa:
https://ec.europa.eu/anti-fraud/home_en

Reporting serious wrongdoing (Whistleblowing)

All organisations face the risk of things going seriously wrong or of unknowingly harbouring a corrupt individual. Usually, the first people to suspect or realise that there is a problem are those who work in the organisation or with it. In tackling cases of wrongdoing it is crucial to have a reporting system in place that inspires confidence and can help break down any 'walls of silence'. The Staff Regulations seek to address the problem through requiring staff to report any possible serious wrongdoing (Article 22a) and by protecting staff who report such cases (Article 22b).

The 'whistleblowing' procedure

You are obliged to report facts pointing to a possible illegal activity, including fraud or corruption, or to a serious failure to comply with the professional obligations of Commission staff. This obligation only applies to facts discovered in the course of or in connection with your professional duties.

If you become aware of any serious wrongdoing, you should report it in writing and without delay to (either) your Head of Unit or your Director-General, or the Secretary-General of the Commission, or to the European Anti-Fraud Office (OLAF) directly.

Whoever receives this information is required to transmit it immediately to OLAF.

When such information is received from a whistle-blower, OLAF or the Commission must:

- f. inform the whistle-blower within 60 days of how much time is needed to take appropriate action; and
- g. take appropriate action within the period of time indicated.

If no appropriate action is taken within that time, the member of staff may turn to another EU institution — the President of either the European Commission, the Council, the European Parliament, the Court of Auditors, or the European Ombudsman. Given the duties of discretion and loyalty, this should be an option of last resort, justifiable only if the staff member concerned honestly and reasonably believes that the information disclosed, and any allegation contained in it, are substantially true and he or she allowed the Commission or OLAF a reasonable period of time to take appropriate action.

Any whistle-blower who complies with these conditions will be protected from adverse consequences. This notably covers the identity of the whistle-blower, as well as the mobility and staff report of the person concerned. Naturally, in order for the Commission to be able to apply such protective measures, the person concerned will need to identify themselves to the Institution, and observe the whistleblowing procedure.

More information

Communication from Vice-President Šefčovič to the Commission on Guidelines on Whistleblowing — [SEC\(2012\) 679](#)

Harassment

The Commission does not tolerate harassment, in line with Article 12a of the Staff Regulations. In the work environment, the Staff Regulations distinguish between two particular types of harassment — psychological and sexual — and the Commission has a specific policy to deal with such cases (Decision C(2006) 1624/3/final).

The recently adopted diversity and inclusion strategy emphasizes again that a culture of equal opportunities for all, respect, and safeguarding dignity is essential for a thriving and inclusive workplace (Communication to the Commission of 19 July 2017, [C\(2017\) 5300](#) final).

Good progress has been made in implementing the 2006 Commission Decision. At the same time, the Commission's relevant services have gained substantial experience in handling harassment complaints and the Court of Justice of the European Union has rendered a series of judgments on the matter since 2006. For those reasons, the relevant Commission services are working on a revised decision on preventing and combatting harassment in the workplace, together with updated guidance for staff.

Psychological harassment

Psychological harassment means any improper conduct that takes place over a period, is repetitive or systematic and involves physical behaviour, spoken or written language, gestures or other acts that are intentional and that may undermine the personality, dignity or physical or psychological integrity of any person.

Harassment can come in many different guises: bullying, antagonism, offensive behaviour, even refusal to communicate — are all examples of unacceptable behaviour. When occurring on a regular basis, these kinds of behaviour can cause serious harm to the person towards whom they are directed.

Sexual harassment

Sexual harassment means conduct relating to sex which is unwanted by the person to whom it is directed and which has the purpose or effect of offending that person or creating an intimidating, hostile, offensive or disturbing environment.

Commission policy

In the framework of the policy put in place by the Commission, two procedures have been established for dealing with potential harassment situations, a formal and an informal one.

As a first step, staff members are strongly advised to attempt to resolve the problem through conciliation via the 'informal procedure' which provides support and someone to speak to in strict confidentiality (Confidential Counsellor or Commission Mediator).

If necessary, emergency measures can be taken (such as a quick transfer in the interest of the service).

The informal procedure provides follow-up and may lead to an amicable resolution of the conflict, but it does not involve any formal qualification of the case or sanctions.

In contrast, the formal procedure aims to determine whether the allegations of harassment can be proven, assessing the facts and, when appropriate, applying sanctions in the framework of the disciplinary procedure.

More information

Commission Decision on the European Commission policy on protecting the dignity of the person and preventing psychological harassment and sexual harassment — C(2006) 1624/3 final.

Administrative inquiries and disciplinary procedures

The administrative inquiries and disciplinary procedures apply to any failure by a staff member or former staff member to comply with his or her obligations under the Staff Regulations, whether intentionally or through negligence. As explained in the preceding chapters, this can include conduct in private life and offences under national criminal law.

The primary tasks of the Commission's Investigation and Disciplinary Office of the Commission (IDOC) are:

- The impartial and independent conduct of administrative inquiries, the aim of which is to establish the facts and to verify whether any obligation as laid down in the Staff Regulations may have been breached.
- The conduct of disciplinary procedures. Disciplinary procedures are opened once there is evidence that any obligation contained in the Staff Regulations have been breached.

Examples of cases where inquiries/disciplinary procedures have been conducted include: breaches of financial rules (such as public procurement), conflicts of interests (favouritism), corruption, allegations of psychological or sexual harassment, convictions in a criminal case, theft of Commission material, committing fraud and falsifying documents, abuse of IT-equipment, and improper behaviour.

It should be noted that administrative inquiries can be carried out by either the European Anti-Fraud Office (OLAF) or IDOC, depending on the nature of the case. Cases involving fraud and other serious financial irregularities are usually dealt with by OLAF (which can lead to criminal proceedings before national courts).

More information

[Annex IX to the Staff Regulations — disciplinary proceedings](#) General implementing provisions on the conduct of administrative inquiries and disciplinary procedures — [C\(2004\) 1588](#). Check IDOC Annual Activity Reports and : [IDOC Practical Guide](#).

*6. The staff ethics
reference points in
the Commission*

6. The staff ethics reference points in the Commission

HR.E3 — ‘Ethics and Ombudsman’

HR.E3 (‘Ethics and Ombudsman’) is responsible for policy issues in the area of ethics, as well as for processing all ethics requests, providing advice about ethical questions, and awareness-raising and outreach activities. It also serves as a contact point on ethics matters for all the Commission staff.

When dealing with queries from staff, the colleagues in HR.E3 act in confidence and can reply to requests related to individual obligations and relations with the public (Title II of the Staff Regulations), notably regarding:

- [conflicts of interest](#):
 - ad-hoc,
 - on recruitment,
 - on return from leave on personal grounds (CCP),
- [honours and decorations](#);
- [gifts and hospitality](#);
- [outside activities](#):
 - during active service,
 - during leave on personal grounds,
 - after leaving the service,
 - during invalidity.
- [public office \(candidacy and tenure\)](#);
- [the right of freedom of expression](#);
- [publications and speeches to be published](#);
- [testimony in judicial proceedings](#);
- [spouse employment](#).

SG.C2 — ‘Ethics, Good Administration & Relations with the European Ombudsman’

For any questions regarding Commissioners and the overall broader coordination in respect of Public Service ethics, SG.C2 — ‘Ethics, Good Administration & Relations with the European Ombudsman’ is the contact point.

IDOC and OLAF

As far as disciplinary questions are concerned, IDOC and OLAF are the responsible services (for more information please see Chapter 5 - ‘Prevention and sanctions’).

SG.C1 — ‘Transparency, document Management & Access to Documents’

For any question regarding contacts with interest groups, SG.C1 – ‘Transparency, document Management & Access to Document’ is the contact point.

7. Applicable legal provisions (staff ethics)

7. Applicable legal provisions (staff ethics)

7.1. List of main reference documents by domain

| <i>List of main reference documents on staff ethics by domain</i> | |
|---|--|
| <i>General</i> | 4. Staff Regulations 5. Communication from VP Kallas to the Commission on enhancing the environment for professional ethics — SEC(2008) 301 6. Public service principles for the EU civil service — European Ombudsman 2012 |
| <i>Relations with Public and Media</i> | 19. Code of Good Administrative Behaviour — 2000/633/CE 20. General guidelines for 'Staff as Ambassadors' — SEC(2007) 912/9 21. Social Media Guidelines for staff — Administrative Notice n° 04/08.01.2019 |
| <i>Gifts</i> | 7. Communication from Vice-President Šefčovič to the Commission on Guidelines on Gifts and Hospitality for staff members — SEC(2012) 167 |
| <i>Outside activities</i> | 8. Commission decision on outside activities and assignments — C(2018) 4048 9. Practical guidance for staff wishing to engage in volunteer activities — Administrative notice No 22/2011 |
| <i>Use of ICT services</i> | 10. Communication from the President on Commission policy on the internal use of email — SEC(2009) 1412 11. Guidelines for staff on the use of the Commission's information and communications technology (ICT) services — Administrative notice No 24-2016 |
| <i>Financial Liability</i> | 12. Guidelines for applying article 22 of the Staff Regulations (financial liability of officials) — SEC(2004) 730/5 |
| <i>Harassment</i> | 13. Commission decision on the European Commission policy on protecting the dignity of the person and preventing psychological harassment and sexual harassment — C(2006) 1624/3 |
| <i>Whistleblowing</i> | 14. Communication from VP Kinnock to the Commission on how to enhance effective application of Whistleblowing rules and protection of Whistleblowers — SEC(2004) 151/2 |
| <i>Conflict of interests</i> | 15. Financial regulation — Article 61 16. Guide to missions and authorised travel C(2017) 5323 — points 2.9 and 3.3.6: Expenses paid by organisers |
| <i>Disciplinary issues</i> | 17. Annex IX to the Staff Regulations 18. General implementing provisions on the conduct of administrative inquires and disciplinary procedures — C(2004) 1588 |

7.2. Text of the applicable legal provisions

| | |
|---|-----|
| Legal provisions laying down the ethical principles and rules that apply to Commission staff members | 66 |
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*Legal provisions
laying down the
ethical principles
and rules that apply
to Commission staff
members*

Staff Regulations – Articles 11-26a

Article 11

An official shall carry out his duties and conduct himself solely with the interests of the Union in mind. He shall neither seek nor take instructions from any government, authority, organisation or person outside his institution. He shall carry out the duties assigned to him objectively, impartially and in keeping with his duty of loyalty to the Union. 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. Before recruiting an official, the appointing authority shall examine whether the candidate has any personal interest such as to impair his independence or any other conflict of interest. To that end, the candidate, using a specific form, shall inform the appointing authority of any actual or potential conflict of interest. In such cases, the appointing authority shall take this into account in a duly reasoned opinion. If necessary, the appointing authority shall take the measures referred to in Article 11a(2). This Article shall apply by analogy to officials returning from leave on personal grounds.

Article 11a

1. An official shall not, in the performance of his duties and save as hereinafter provided, deal with a matter in which, directly or indirectly, he has any personal interest such as to impair his independence, and, in particular, family and financial interests.
2. Any official to whom it falls, in the performance of his duties, to deal with a matter referred to above shall immediately inform the Appointing Authority. The Appointing Authority shall take any appropriate measure, and may in particular relieve the official from responsibility in this matter.
3. An official may neither keep nor acquire, directly or indirectly, in undertakings which are subject to the authority of the institution to which he belongs or which have dealings with that institution, any interest of such kind or magnitude as might impair his independence in the performance of his duties.

Article 12

An official shall refrain from any action or behaviour which might reflect adversely upon his position.

Article 12a

1. Officials shall refrain from any form of psychological or sexual harassment.
2. An official who has been the victim of psychological or sexual harassment shall not suffer any prejudicial effects on the part of the institution. An official who has given evidence on psychological or sexual harassment shall not suffer any prejudicial effects on the part of the institution, provided the official has acted honestly.
3. Psychological harassment means any improper conduct that takes place over a period, is repetitive or systematic and involves physical behaviour, spoken or written language, gestures or other acts that are intentional and that may undermine the personality, dignity or physical or psychological integrity of any person.
4. Sexual harassment means conduct relating to sex which is unwanted by the person to whom it is directed and which has the purpose or effect of offending that person or creating an intimidating, hostile, offensive or disturbing environment. Sexual harassment shall be treated as discrimination based on gender.

Article 12b

1. 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.

2. 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.

Article 13

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

Article 15

1. 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.

2. 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.

Article 16

An official shall, after leaving the service, continue to be bound by the duty to behave with integrity and discretion as regards the acceptance of certain appointments or benefits. Officials intending to engage in an occupational activity, whether gainful or not, within two years of leaving the service shall inform their institution thereof using a specific form. If that activity is related to the work carried out by the official during the last three years of service and could lead to a conflict with the legitimate interests of the institution, the appointing authority may, having regard to the interests of the service, either forbid him from undertaking it or give its approval subject to any conditions it thinks fit. The appointing authority shall, after consulting the Joint Committee, notify its decision within 30 working days of being so informed. If no such notification has been made by the end of that period, this shall be deemed to constitute implicit acceptance. In the case of former senior officials as defined in implementing measures, the appointing authority shall, in principle, prohibit them, during the 12 months after leaving the service, from engaging in lobbying or advocacy vis-à-vis staff of their former institution for their business, clients or employers on matters for which they were responsible during the last three years in the service. In compliance with Regulation (EC) No 45/2001 of the European Parliament and of the Council, each institution shall publish annually information on the implementation of the third paragraph, including a list of the cases assessed.

Article 17

1. An official shall refrain from any unauthorised disclosure of information received in the line of duty, unless that information has already been made public or is accessible to the public.

2. An official shall continue to be bound by this obligation after leaving the service.

Article 17a

1. An official has the right to freedom of expression, with due respect to the principles of loyalty and impartiality.

2. 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.

Article 18

1. All rights in any writings or other work done by any official in the performance of his duties shall be the property of the European Union where such writings or work relate to its activities or, where such writings or work relate to activities of the European Atomic Energy Community, the property of that Community. The Union or, where applicable, the European Atomic Energy Community shall have the right to acquire compulsorily the copyright in such works.

2. Any invention made by an official in the course of or in connection with the performance of his duties shall be the undisputed property of the Union. The institution may, at its own expense and on behalf of the Union, apply for and obtain patents therefor in all countries. Any invention relating to the work of the Union made by an official during the year following the expiration of his term of duty shall, unless proved otherwise, be deemed to have been made in the course of or in connection with the performance of his duties. Where inventions are the subject of patents, the name of the inventor or inventors shall be stated.

3. The institution may in appropriate cases award a bonus, the amount of which shall be determined by the institution, to an official who is the author of a patented invention.

Article 19

An official shall not, without permission from the appointing authority, disclose on any grounds whatever, in any legal proceedings, information of which he has knowledge by reason of his duties. Permission shall be refused only where the interests of the Union so require and such refusal would not entail criminal consequences as far as the official is concerned. An official shall continue to be bound by this obligation after leaving the service. The provisions of the first paragraph shall not apply to an official or former official giving evidence before the Court of Justice of the European Union or before the Disciplinary Board of an institution on a matter concerning a servant or former servant of the European Union.

Article 20

An official shall reside either in the place where he is employed or at no greater distance there from as is compatible with the proper performance of his duties. The official shall notify the Appointing Authority of his address and inform it immediately of any change of address.

Article 21

An official, whatever his rank, shall assist and tender advice to his superiors; he shall be responsible for the performance of the duties assigned to him. An official in charge of any branch of the service shall be responsible to his superiors in respect of the authority conferred on him and for the carrying out of instructions given by him. The responsibility of his subordinates shall in no way release him from his own responsibilities.

Article 21a

1. An official who receives orders which he considers to be irregular or likely to give rise to serious difficulties shall inform his immediate superior, who shall, if the information is given in writing, reply in writing. Subject to paragraph 2, if the immediate superior confirms the orders and the official believes that such confirmation does not constitute a reasonable response to the grounds of his concern, the official shall refer the question in writing to the hierarchical authority immediately above. If the latter confirms the orders in writing, the official shall carry them out unless they are manifestly illegal or constitute a breach of the relevant safety standards.

2. If the immediate superior considers that the orders must be executed promptly, the official shall carry them out unless they are manifestly illegal or constitute a breach of the relevant safety standards. At the request of the official, the immediate superior shall be obliged to give such orders in writing.

3. An official who informs his superiors of orders which he considered to be irregular or likely to give rise to serious difficulties shall not suffer any prejudice on that account.

Article 22

An official 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. A reasoned decision shall be given by the appointing authority in accordance with the procedure laid down in regard to disciplinary matters. The Court of Justice of the European Union shall have unlimited jurisdiction in disputes arising under this provision.

Article 22a

1. Any official who, in the course of or in connection with the performance of his duties, becomes aware of facts which give rise to a presumption of the existence of possible illegal activity, including fraud or corruption, detrimental to the interests of the Union, or of conduct relating to the discharge of professional duties which may constitute a serious failure to comply with the obligations of officials of the Union, shall without delay inform either his immediate superior or his Director-General or, if he considers it useful, the Secretary-General, or the persons in equivalent positions, or the European Anti-Fraud Office (OLAF) direct. Information mentioned in the first subparagraph shall be given in writing. This paragraph shall also apply in the event of serious failure to comply with a similar obligation on the part of a Member of an institution or any other person in the service of or carrying out work for an institution.

2. Any official receiving the information referred to in paragraph 1 shall without delay transmit to OLAF any evidence of which he is aware from which the existence of the irregularities referred to in paragraph 1 may be presumed.

3. An official shall not suffer any prejudicial effects on the part of the institution as a result of having communicated the information referred to in paragraphs 1 and 2, provided that he acted reasonably and honestly.

4. Paragraphs 1 to 3 shall not apply to documents, deeds, reports, notes or information in any form whatsoever held for the purposes of, or created or disclosed to the official in the course of, proceedings in legal cases, whether pending or closed.

Article 22b

1. An official who further discloses information as defined in Article 22a to the President of the Commission or of the Court of Auditors or of the Council or of the European Parliament, or to the European Ombudsman, shall not suffer any prejudicial effects on the part of the institution to which he belongs provided that both of the following conditions are met:

(a) the official honestly and reasonably believes that the information disclosed, and any allegation contained in it, are substantially true; and

(b) the official has previously disclosed the same information to OLAF or to his own institution and has allowed OLAF or that institution the period of time set by the Office or the institution, given the complexity of the case, to take appropriate action. The official shall be duly informed of that period of time within 60 days.

2. The period referred to in paragraph 1 shall not apply where the official can demonstrate that it is unreasonable having regard to all the circumstances of the case.

3. Paragraphs 1 and 2 shall not apply to documents, deeds, reports, notes or information in any form whatsoever held for the purposes of, or created or disclosed to the official in the course of, proceedings in legal cases, whether pending or closed.

Article 22c

In accordance with Articles 24 and 90, each institution shall put in place a procedure for the handling of complaints made by officials concerning the way in which they were treated after or in consequence of the fulfilment by them of their obligations under Article 22a or 22b. The institution concerned shall ensure that such complaints are handled confidentially and, where warranted by the circumstances, before the expiry of the deadlines set out in Article 90. The appointing authority of each institution shall lay down internal rules on inter alia :

- the provision to officials referred to in Article 22a(1) or Article 22b of information on the handling of the matters reported by them,
- the protection of the legitimate interests of those officials and of their privacy, and
- the procedure for the handling of complaints referred to in the first paragraph of this Article.

Article 23

The privileges and immunities enjoyed by officials are accorded solely in the interests of the Union . Subject to the Protocol on Privileges and Immunities, officials shall not be exempt from fulfilling their private obligations or from complying with the laws and police regulations in force. When privileges and immunities are in dispute, the official concerned shall immediately inform the appointing authority. The laissez-passer provided for in the Protocol on Privileges and Immunities shall be issued to heads of unit, to officials in grade AD12 to AD16, to officials serving outside the territory of the European Union and to other officials for whom this is required in the interest of the service.

Article 24

The Union shall assist any official , in particular in proceedings against any person perpetrating threats, insulting or defamatory acts or utterances, or any attack to person or property to which he or a member of his family is subjected by reason of his position or duties. It shall jointly and severally compensate the official for damage suffered in such cases, in so far as the official did not either intentionally or through grave negligence cause damage and has been unable to obtain compensation from the person who did cause it.

Article 24a

The Union shall facilitate such further training and instruction for officials as is compatible with the proper functioning of the service and is in accordance with its own interests. Such training and instruction shall be taken into account for purposes of promotion in their careers.

Article 24b

Officials shall be entitled to exercise the right of association; they may in particular be members of trade unions or staff associations of European officials.

Article 25

Officials may submit requests concerning issues covered by these Staff Regulations to the Appointing Authority of their institution. Any decision relating to a specific individual which is taken under these Staff Regulations shall at once be communicated in writing to the official concerned. Any decision adversely affecting an official shall state the grounds on which it is based. Specific decisions regarding appointment, establishment, promotion, transfer, determination of administrative status and termination of service of an official shall be published in the institution to which the official belongs. The publication shall be accessible to all staff for an appropriate period of time.

Article 26

The personal file of an official shall contain:

- (a) all documents concerning his administrative status and all reports relating to his ability, efficiency and conduct;
- (b) any comments by the official on such documents.

Documents shall be registered, numbered and filed in serial order; the documents referred to in subparagraph (a) may not be used or cited by the institution against an official unless they were communicated to him before they were filed. The communication of any document to an official shall be evidenced by his signing it or, failing that, shall be effected by registered letter to the last address communicated by the official. An official's personal file shall contain no reference to his political, trade union, philosophical or religious activities and views, or to his racial or ethnic origin or sexual orientation. The preceding paragraph shall not however prohibit the insertion in the file of administrative acts and documents known to the official which are necessary for the application of these Staff Regulations. There shall be only one personal file for each official. An official shall have the right, even after leaving the service, to acquaint himself with all the documents in his file and to take copies of them. The personal file shall be confidential and may be consulted only in the offices of the administration or on a secure electronic medium. It shall, however, be forwarded to the Court of Justice of the European Union if an action concerning the official is brought.

Article 26a

Officials shall have the right to acquaint themselves with their medical files, in accordance with arrangements to be laid down by the appointing authorities of the institutions.

Decisions

Commission Decision of 26th April 2006 on the European Commission policy on protecting the dignity of the person and preventing psychological harassment and sexual harassment (C(2006) 1624/3)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to the Staff Regulations of officials of the European Communities (hereinafter referred to as “the Staff Regulations”) and the Conditions of employment of other servants of the European Communities ⁽¹⁾, and in particular Articles 1d, 12 and 12a of the Staff Regulations concerning behaviour which may infringe human dignity and Article 11 of the Conditions of employment,

Whereas:

The Community strategy on health and safety at work 2002–2006 ⁽²⁾, which aims to consolidate a culture of risk prevention, points to a substantial increase in risks due to the changing way in which work is organised, and particularly in social risks such as stress, anxiety, depression, violence, harassment and intimidation at work.

Psychological harassment and sexual harassment at work are serious problems which the Commission is continuing to strive to stamp out by promoting a culture free of all forms of violence in the workplace in which such harassment is unacceptable.

The policy laid down in the Memorandum of 22 October 2003 on psychological harassment policy at the European Commission ⁽³⁾ and the code of practice of February 29, 1996 entitled “Policy and procedure relating to the protection of the dignity of the person” ⁽⁴⁾, dealing with the issue of sexual harassment, should be updated and consolidated in accordance with the new provisions in the Staff Regulations (Articles 12 and 12a).

Psychological harassment and sexual harassment stem from different issues but have certain similarities. An informal procedure common to these two forms of harassment should therefore be opened through the network of confidential counsellors and the Commission Mediator, and arrangements laid down applicable to the common formal procedure under Articles 24 and 90 of the Staff Regulations.

Steps should therefore be taken to:

- introduce a common policy of prevention of psychological harassment and sexual harassment within the context of the new Staff Regulations;
- consolidate the existing informal procedure relating to psychological harassment, make it more precise and widen it to cover sexual harassment;

⁽¹⁾ Council Regulation (EEC, Euratom, ECSC) No 259/68 (OJ L 56, 4.3.1968, p. 1). Regulation as last amended by Regulation (EC, Euratom) No 31/2005 (OJ L 8, 12.1.2005, p. 1), which entered into force on 1 May 2004.

⁽²⁾ Communication from the Commission of 11 March 2002 on the Community strategy on health and safety at work 2002–2006 (COM(2002) 118 – not published in the Official Journal).

⁽³⁾ C(2003)3644.

⁽⁴⁾ This code was the subject of a Notice to all Commission staff published in the Special Administrative Notice of 29 February 1996.

- take appropriate action (if necessary, disciplinary measures) in accordance with the new Staff Regulations against any person who is found guilty of psychological or sexual harassment at the end of a formal procedure,

HAS DECIDED AS FOLLOWS:

Article 1

The document entitled "Policy on protecting the dignity of the person and preventing psychological harassment and sexual harassment" annexed to this Decision is hereby adopted.

Article 2

This Decision repeals and replaces the Memorandum of 22 October 2003 on psychological harassment policy at the European Commission and the code of practice entitled "Policy and procedure relating to the protection of the dignity of the person".

Article 3

This Decision shall take effect on the day following its adoption.

Done at Brussels, 26th April 2006

ANNEX

EUROPEAN COMMISSION POLICY ON PROTECTING THE DIGNITY OF THE PERSON AND PREVENTING PSYCHOLOGICAL HARASSMENT AND SEXUAL HARASSMENT

INTRODUCTION

As an employer and to protect its staff, the Commission must guarantee respect for the dignity of women and men at the workplace. It has committed itself wholeheartedly to preventing such harassment and to condemning such behaviour. The Staff Regulations were amended on 1 May 2004 and now explicitly condemn psychological and sexual harassment (Article 12a) ⁽³⁴⁾. It is important to identify and put a stop to such situations as they always have a serious impact and cause grave distress.

In fact, psychological harassment and sexual harassment fall within the broader issue of violence in the workplace and are a serious problem in the working environment ⁽³⁵⁾. They urgently require greater attention as well as proactive measures to stamp them out. Conditioned by a range of socio-economic, organisational and cultural factors, violence of different forms in the workplace is part of the reality of working life and of the professional environment. Only recently has awareness developed of the potential scale of the human, economic and social costs of violence at work. Data collected in a number of Member States confirm just how widespread this problem is ⁽³⁶⁾.

In this general context, all staff working for the Commission must refrain from any form of psychological or sexual harassment. Management (at both middle and senior level) play a key role. As managers, it is their job to cultivate a working environment that is not conducive to psychological harassment and sexual harassment, or at least one in which they can be dealt with as swiftly as possible if they arise.

In accordance with the Social Affairs Council resolution of 29 May 1990 on the protection of the dignity of women and men at work, since October 1990, the Commission addressed a Memorandum to its staff, updating it in June 1993. Since 29 February 1996, a code of practice on the protection of the dignity of the person has described the procedure to be followed in the event of sexual harassment ⁽³⁷⁾. Other Community policy provisions have also been adopted, such as Directive 2002/73/EC which explicitly prohibits sexual harassment and harassment related to the sex of a person ⁽³⁸⁾.

Up until 2003, any cases of psychological harassment in the Commission were assessed and dealt with essentially in a reactive manner, under Article 24 of the Staff Regulations (the Commission's obligation to assist its staff) and, where applicable, Article 90 thereof (the right for staff to submit a request to the Administration that it take a decision relating to him, or a complaint against an act adversely affecting him). The Appeals unit, the Commission's Investigation and Disciplinary

⁽³⁴⁾ See Article 12a of the Staff Regulations of officials of the European Communities and the provisions of the Conditions of employment of other servants of the European Communities, laid down by Council Regulation (EEC, Euratom, ECSC) No 259/68 (OJ L 56, 4.3.1968, p. 1). Regulation as amended by Regulation (EC, Euratom) No 31/2005 (OJ L 8, 12.1.2005, p. 1).

⁽³⁵⁾ The European Foundation for the Improvement of Living and Working Conditions defines violence as "incidents where persons are abused, threatened or assaulted in circumstances related to their work, involving an explicit or implicit challenge to their safety, well-being and health".

⁽³⁶⁾ A survey carried out in 2000 by the European Foundation for the Improvement of Living and Working Conditions showed that 2% (some 3 million workers in the EU) had suffered physical violence, 9% (13 million) psychological harassment and 2% (3 million) sexual harassment. Survey carried out in the then 15 EU Member States by Mr Pascal Paoli (involving 21 000 face-to-face interviews and an 80-question questionnaire on all aspects of working life). See: <http://www.eurofound.eu.int/publications/files/EF02109EN.pdf>

⁽³⁷⁾ This code was the subject of a notice to all Commission staff entitled "Policy and procedure relating to the protection of the dignity of the person" published in the Special Administrative Notice of 29 February 1996 (see <http://www.cc.cec/guide/publications/infoadm/1996/79.htm>).

⁽³⁸⁾ See Article 2(2) and (3) of Council Directive 76/207/EEC on the implementation of the principle of equal treatment for men and women as regards access to employment, vocational training and promotion, and working conditions (OJ L 39, 14.2.1976, p. 40), as amended by Directive 2002/73/EC of the European Parliament and of the Council of 23 September 2002 (OJ L 269, 5.10.2005, p. 15).

Office (IDOC) and the Medical Service were already involved in the application of these rules. Staff suffering psychological harassment could take matters to their direct superior or other authorities such as the human resources manager of their DG, the Commission Mediator, the Director-General's assistant, welfare officers, the Equal Opportunities unit, the CHSW, the Joint Committee on Equal Opportunities, representative staff bodies, etc.

Since the adoption of a Commission policy on psychological harassment in October 2003 ⁽³⁹⁾, based on a detailed analysis of the procedures in force or being adopted in other EU institutions (Eurocontrol, European Parliament, Council of the European Union, European Economic and Social Committee, Committee of the Regions etc.), and the adoption, in 2000, of directives on equal treatment ⁽⁴⁰⁾ and, in 2001, of the European Parliament resolution on harassment in the workplace (2001/2339/IN), the recommended approach has been essentially preventive. Under this policy, the proposal is to supplement the existing formal procedure (Articles 24 and 90 of the Staff Regulations, see point 6.3), with preventive measures (see point 5) and to implement an informal procedure (see point 6.2), designed to prevent conflict situations and to seek amicable settlements should such situations arise, thereby avoiding any deterioration in the working environment. This new approach is based on:

(a) an **informal procedure** and rules which allow for immediate action when someone believes they are being subject to harassment, so as to give them someone to talk to and alleviate their distress;

(b) an **overall prevention plan** to protect staff from harassment and improve conditions in the workplace.

The purpose of this document is to update this policy on the prevention of psychological harassment, to take account of the new provisions in the Staff Regulations (Article 12a). The updated policy also gives anyone who feels they are a victim of sexual harassment access to the informal procedure introduced for cases of psychological harassment, and gives details of the arrangements applicable to the formal procedure which may be initiated in the event of harassment.

DESCRIPTION

Psychological harassment and sexual harassment stem from different issues but have certain similarities. In some cases, moreover, these two forms of harassment may be closely linked ⁽⁴¹⁾.

Offensive conduct of this type often stems from abuse of power or maliciousness, and can be perpetrated by both individuals and groups. Harassment, be it psychological or sexual, may come from colleagues on an equal footing, as well as superiors and subordinates.

Psychological harassment

Under the Staff Regulations **psychological harassment** means any improper conduct that takes place over a period, is repetitive or systematic and involves physical behaviour, spoken or written language, gestures or other acts that are intentional and that may undermine the personality, dignity or physical or psychological integrity of any person ⁽⁴²⁾.

Psychological harassment can manifest itself in various forms, in particular by:

- offensive or degrading comments, in particular in public, bullying, antagonism, pressure, offensive behaviour, even refusal to communicate;
- insults relating to someone's personal or professional competence;
- insulting or threatening remarks, both oral and written;
- belittling someone's contributions and achievements;
- being isolated, set apart, excluded, rejected, ignored, disparaged or humiliated by their colleagues;

⁽³⁹⁾ Memorandum of 22 October 2003 on psychological harassment policy at the European Commission, C(2003)3644.

⁽⁴⁰⁾ Articles 2(3) of Council Directives 2000/43/EC of 29 June 2000 implementing the principle of equal treatment between persons irrespective of racial or ethnic origin and 2000/78/EC of 27 November 2000 establishing a general framework for equal treatment in employment and occupation, specifying in which cases harassment may be deemed to be a form of discrimination.

⁽⁴¹⁾ This is the case where sexual harassment translates into psychological harassment, for instance after rejection of a request of a sexual nature.

⁽⁴²⁾ See point 2.5 (in particular the second paragraph) for a definition of the concept of the victim.

- impairing their social relations;
- setting unrealistic working objectives;
- contrary to their job description, not giving someone any work, or systematically giving them work which does not meet their profile.

Such behaviour, while unacceptable, may in isolation appear of little consequence. When occurring on a regular basis, however, such conduct can cause serious harm to the person at whom it is directed.

Some kinds of behaviour may hurt certain people without constituting psychological harassment. A remark, a dispute, a clash of personalities at work, a management decision which is difficult to accept (allocation of new tasks, for instance), a duly substantiated negative assessment, even repeated, cannot therefore necessarily be considered psychological harassment.

Sexual harassment

Under the Staff Regulations, **sexual harassment** means conduct relating to sex which is unwanted by the person to whom it is directed and which has the purpose or effect of offending that person or creating an intimidating, hostile, offensive or disturbing environment.

Sexual harassment may take different forms (physical, verbal, written or other), and involve persons of the opposite sex and of the same sex. The essential characteristic of sexual harassment is that it is unwanted by the recipient; it is therefore for each individual to determine what behaviour is acceptable to them and what they regard as offensive. Sexual attention becomes sexual harassment if it is persisted in once it has been made clear that it is regarded by the recipient as offensive, although, unlike psychological harassment, a single incident may constitute sexual harassment if it is sufficiently serious ⁽⁴³⁾. Anyone who is guilty of such behaviour knows or should know that it affects the dignity of women and men at the workplace. Sexual harassment is also treated as discrimination based on gender ⁽⁴⁴⁾.

A range of different types of behaviour can be considered sexual harassment, such as:

- promises of some kind of reward (favourable career moves, etc.) in return for sexual favours, or threats of reprisals if such requests are turned down;
- repetition of coarse or suggestive remarks, or sexual innuendo;
- use of crude and obscene language and gestures;
- repeated and exaggerated compliments on the appearance of a work colleague;
- physical contact, rubbing against someone, pinching, deliberate unwanted kisses;
- acts of voyeurism or exhibitionism;
- use of pornographic material.

Consequences of conduct constituting psychological harassment or sexual harassment

Psychological harassment or sexual harassment might have various consequences for the person who suffers it or feels they are being subjected to it:

- they become isolated and social relationships tend to deteriorate
- they make more and more mistakes, can no longer concentrate, become less productive, are demotivated, etc.;
- their professional development is hindered, career jeopardised, their very job put on the line;
- they suffer mental and physical health problems such as stress, anxiety, shame, demoralisation, humiliation, disorientation, somatic disorders, depression or increasingly serious physical and psychological disorders, which may, in extreme cases, lead to suicide.

The adverse consequences do not just affect the victims, but also impact on other colleagues and on the institution itself: loss of expertise, staff transfers, fall in productivity, absenteeism, harming the image of the institution, etc.

⁽⁴³⁾ For example: groping, torn clothing, etc.

⁽⁴⁴⁾ See Article 12a(4) of the Staff Regulations.

General advice

Some people are not always aware of the impact of their behaviour. If a certain type of conduct is felt to be inappropriate or embarrassing, it is advisable to make this clear. In the event of sexual harassment in particular, ambiguous behaviour should be set straight. It is important to react immediately, setting limits politely but firmly. In some cases, simply making it clear that the victim of such conduct finds it offensive and liable to undermine their performance at work or even their health could be sufficient to put an end to the situation.

If unwanted behaviour continues, a written record should be kept of all incidents: dates, circumstances, description of events, potential witnesses, personal reactions at the time and afterwards, any psychosomatic consequences.

The concept of the “victim” in the context of psychological or sexual harassment

Cases of psychological harassment are dealt with differently in the informal or the formal procedure.

At the formal level, in line with the Staff Regulations, psychological harassment will only be considered to exist if the conduct of the alleged harasser is regarded as abusive, intentional, repetitive, sustained or systematic and intended, for instance, to discredit or undermine the person concerned. These criteria are cumulative. Objective facts will help verify whether these criteria have actually been met and if action can be taken.

At the informal level, however, the aim is to provide psychosocial assistance. Here, the perception of harassment is subjective and depends on the situation as perceived by the person concerned. The goal is to bring an end to the distress generated both by a “proven” situation of psychological harassment and by a situation that is perceived as such. The key characteristic of psychological harassment in this case is that the person subject to it considers it undesirable conduct ⁽⁴⁵⁾.

As regards sexual harassment, the formal definition in the Staff Regulations covers the subjective perception of such behaviour (unwanted conduct).

In the informal procedure, therefore, the term “victim” refers to any person who defines themselves or identifies themselves as such. However, it is important to remember that there is a fundamental legal distinction between a person «who feels they are the victim of harassment and one who has actually suffered harassment» and is therefore recognised as a victim on the basis of proven facts, having gone through the formal procedure. **No stage of the informal procedure may prejudice the outcome of the formal procedure.**

EUROPEAN COMMISSION POLICY ON PSYCHOLOGICAL HARASSMENT AND SEXUAL HARASSMENT

The Commission’s policy on psychological and sexual harassment, which it now intends to strengthen, will promote the development of an organisational culture in which every member of staff feels personally bound to respect and protect the dignity of their colleagues. In a professional environment in which different languages and cultures coexist, generating a huge variety of interactions, these phenomena of violence may take a variety of forms and be perceived in a variety of ways. However, any conduct which does not respect the dignity of the person must be condemned.

The European Commission will take the necessary steps to prevent and punish, under the Staff Regulations and the relevant EU legislation, any conduct that prejudices the dignity of its staff in the workplace and undermines its good name ⁽⁴⁶⁾. Any conduct deemed to constitute psychological harassment or sexual harassment is regarded by the Commission as unacceptable and will be punished regardless of the rank of individuals formally recognised as guilty of such conduct ⁽⁴⁷⁾.

The **goals** of the Commission’s harassment-prevention policy are:

- to promote a culture in which psychological and sexual harassment, like other forms of violence in the workplace, are considered unacceptable and are neither tolerated nor ignored;

⁽⁴⁵⁾ See Court judgments in Cases T-549/93 D v Commission [1995] ECR-SC II-43, point 76, and T-242/97 Z v European Parliament [1999] ECR-SC II-401.

⁽⁴⁶⁾ See Articles 12 and 12a of the Staff Regulations.

⁽⁴⁷⁾ See Article 86 of the Staff Regulations and Article 9 of Annex IX.

- to broaden the policy of preventing psychological harassment or sexual harassment by raising awareness among staff, and providing information, training and counselling;
- to introduce simple and effective procedures to protect the dignity of each and every person working at the Commission;
- to take appropriate action (if necessary, disciplinary measures) in accordance with the new Staff Regulations against any person who is found guilty of psychological harassment or sexual harassment.

PARTIES INVOLVED

DG ADMIN

DG ADMIN is responsible for drawing up and monitoring implementation of policy relating to psychological and sexual harassment. The Harassment Team in the lead department (ADMIN.C1) is the central service which staff can approach in the event of psychological or sexual harassment, for information on policy and procedures and to contact the confidential counsellors (see point 6.2.1 for details). This unit will oversee initiatives allowing implementation of the informal procedure, and the different aspects associated with the operation of the confidential counsellor network, including allocating the cases of psychological or sexual harassment submitted to it to specific confidential counsellors. It will provide an overview of cases submitted to the network of counsellors, in accordance with the arrangements laid down in the Manual of procedures of confidential counsellors ⁽⁴⁸⁾, as amended in 2006 ⁽⁴⁹⁾.

This policy (training measures, information campaigns, coordinating the prevention plan) will be implemented and developed on the basis of close cooperation between the various departments of DG ADMIN concerned: lead department, welfare officers, «Social welfare policy and actions; relations with former officials», «Non-discrimination and Equal Opportunities unit», Medical Service, Central Career Guidance unit (SCOP), Training unit, Appeals unit, IDOC. There will be close collaboration with the Commission Mediator, the Health and Safety Committee, the Equal Opportunities Committee, elected staff bodies and with the DGs and operational services.

The operational links between the various departments and networks concerned will be overseen by DG ADMIN.

Confidential counsellors

The appointment of confidential counsellors is based on an open call for applications and selection criteria which will be published in an administrative notice (prior training, necessary seniority, any exclusion criteria, etc.). Confidential counsellors are selected by a panel made up of representatives of DG ADMIN, the Mediation Service, and the Central Staff Committee. The panel's choice is submitted to the Director-General of DG ADMIN who officially appoints the confidential counsellors ⁽⁵⁰⁾. DG ADMIN will ensure, as far as possible, a broad representation of the different categories of staff. It will also ensure a gender balance. Counsellors are to be appointed on a voluntary basis, and to ensure continuity within the network appointments will be for two years, renewable twice only. Before being appointed, counsellors will receive special training in targeted modules. They will subsequently receive ongoing training and appropriate supervision for such counselling work.

The confidential counsellors operate within the context of the informal procedure (see point 6.2.1). The Directorates-General are advised to take account of the tasks of confidential counsellors and to help them carry out their work as far as possible (by giving them access to meeting rooms, for instance). In accordance with the Commission internal control standard No 15, the operational procedures for the network are described in a Manual of procedures for confidential counsellors' drawn up by DG ADMIN in consultation with the network of confidential counsellors which is currently being updated. The arrangements for exchanges of information between confidential counsellors and the lead department will be laid down in this Manual.

In carrying out their function and mandate confidential counsellors may not suffer any prejudice from the Institution, provided that they have acted in good faith and in accordance with the Manual of procedures ⁽⁵¹⁾.

⁽⁴⁸⁾ The current version of the Manual is available on the DG ADMIN website at: http://www.cc.cec/pers_admin/index_en.html (under the heading "Well-being").

⁽⁴⁹⁾ The revised Manual will be adopted by the Director General of DG ADMIN.

⁽⁵⁰⁾ See Administrative notice No 28-2005 of 22 April 2005: http://www.cc.cec/guide/publications/infoadm/2005/ia05028_en.html

⁽⁵¹⁾ The mandate of individual confidential counsellors may be withdrawn by the appointing authority in accordance with the procedures laid down in the Manual.

The network of confidential counsellors

The network is the key forum for meeting and for exchanges of good practice and points of view of its members in accordance with the arrangements laid down in the Manual of procedures. It offers a framework for reflection and effective action. It is also intended to provide an operational response contributing to the implementation of specific rules to stamp out psychological harassment or sexual harassment. It plays a role in evaluating, monitoring and, where necessary, modifying procedures.

The Commission Mediation Service

The Commission Mediator has the task of providing rapid solutions to any difficulties between the administration and staff by helping to resolve disputes in an non bureaucratic manner. The Mediator and his/her deputies are appointed by the President of the Commission. The Mediator reports directly to the College. The Mediation Service which, administratively, is answerable to the Secretariat-General, is an autonomous department and is completely independent.

The Mediator is not directly empowered to take decisions, but acts as an arbitrator and conciliator. He or she acts neutrally and attempts to find amicable solutions to problems. The Mediator may intervene in all cases submitted to him/her. In cases of psychological harassment or sexual harassment, the Mediator is involved in the informal procedure (see point 6.2.2).

Human resources managers and line managers

Human resources managers and line managers are in principle the first people who may be contacted by anyone encountering psychological harassment or sexual harassment. Responsibility for actively promoting and applying the new policy lies with them, since they represent the tier of management that is in direct contact with staff. It is up to them to take steps to prevent psychological harassment or sexual harassment, raise awareness and inform their staff of existing procedures, and play a role in any transfers of staff that may be required. They must also, in close collaboration with the various parties concerned, ensure the rapid and fair handling of any incident or complaint on this issue.

DG ADMIN will regularly inform human resource managers of the development of measures to promote prevention, provide information and raise awareness carried out within the context of this policy. DG ADMIN will organise a meeting of human resource managers and the network of confidential counsellors at least once a year. As the natural interlocutors of confidential counsellors, acting in complete confidentiality, human resource managers will strive to give favourable consideration to any requests for meetings submitted by confidential counsellors in the informal procedure. If the duty of confidentiality so permits, human resource managers will be informed by DG ADMIN when a formal procedure is opened concerning a member of staff in their DG.

Staff

Each and every person working at the Commission, regardless of grade or contract of employment (this includes the trainees and all those working under a contract under national law), may, if they feel they are the victim of psychological harassment or sexual harassment by a member of staff of the Institution, initiate an **informal procedure**. However, only staff covered by the Staff Regulations ⁽⁵²⁾ and the seconded national experts ⁽⁵³⁾ have access to the formal procedure, as described in Chapter 6. **Any person not covered by the Staff Regulations working under a contract under national law** and wishing to lodge a complaint concerning psychological harassment or sexual harassment against a member of Commission staff may do so under national legislation. However, they may also bring the events which are the subject of their complaint to the attention of DG ADMIN. If the information provided is sufficiently serious, an administrative inquiry may be opened.

⁽⁵²⁾ Staff covered by the Staff Regulations refers to staff covered by the Staff Regulations and the system that applies to other servants (staff, temporary staff, auxiliary staff, contract staff, local staff, special advisors).

⁽⁵³⁾ Following Decision C(2005) 872 of 22 March 2005 amending Commission Decision C(2004) 577 of 27 February 2004 laying down rules on the secondment of National Experts to the Commission.

Any person who is made aware of, or is a witness to, conduct which appears to be improper according to the above descriptions has both the right and the duty to so inform whichever of the parties mentioned in this point (departments of DG ADMIN, Confidential Counsellors, Mediation Service, Human Resources Managers, Hierarchical Managers) They are also obliged to cooperate in the smooth running of all enquiries carried out as part of the formal procedure.

PREVENTIVE MEASURES

The policy on psychological harassment and sexual harassment is based on an overall plan of preventive measures, comprising a number of different stages.

Specific prevention consists of developing a strategy of information and training, both individual and collective, to avoid and reduce the risk of psychological or sexual harassment.

Information

Information to staff will consist of:

- awareness campaigns comprising talks, discussions, workshops, brochures and posters explaining to staff the Commission policy of preventing psychological and sexual harassment (understanding the different forms of violence at work, spotting problem behaviour, etc.);
- the provision of clear and precise information to help staff find out quickly and easily how to obtain support, advice and guidance and how to lodge a complaint;
- an Intranet site ⁽⁵⁴⁾;
- a central telephone number: **00 32 2 29 56666**
- specific e-mail address: ADMIN-HARCELEMENT@cec.eu.int

Training

The training plan to support a policy of prevention of psychological and sexual harassment comprises:

- raising staff's awareness of psychological harassment and sexual harassment issues when they join the service;
- management participation in specific training and seminars to improve awareness of psychological and sexual harassment issues and to help them manage such situations – in accordance with the rules in force at the Commission. Managers are strongly encouraged to attend such courses ⁽⁵⁵⁾;
- specific training courses on psychological harassment and sexual harassment issues for staff and particular target groups as and when required;
- specific training courses, both initial and ongoing training, in the interests of the service, for all confidential counsellors;
- the use of educational material (videocassettes).

6. PROCEDURES FOR DEALING WITH PSYCHOLOGICAL HARASSMENT AND SEXUAL HARASSMENT CASES ⁽⁵⁶⁾

Any person ⁽⁵⁷⁾ who feels they are the victim of psychological harassment or sexual harassment is entitled to submit a request for assistance either informally or formally. As a first step, staff are strongly advised to seek resolution of the problem through conciliation, via the informal procedure, with the assistance of a confidential counsellor and/or of the Mediator. Anyone who feels they are the victim of psychological harassment or sexual harassment is, however, free from the outset to initiate a formal procedure under the Staff Regulations ⁽⁵⁸⁾, involving longer timeframes. The informal procedure can also lead to a formal procedure if it proves impossible to find a solution. Passage to the formal procedure is understood to automatically involve closure of any informal procedure underway. The advantage of the informal procedure over the formal procedure lies in the possibility of finding an amicable solution and possibly avoiding a formal procedure. The advantage of the formal

⁽⁵⁴⁾ http://www.cc.cec/pers_admin/index_en.html

⁽⁵⁵⁾ Furthermore, the training given to new managers will include a compulsory module on how to deal with psychological and sexual harassment.

⁽⁵⁶⁾ For a summary of the rights and responsibilities of those who are victims of psychological and sexual harassment and of alleged harassers, see Annex I.

⁽⁵⁷⁾ See point 4.6 for the differences between the categories of staff.

⁽⁵⁸⁾ Or initiate a procedure under national applicable law.

procedure is that it establishes the facts and, on the basis thereof, ends in the potential adoption of a penalty against a person found guilty of psychological harassment or sexual harassment at the end of a disciplinary procedure.

Any person accused of psychological harassment or sexual harassment may also request information (e.g. on current policy or procedures or those to be followed) or advice from the lead department of DG ADMIN, the Mediator or human resource managers. These services may usefully advise the alleged harasser of the options for resolving the conflict, depending on the seriousness of the accusations.

6.1 General principles for dealing with requests

In both the formal and the informal procedures, all requests for assistance by a person complaining of psychological harassment or sexual harassment will be dealt with as quickly as possible. However, if an administrative inquiry is opened as part of the formal procedure, the timeframes for handling the request will be longer. Concerning the administration, confidentiality is guaranteed during and after the informal procedure as well as during and after the formal procedure. Compliance with the legislation on the protection of personal data ⁽⁵⁹⁾ applies within both the formal and informal procedures.

Two essential principles should also be underlined:

- the presumption of innocence is fully guaranteed to alleged harassers;
- under Article 12a of the Staff Regulations: "An official who has been the victim of psychological or sexual harassment shall not suffer any prejudicial effects on the part of the institution. An official who has given evidence on psychological or sexual harassment shall not suffer any prejudicial effects on the part of the institution, provided the official has acted honestly."

6.2 Informal procedure

There are two paths open to someone who feels they are a victim of harassment through the informal procedure: they may contact a confidential counsellor or the Mediator. Depending on the case, emergency measures may be considered. The informal procedure allows monitoring and may lead to an amicable resolution. However, it does not involve formal recording of the facts or the application of penalties: this is done in the formal procedure (see point 6.3 below).

6.2.1 Confidential counsellor procedure ⁽⁶⁰⁾

Any person who feels they are the victim of psychological harassment or sexual harassment may contact a confidential counsellor, by:

- contacting the lead department, in one of two ways:
 - either sending an e-mail to the central service mailbox : ADMIN-HARCELEMENT@cec.eu.int
 - or calling the central telephone number: **00 32 2 29 56666**
- contacting the confidential counsellor of their choice directly by consulting the list published on the DG ADMIN website: http://www.cc.cec/pers_admin/index_en.html

In the first case, the lead department directs the victim towards a confidential counsellor who meets the key criteria (language, gender, DG, etc.) specified. As a matter of principle, the confidential counsellor will be from another DG.

The first objective of the confidential counsellor is to recognise and alleviate the victim's suffering by receiving them and listening to them without preconceptions and without passing judgment. The confidential counsellor will inform the victim of the existing procedure and of their rights. They will accompany and guide the victim, examining with them the various options and structures that will help find a satisfactory solution to the problem (directing them towards and placing them in contact with the Medical Service, welfare officers, human resource managers, training coordinators, Local Career Guidance Officers

⁽⁵⁹⁾ Regulation (EC) No 45/2001 of the European Parliament and of the Council of 18 December 2000 on the protection of individuals with regard to the processing of personal data by the Community institutions and bodies and on the free movement of such data (OJ L 8, 12.1.2001, p. 1).

⁽⁶⁰⁾ See also Annex II for an overview of the results of cases submitted to confidential counsellors.

(RELOPs), Central Career Guidance unit (SCOP), etc.). **Any action taken by confidential counsellors in the informal procedure may only be carried out with the prior agreement of the victim and must remain within the framework of the mandate given them.**

The confidential counsellor may meet the other party and play a conciliatory role in an attempt to reach an amicable solution. In all cases, confidential counsellors shall strive to listen carefully to the two parties, remain objective, clarify the facts and ensure good communication. Confidential counsellors have a period of one month within which to deal with the problem. This may be extended to two months if necessary. If no solution can be found in this period, counsellors may propose that the victim contact the Commission Mediator (see point 6.2.2) or lodge a formal complaint (see point 6.3).

In the formal procedure, confidential counsellors are limited to providing support for the victim. Under this procedure, and depending on the requirements of the inquiry, confidential counsellors may also be called as witnesses, to testify to facts relevant to the inquiry which they have been informed of during the informal procedure.

6.2.2 Commission Mediation Service Procedure ⁽⁶¹⁾

Anybody may contact the Mediator at first instance. They may also contact the Mediator after seeing a confidential counsellor, if it has not been possible to find a satisfactory solution. The Mediator can ask for additional information from the counsellor and/or for factual information from the network if necessary.

The Mediator will provide impartial advice to each official or staff member consulting him/her. If necessary and in the event of a dispute, the Mediator will hear all the parties concerned before giving an opinion: the two sides involved and, where appropriate, other actors. The Mediator may ask any Commission department to communicate orally or in writing any item of information required for the purposes of its work.

The Mediator will strive to resolve problems by mutual agreement or a compromise solution. The Mediator is not subject to a deadline. Where appropriate, the Mediator can send departments written recommendations for resolving disputes. If such comments are rejected in writing by the department concerned, the Mediator is entitled to demand a written explanation from the department rejecting them ⁽⁶²⁾. If disagreement persists, the Mediator may submit the case to the examination of the appointing authority or, where appropriate, the competent Director-General, through a report accompanied by a recommendation. The Mediation Service will then be advised of the action taken pursuant to such a report.

6.2.3 Emergency measures

The main concern of any victim of psychological harassment or sexual harassment is to stop that harassment as quickly as possible. Where there are signs of psychological or sexual harassment, one option which may be envisaged is to move one of the parties concerned (within the DG or to another DG). This measure may take the form of a reassignment in the interests of the service, and may involve the victim (preferably with his or her agreement) or the alleged harasser (following an interview with the competent DG). The aim of such a measure is to separate the two parties and may be proposed to the competent appointing authority by confidential counsellors or by the Mediator or requested directly by one of the parties concerned. Emergency measures, which must take account of the needs of each particular situation, can be taken immediately. These are precautionary measures designed to put an end to a given situation. They are also intended to give the victim a chance to recover. These measures may of course also be taken within the framework of the formal procedure, at the request of the alleged victim or on the initiative of the appointing authority concerned.

6.2.4 Recurrent cases

Requests for assistance from different people involving the same individual are to be considered disturbing. These will therefore be brought to the knowledge of the lead department and the appointing authority of the alleged harasser. The appointing authority will decide on the most appropriate action to be taken. The lead department will inform the IDOC of any recurrent cases it identifies. IDOC will inform the appointing authority which will, where appropriate, launch the procedures provided for in Annex IX to the Staff Regulations.

⁽⁶¹⁾ See also the Commission Decision of 25 February 2002 on the reinforced Mediation Service, C/2002/0601.

⁽⁶²⁾ See article 3 § 4 of Decision C/2002/0601.

6.3 Formal procedure ⁽⁶³⁾

Any person in the institution ⁽⁶⁴⁾ who feels they are the victim of psychological harassment or sexual harassment is entitled under the Staff Regulations to initiate a formal procedure: either immediately, without first going through the informal procedure, or in the course of ⁽⁶⁵⁾ or at the end of the informal procedure ⁽⁶⁶⁾.

The Staff Regulations explicitly condemn any form of psychological harassment or sexual harassment by an official or a staff member. Sexual harassment is, moreover, treated as discrimination based on gender (Article 12a (4) of the Staff Regulations).

A formal procedure can be initiated on the basis of a request for assistance under Article 24 of the Staff Regulations (concerning the Commission's obligation to assist its staff). When the administration has taken the appropriate steps, by carrying out an inquiry to establish the facts at the origin of the request in collaboration with the author of that request, this signifies that this request has been followed up and has not been implicitly rejected (absence of reply after 4 months) ⁽⁶⁷⁾. If the request is rejected, either explicitly or implicitly, the person concerned can, where appropriate, lodge a complaint under Article 90 (2) of the Staff Regulations and – if it is rejected – submit an appeal to the Court of First Instance.

Requests for assistance must be submitted to unit ADMIN B2 (Appeals), which is responsible for initiating the procedure. The appointing authority can then instruct the IDOC to carry out an administrative inquiry to determine the facts of the case and apportion any responsibility. If a formal procedure is opened and, if it is in the interests of the service, DG ADMIN may inform the human resource managers of the departments of the parties concerned. Any person who feels they are the victim of sexual harassment must provide all details which might support their allegations. In the case of psychological harassment, a degree of evidence is required. The person bringing a complaint of psychological harassment or sexual harassment may be accompanied at the hearings by a person of their choice, provided that person cannot be called as a witness in the course of the inquiry. At the end of its administrative inquiry the IDOC will present its report, proposing either that the case be closed without further action or that disciplinary proceedings be opened. If it proposes the latter, the appointing authority may decide, once it has heard the person or persons concerned, to open disciplinary proceedings and apply the ensuing penalties if there is confirmation of the wrongful act ⁽⁶⁸⁾. If the misconduct involves repeated action or behaviour this will be taken into account in determining the seriousness of the misconduct and deciding on the appropriate disciplinary measure as well as a possible hierarchical relationship ⁽⁶⁹⁾.

If the procedure results in recognition of psychological harassment or sexual harassment, victims will receive compensation for the damage suffered under the terms set out in the Staff Regulations (second paragraph of Article 24) where appropriate. If the procedure ends in no action, all those who have been interviewed will be informed. If the complaint proves to have been formulated in an abusive manner or in bad faith, the appointing authority may take disciplinary measures, either on its own initiative or at the request of the wrongfully accused person.

7. EVALUATION

DG ADMIN, in cooperation with the Mediation Service, will monitor this policy. In this context, an annual activity report containing statistics will be published by the lead department. After two years of implementation of this decision, an ex-post evaluation and a survey of staff will be carried out. These measures will be carried out in collaboration with the departments involved and the network of confidential counsellors.

⁽⁶³⁾ Application of the Staff Regulations, Articles 24 and 90.

⁽⁶⁴⁾ See footnote 24 for the definition of the staff concerned, to which seconded national experts should be added.

⁽⁶⁵⁾ Proceeding to the formal procedure implicitly involves automatic closure of any informal procedure pending.

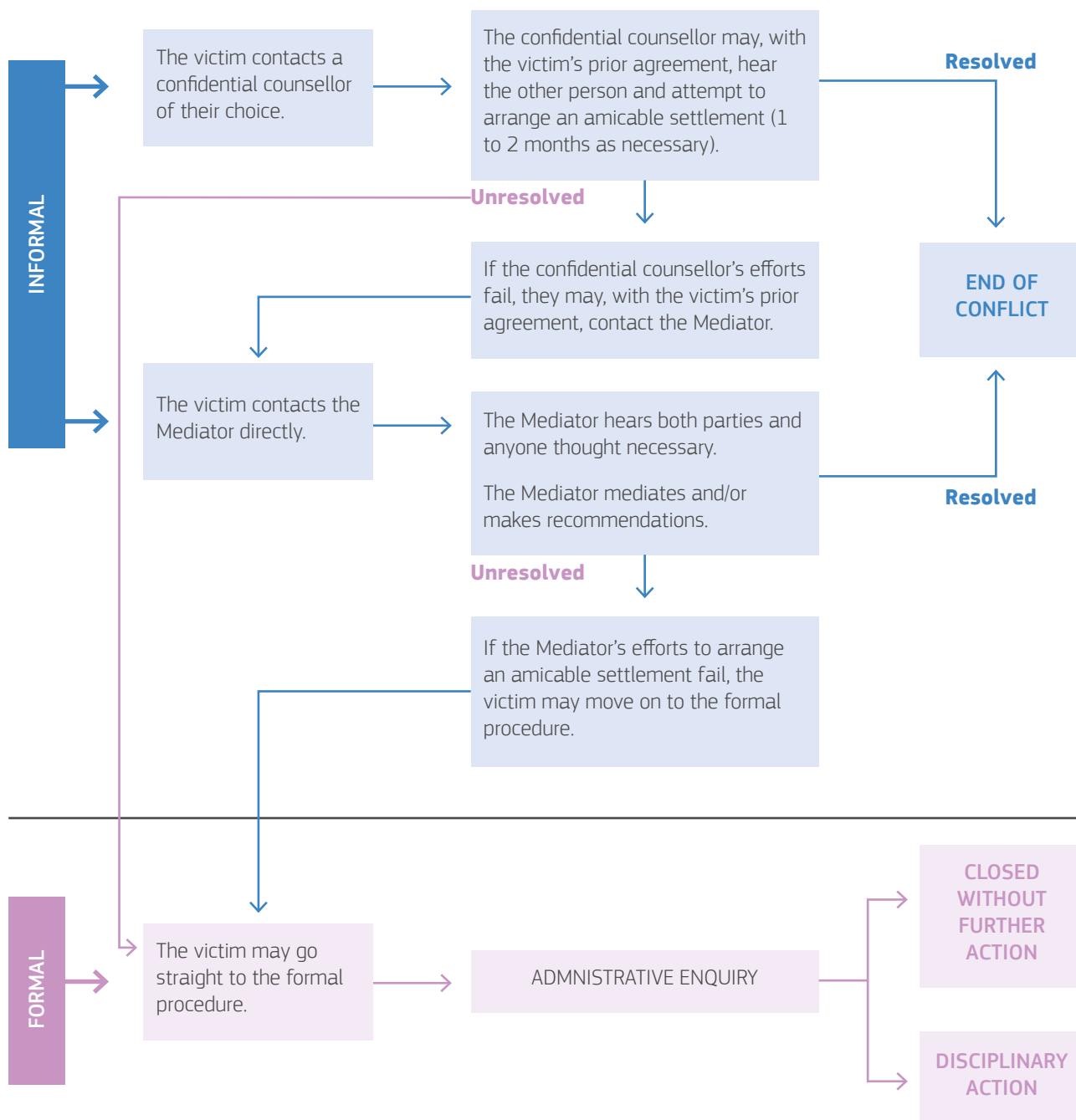
⁽⁶⁶⁾ All staff of the Institution can also appeal to applicable national law, in which case article 25 of annex IX of the Staff Regulations applies.

⁽⁶⁷⁾ See Court judgment in Case T-254/02 L v Commission, not yet published, point 105 and other references.

⁽⁶⁸⁾ See Article 86 and Annex IX to the Staff Regulations.

⁽⁶⁹⁾ See Article 10(h) of Annex IX to the Staff Regulations.

Psychological and sexual harassment outline of procedures



ANNEX I

Your rights and responsibilities

A. If you feel you are a victim of psychological harassment or sexual harassment

YOU ARE ENTITLED

to be heard within the informal procedure, by contacting either the lead department of DG ADMIN, a confidential counsellor of your choice or the Commission Mediator, uncritically and under the strictest confidentiality;

to be certain that the confidential counsellor will not take any steps without your agreement;

within the context of the formal procedure, to submit a request for assistance to the appointing authority without embarrassment or fear of reprisals or indiscretions;

to be accompanied by a person of your choice during meetings with investigators;

to be assured of a fair and impartial investigation;

to be informed of the result of the investigation and, where applicable, of the measures that will be taken.

YOU MUST

within a reasonable period, make the person you are accusing aware of your disapproval or unease, where necessary accompanied by a confidential counsellor;

keep a written record of all incidents;

cooperate with those in charge of the investigation into your complaint.

B. If you have been accused of psychological harassment or sexual harassment

YOU ARE ENTITLED

to contact, if necessary at the informal procedure stage, the lead department of DG ADMIN, your human resources manager or the Commission Mediator to advise you and help you uncritically and under the strictest confidentiality;

to be informed that an official complaint has been lodged against you, receive a copy of that complaint and have the opportunity to react to it;

to be accompanied by a person of your choice during meetings with investigators;

to be assured of a fair and impartial investigation;

to be informed of the result of the investigation and, where applicable, of the measures taken.

YOU MUST

keep a written record of all incidents;

cooperate with those in charge of the investigation into the complaint against you.

ANNEX II

Statistics on cases submitted to confidential counsellors

At 31 December 2005 there were 34 confidential counsellors in the network. In the period from its creation in March 2004 to the end of 2005, 270 people contacted a confidential counsellor, and 32% of the conflicts handled were quickly resolved by an amicable agreement.

Overall, 76% of those complaining of psychological harassment in the informal procedure were women while 61% of the alleged harassers were men. The largest proportion of victims ⁽⁷⁰⁾ were in the 30-39 and 40-49 age groups (35% each), whereas the 20-29 age group accounted for a smaller proportion (10%). The age of those accused was higher on average: 44% were between 50 and 59, while 41% were between 40 and 49. Finally, as regards the categories concerned, 57% of those complaining informally of psychological harassment were from category C, and 26% from category A. 80% of the accused were from category A. Finally, permanent officials made up 69% of victims (the other 31% being other staff, including contract staff) and 92% of the alleged harassers (just 8% of whom were contract staff).

In 2004, the Mediation Service signalled a fall in the number of cases involving allegations of harassment and/or difficult working relationships compared to the previous years (13.7% in 2004 compared to 19.84% in 2003 and 18.28% in 2002) ⁽⁷¹⁾. This downward trend appears to have continued in 2005.

Only four of the 190 cases recorded in 2005 by the Confidential Counsellor network went to a formal procedure. The existence of an informal procedure can therefore be considered to have helped a significant number of people complaining of psychological harassment avoid having to request assistance within the formal procedure. What is more the total number of requests for assistance under Article 24 of the Staff Regulations was down by more than half on the year before (7 cases in 2005 compared with 16 in 2004).

The survey of staff on well-being at work in February 2005 revealed that, out of 10 450 respondents, 1900 said they had experienced psychological harassment during their career (18.2%) and 284 had suffered sexual harassment (2.7%).

⁽⁷⁰⁾ For the definition of the term "victim" see point 2.5.

⁽⁷¹⁾ See the Mediation Service's Annual Activity Report for 2004.

Commission Decision of 16.12.2013 on measures concerning leave on personal grounds for officials and unpaid leave for temporary and contract staff of the European Union (C(2013) 9054)

THE EUROPEAN COMMISSION,

Having regard to the Staff Regulations of Officials and the Conditions of Employment of Other Servants of the European Union as laid down by Regulation (EEC, Euratom, ECSC) No 259/681 ⁽¹⁾, and in particular Articles 12b, 15, 37 and 40, and Article 33 of Annex XIII of the Staff Regulations and Articles 11, 17 and 91 of the Conditions of Employment of Other Servants,

Having regard to the Commission decision implementing the provisions of Article 12b of the Staff Regulations on outside activities and assignments,

Whereas:

(1) Article 40 of the Staff Regulations concerning leave on personal grounds and Article 17 of the Conditions of Employment of Other Servants concerning unpaid leave on compelling personal grounds have been amended with effect as of 1 January 2014. The Commission Decision of 28 April 2004 on measures concerning leave on personal grounds for officials and unpaid leave for temporary and contract staff (C(2004)1597) should be adapted accordingly;

(2) For reasons of clarity and legal certainty, Decision C(2004)1597 should be replaced by this Decision,

HAS DECIDED AS FOLLOWS:

- Article 1 - Conditions for granting leave on personal grounds
- Article 2 - Duration
- Article 3 - Professional activity
- Article 4 - Link with the Commission
- Article 5 - Career development
- Article 6 - Vacancy of posts
- Article 7 - Extension
- Article 8 - Return to work
- Article 9 - Dismissal
- Article 10 - Secondment
- Article 11 - Temporary staff
- Article 12 - Contract staff
- Article 13 - Entry into force

Article 1

Conditions for granting leave on personal grounds

Leave on personal grounds may be granted by the Appointing Authority at the request of the official concerned. The Appointing Authority shall take a decision on granting that leave after consulting the applicant's immediate superiors, having examined the request in detail and taken into account all relevant factors, in particular the reason for the leave, its duration and the immediate needs of the service. The official shall be notified of his precise obligations when the decision is taken to grant or extend leave on personal grounds.

⁽¹⁾ OJ L 56, 4.3.1968

Article 2

Duration

(1) The duration of leave on personal grounds shall not be less than one month. However, for major family reasons, leave on personal grounds may be granted for a period of 15 days if there are no other possibilities of reducing working time (parental leave, family leave or part time working). Without prejudice to paragraph 2, the duration of the leave provided for in the Staff Regulations shall be restricted to one year, extendable several times for one year. The total duration of leave on personal grounds may not exceed twelve years over an official's whole career.

As a transitional measure, for those officials who on 31 December 2013 have been on leave on personal grounds for more than ten years over their entire career, the total duration of leave will remain limited to fifteen years.

For the purposes of calculating the total cumulative duration of leave on personal grounds, the following periods of leave on personal grounds granted shall not be taken into account:

- personal leave taken in order to follow his spouse, the latter also being an official or other servant of the Union required in the course of his duties to establish his usual residence at such a distance from the applicant official's place of employment that establishing the conjugal residence in such a place would inconvenience the applicant official in the performance of his duties; or
- personal leave taken in order to bring up a child who is considered dependent within the meaning of Article 2(2) of Annex VII to the Staff Regulations and who suffers from a serious mental or physical handicap recognised by the institution's medical officer and requiring constant supervision or care; or
- personal leave taken in order to assist his spouse, a relative in the ascending line, a relative in the descending line, a brother or a sister in the case of medically certified serious illness or disability.
- personal leave granted to an official who has been elected or appointed to public office.

(2) The period of leave on personal grounds granted to an official elected or appointed to public office shall be restricted to the duration of the term of office.

(3) Other than in exceptional cases (serious illness of a close relative, election to public office, etc.), leave on personal grounds shall start on the 1st or 16th of the month and end on the 15th or last day of the month.

Article 3

Professional activity

An official who, during leave on personal grounds, envisages engaging in a professional activity or changing from the professional activity already authorised, must obtain prior permission from the Appointing Authority pursuant to Article 12b of the Staff Regulations and in accordance with the rules laid down by the Commission on outside activities and assignments.

In accordance with these rules, such permission shall not be granted to an official for the purpose of his engaging in an occupational activity, whether gainful or not, which involves lobbying or advocacy vis-à-vis his institution and which could lead to the existence or possibility of a conflict with the legitimate interests of the institution.

The Joint Committee shall be informed of the decisions that have been taken by the Appointing Authority pursuant to Article 12b of the Staff Regulations.

Article 4

Link with the Commission

During leave on personal grounds, the official shall maintain a link with the Directorate- General or department to which he was last assigned before his leave, considered as his Directorate-General or department "of origin", for the purposes of

approving a request for extending that leave or for engaging in a professional activity. If, during leave on personal grounds, reorganisation takes place entailing transfer of the official's former tasks to another Directorate-General or department, the official shall come under the new Directorate-General or department to which the tasks have been assigned. The official shall inform the Commission of his contact details during his leave on personal grounds and keep this information updated at all times.

Article 5

Career development

In accordance with Article 40(3) of the Staff Regulations, during leave on personal grounds an official shall not be entitled to advancement to a higher step or promotion in grade.

Article 6

Vacancy of posts

A post which is unoccupied following departure on leave on personal grounds for a period of six months or more shall be considered vacant from the first day of that leave on personal grounds.

Article 7

Extension

Extension of leave on personal grounds must be applied for by the official two months before expiry of the current period and may be granted by the Appointing Authority, provided that the conditions set out in Article 2 are met.

Article 8

Return to work

At the latest three months before the end of the leave on personal grounds, and if the official has not already submitted an application to return to work, the Directorate-General for Human Resources and Security shall contact the official and request a written notification of his wish to extend his leave on personal grounds or to return to work, in which case he should provide an updated curriculum vitae which includes details of any professional activity engaged in and new knowledge acquired while on leave.

In order to facilitate the return to work and the identification of the appropriate post, the Director-General for Human Resources and Security shall take the measures necessary for the official, on expiry of the period of leave on personal grounds, to return to work in his Directorate-General of origin in the first vacant post in his function group that corresponds to his abilities. The official's application shall be examined as a priority before any publication of the posts to be filled. The vacant post may only be published if the official returning to work does not possess the abilities required for the post to be filled or if he has a personal interest, in particular a family or a financial interest, or represents any other interests of third parties which would impair his independence in the course of his duties in the specific post, such as to lead to an actual or potential conflict of interest.

In order for the Commission to assess the existence of such a conflict of interest, the official shall prior to his reinstatement, inform the Appointing Authority, using a specific form, of any personal interest, in particular a family or a financial interest, or representation of any other interests of third parties such as described above, in order to allow the Appointing Authority to take any appropriate measure as provided for in Article 11a(2) of the Staff Regulations; such measure may not, however, prevent the reinstatement of the official. The assessment carried out by the Appointing Authority shall be made considering the situation of the official after his reinstatement.

If no post corresponding to his abilities is available for the official to return to work at the end of the period of leave on personal grounds, the Directorate-General for Human Resources and Security shall, subject to the budgetary resources available, place a vacant post at the disposal of the official's Directorate-General or department of origin for a period of 12 months at most. At the end of that period at the latest, the Directorate-General or department concerned shall reassign the official to a post within its allocation and return to the Directorate-General for Human Resources and Security the post placed at its disposal.

The official may also apply for posts corresponding to his profile in other Directorates- General or departments. The Directorate-General for Human Resources and Security shall provide technical assistance for making that application. In this case also, prior to his reinstatement, the official shall inform the Appointing Authority, using a specific form, of any personal interest or of his representation of any other interests of third parties which would actually or potentially impair his independence in the course of his duties in the specific post offered at the Commission and which may thus lead to any actual or potential conflict of interest relevant to that post.

Article 9

Dismissal

An official who has asked to return to work may refuse the first offer of a post corresponding to his function group; in the event of a second refusal, the official may be dismissed after consultation of the Joint Committee. The same procedure applies to an official who has reached the cumulative total of years of leave on personal grounds provided in Article 2(1) of this Decision or who can no longer claim the exemptions set out in Article 2 and who does not apply to return to work.

Article 10

Secondment

An official on leave on personal grounds who is seconded in the interests of the service shall return to work in his Directorate-General or department of origin or in the Commission department most specifically involved with that secondment. The official's rights to advancement in step and eligibility for promotion shall recommence from the date on which secondment takes effect.

An official on leave on personal grounds who is then seconded at his own request shall enjoy the right to advancement in step from the date on which secondment takes effect. If the official thus seconded wishes to return to work at the institution within the six month period provided for in Article 39 of the Staff Regulations and if an appropriate post is not available in his Directorate-General or department of origin, the Directorate-General for Human Resources and Security shall make a post available subject to the same conditions as at Article 8 above.

At the end of the secondment period, the official shall either:

- apply to return to work in accordance with Article 8 above;
- apply for a new period of leave on personal grounds, provided that the conditions for granting it are met;
- tender his resignation;

Article 11

Temporary staff

(a) Temporary staff may be granted unpaid leave, subject to the conditions set out in Article 1 of this Decision.

(b) In accordance with Article 17 of the Conditions of Employment of Other Servants, the duration of unpaid leave requested by a temporary staff member shall not exceed one quarter of the length of time already worked by the servant or three months if the servant's seniority is less than four years or twelve months in other cases; such leave may not exceed twelve months over the whole of his career. For a temporary staff member on a fixed term contract, the period of unpaid leave may not exceed the duration of the employment contract still to run.

(c) If the temporary staff member requests unpaid leave to serve a term in public office, that leave shall be restricted to the duration of the term of office and shall not exceed the duration of the employment contract still to run.

(d) Article 3 shall apply *mutatis mutandis* if the temporary staff member requests unpaid leave in order to engage in a professional activity.

(e) At the end of unpaid leave, the temporary staff member shall return to work in the post occupied before departure, subject to the examination by the Authority competent for concluding contracts of employment whether the staff member has a personal interest, in particular a family or a financial interest, or represents any other interests of third parties which

would impair his independence in the course of his duties in the specific post, such as to lead to an actual or potential conflict of interest

(f) In order for the Commission to assess the existence of such a conflict of interest, the staff member shall, prior to returning to work, inform the Authority competent for concluding contracts of employment, using a specific form, of any personal interest, in particular a family or a financial interest, or representation of any other interests of third parties such as described above, in order to allow the Authority to take any appropriate measure as provided for in Article 11a(2) of the Staff Regulations. Where a temporary staff member does not take up his duties again at the end of unpaid leave, his absence shall be regarded as unjustified and the person authorised to conclude contracts shall terminate the contract pursuant to Article 47 of the Conditions of Employment of Other Servants.

Article 12

Contract staff

Article 11 shall apply mutatis mutandis to all contract staff.

Article 13

Entry into force

The Commission Decision of 28 April 2004 on measures concerning leave on personal grounds for officials and unpaid leave for temporary and contract staff (C(2004)1597/8) is repealed.

***This Decision shall take effect on 1 January 2014.
Done at Brussels, 16.12.2013***

For the Commission Maroš ŠEFČOVIČ Vice-President

Commission Decision of 29.6.2018 on outside activities and assignments and on occupational activities after leaving the service (C(2018) 4048)

THE EUROPEAN COMMISSION,
Having regard to the Treaty on the Functioning of the European Union,
Whereas:

(1) It is necessary to give guidance on the application of the Staff Regulations of Officials (the 'Staff Regulations'), and the Conditions of Employment of Other Servants of the European Union (the 'CEOS'), laid down by Council Regulation (EEC, Euratom, ECSC) No 259/68 ⁽¹⁾, namely, the second and fourth paragraphs of Article 11, Article 11a, Article 12, Article 12b, Article 15, Article 16, Article 17, Article 17a, Article 19, Article 55(1) of the Staff Regulations, Articles 13(2) and 40 of Annex VIII to the Staff Regulations, and Articles 11, 17, 81 and 91 of the CEOS.

(2) The Commission adopted on 5 March 2008 [Sec(2008) 301] a Communication on enhancing the environment for professional ethics in the Commission.

(3) The Commission adopted on 16 December 2013 Decision C(2013) 9037 ⁽²⁾ on outside activities and assignments to take into account the considerably strengthened provisions on activities involving lobbying and/or advocacy with respect to conflict of interest introduced in the Staff Regulations on 1 January 2014, while respecting the principle of proportionality.

(4) When issuing a decision on outside activities and assignments and on occupational activities after leaving the service, the Appointing Authority should pay due regard to the principle of proportionality. Therefore, its decisions should not entail limitations that are not necessary and that would not genuinely meet the objective of protecting the interests of the institution as defined in the Staff Regulations and CEOS.

(5) The practical application of the previous rules on outside activities and assignments has shown that certain provisions need to be adapted in the light of changing circumstances and that they require a number of clarifications.

(6) Prior permission from the Appointing Authority is required to engage in outside activities during active service.

(7) Staff members in active service regularly request permission to engage in outside activities which will clearly not interfere with the performance of their duties and are clearly not incompatible with the interests of the institution. In such cases, prior permission can therefore be deemed to be granted.

(8) At the same time, certain outside activities, by their very nature, are liable to interfere with the performance of the staff member's duties and/or are incompatible with the interests of the institution and should therefore be prohibited.

(9) Certain activities, notably commercial activities giving rise to modest revenues, are prohibited under the previous rules. Experience has shown that the compatibility with the performance of the staff member's duties and the interest of the service of such activities should be subject to case-by-case analysis rather than a blanket ban. Any such analysis should take account of the changes that have occurred in the statutory composition of the Commission's staff.

(10) The maximum remuneration a staff member may earn when engaging in an outside activity should be reviewed, given that the ceiling for such remuneration was not reviewed at the time of adoption of Decision C(2013) 9037 and remains the same as the one defined by Decision C(2004) 1597 of 28 April 2004.

⁽¹⁾ OJ L 56, 4.3.1968, p. 1.

⁽²⁾ C(2013)9037 of 16.12.2013, Administrative Notice No 78-2013 of 19 December 2013.

(11) The fact that staff members sometimes need to engage in outside activities in order to maintain their professional skills and/or upgrade their qualifications, as required by the interests of the service, should be formally recognised.

(12) All the actors involved in the procedure shall act with celerity so as to respect the former staff member's fundamental right to engage in work and to pursue a freely chosen or accepted occupation.

(13) Staff members leaving or having left active service are subject to Article 16 of the Staff Regulations, which requires them to inform the institution of their intention to engage in an occupational activity, whether gainful or not, during the first two years of leaving the service.

(14) Practice has shown that the concept of 'occupational activity' in the meaning of Article 16 of the Staff Regulations requires clarification.

(15) The obligations of staff members or former staff members benefiting from an invalidity allowance or invalidity pension should be clarified.

(16) Staff members who intend to perform an activity whether in service, on leave on personal grounds or after having left the service have to be reminded of all relevant provisions of the Staff Regulations which apply to the concerned activity, in addition to the provision requiring that the Appointing Authority is informed or notified of the activity.

(17) Special advisers are not covered by the present Decision.

(18) For reasons of clarity, legal certainty and transparency, Commission Decision of 16.12.2013 on outside activities and assignments and occupational activities after leaving the service should be replaced by this Decision.

HAS DECIDED AS FOLLOWS:

TITLE ONE: SCOPE AND DEFINITIONS

Article 1

Scope and definitions

This Decision shall apply to all Commission staff covered by the Staff Regulations or by the CEOS ⁽³⁾, with the exception of special advisers. For seconded national experts (SNEs), the Commission Decision C(2008)6866 of 12 November 2008, and in particular Article 7 thereof, applies.

For the purposes of this Decision, the following definitions shall apply:

- (a) An 'outside activity' as referred to in Article 12b of the Staff Regulations means any activity, paid or unpaid, that:
 - (i) is not part of the staff member's duties at the Commission, including those covered by a mission order or an authorisation to travel for work-related reasons such as giving a speech or a presentation, and
 - (ii) cannot reasonably be considered a hobby or leisure activity.
- (b) An 'assignment outside the Union' as referred to in Article 12b of the Staff Regulations means a one-off task, paid or unpaid, that meets the conditions laid down in points (a) (i) and (ii) of this Article.
- (c) An 'occupational activity' as referred to in Article 16 of the Staff Regulations means any professional activity, whether gainful or not, other than the activities meeting the conditions set out in Article 20(3).
- (d) 'Structural part-time work' means part-time work pattern imposed to a contract agent upon hiring and not covered by Article 55(a) of the Staff Regulations.

⁽³⁾ Officials, temporary agents and contract agents.

TITLE TWO: STAFF MEMBERS IN ACTIVE SERVICE, STAFF MEMBERS SECONDED IN THE INTEREST OF THE SERVICE

Article 2

General principles

1. Pursuant to Article 12b of the Staff Regulations, a staff member wishing to engage in an outside activity, whether paid or unpaid, or to carry out any assignment, shall first obtain the permission of the Appointing Authority. Permission shall be refused only if the outside activity or assignment in question would interfere with the performance of the staff member's duties or is incompatible with the interests of the institution.
2. Permission to engage in an outside activity or an assignment shall not relieve the staff member, as regards the activity for which the permission is granted, of the other obligations under the Staff Regulations, for instance, those provided for in Article 17 regarding the unauthorised disclosure of information received in the line of duty, Article 55 obliging the staff member to be at all times at the disposal of the institution and Articles 11 and 11a related to situations of conflict of interest. In addition, an authorisation for any outside activity does not mean that the staff member can disregard any national laws on the activity in question.
3. The staff member may not make use in his or her outside activity or assignment (i) of his or her status or of material or (ii) data to which he or she has access as a staff member and which has not yet been made public or is not accessible to the public.
4. The Appointing Authority, when considering whether to permit an outside activity or assignment, shall take into account the statutory link between the applicant and the institution, the nature of his or her duties and the level of his or her responsibilities. It may prohibit the activity or permit it subject to any restrictions it deems appropriate.

Article 3

The need for prior permission

Without prejudice to the provisions of Article 4, all staff members, whether in active service at the Commission or seconded in the interest of the service, shall obtain prior permission from the Commission to engage in an outside activity or an assignment. In order to allow the Appointing Authority to assess the activity under Article 12b of the Staff Regulations, staff members must submit an application accompanied by supporting documents that includes an indication of the expected remuneration, if any.

Article 4

Activities for which prior permission is deemed to be granted

1. By way of derogation from Article 3, staff members are not obliged to submit an application for activities that meet the conditions laid down in this Article, as they are deemed not to interfere with the performance of the staff member's duties and are deemed compatible with the interests of the institution.
2. Provided that they fall within the scope of this Decision as defined in Article 1, prior permission shall be deemed to be granted for activities meeting the following cumulative conditions:
 - (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 and/or on the trustfulness of the institution;

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

3. As example, the following activities are in principle deemed to fulfil the mandatory conditions set out above for the prior permission to be considered granted:

- any unpaid activity that has no link with the activities of the European Union, is carried out in a purely private capacity and is undertaken from time to time only, upon need, in particular:

- (i) charitable and humanitarian activities;
- (ii) activities relating to sport or wellbeing;
- (iii) activities deriving from political, religious, trade unionist and/or philosophical convictions;
- (iv) craftwork, artistic or cultural activities;

- unpaid teaching activities unless they are performed for a commercial entity;

- the mere ownership of assets or holdings, or the management of the personal or family fortune, whether in a private capacity or as a shareholder of a company, but not running a business;

- the mere membership of a professional order or association, unless the code of conduct of the order or association conflicts with the staff member's obligations under the Staff Regulations.

Article 5

Prohibited Activities

Permission for paid outside activities or assignments shall be refused if:

(a) 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

(b) the activity in question is such as to interfere with the performance of the staff member's duties; and/or

(c) the activity in question is incompatible with the interests of the institution, for example because it:

- (i) is detrimental to the reputation of the institution; and/or
- (ii) damages public trust in the neutrality and objectivity of the institution; and/or
- (iii) gives rise to an actual conflict of interest; and/or

(d) the activity in question, by itself or combined with other authorised outside activities, gives rise to remuneration which exceeds the ceiling referred to in Article 7(1).

Article 6

Activities to be assessed on a case-by-case basis

Permission to engage in outside activities which do not fall under Article 4 or 5 shall be assessed on a case-by-case basis by the Appointing Authority.

Article 7

Maximum net remuneration

Without prejudice to Article 15 of the Staff Regulations, the annual ceiling for net remuneration which a staff member may receive for all his or her assignments or outside activities combined, including any fees received but after deduction of taxes or other duties linked to these activities, shall be EUR 10 000 per calendar year.

Reimbursements of reasonable expenses (such as transport and lodging) and royalties received for publications, artistic

proceeds or intellectual property rights shall not be taken into account when calculating the maximum net annual remuneration.

The concept of maximum net annual remuneration does not include revenue received in the exercise of a public office or resulting from the authorised acceptance of a prize or award within the meaning of Article 8.

Article 8

Prizes and awards

1. Staff members who, by reason of an authorised outside activity or assignment, are selected for a prize or an award which does not constitute a gift or favour within the meaning of Article 11, second paragraph, of the Staff Regulations ⁽⁴⁾, are required to apply for permission to accept and receive it.
2. Permission shall be refused only if accepting the prize or award is incompatible with the interests of the institution or could impair, or appear to impair, the staff member's impartiality.

Article 9

Part-time work at the request of the staff member

1. Staff members working part-time at their own request shall not engage in any paid outside activities, pursuant to Article 3, third paragraph, of Annex IVa of the Staff Regulations.
2. Staff members working part-time at their own request may engage in unpaid outside activities during the part of the time they are not working for the institution, in which case Articles 1 to 6 and 8 apply.
3. Staff members who have been authorised to work part-time to hold a public office, may take on unpaid or paid outside assignments and activities directly related to the public office concerned, subject to the conditions set out in Article 14.

Article 10

Structural part-time work

Articles 1-4, 5 (a) to (c), 6 and 8 apply to staff members employed on structural part-time basis. When required, such staff members shall request prior permission and in principle, receive permission to engage in an outside activity or assignment, whether paid or not.

See Communication of 7 March 2012 from Vice-President SEFCOVIC to the Commission on Guidelines on gifts and hospitality for the staff members.

Article 11

Staff members who need to maintain their professional skills and/or upgrade their qualifications

Staff members shall in principle receive permission to exercise an outside activity or assignment, whether paid or not, if it is required in the interest of the service that they maintain their professional skills and/or upgrade their qualifications. Articles 1-4, 5 (a) to (c), 6 and 8 apply to such staff members.

Article 12

Parental and family leave

1. Staff members benefiting from parental or family leave may engage in unpaid outside activities only, whereby Articles 1- 6 and 8 apply.

⁽⁴⁾ See Communication of 7 March 2012 from Vice-President SEFCOVIC to the Commission on Guidelines on gifts and hospitality for the staff members.

2. During parental or family leave, paid activities are allowed only in the circumstances provided for in Article 10 and 11.

Article 13

Procedures for obtaining permission - Withdrawal

1. Where required, applications for obtaining permission, together with the relevant supporting documents, shall be submitted to the Appointing Authority at least two months before the activity or the assignment is due to commence.

2. An application shall be submitted to the Appointing Authority for any new activity or assignment and for any change in the activity or assignment.

3. A new application shall likewise be made if a staff member changes posts, to assess whether the new duties and the activity or assignment are compatible with the criteria set out in Article 12b of the Staff Regulations.

4. The Appointing Authority may withdraw its permission in exceptional circumstances only, on justified grounds and after informing the staff member. If the Appointing Authority withdraws its permission to carry out a given outside activity before the expiry date of the period of validity, if any, the staff member shall be granted an appropriate period to take any measures necessary to adapt to the new situation.

Article 14

Public office

Articles 1 to 8 continue to apply where staff members who benefit from Article 15 of the Staff

Regulations engage in activities other than those directly related to the public office mandate.

TITLE THREE: STAFF MEMBERS ON LEAVE ON PERSONAL GROUNDS

Article 15

Activities and assignments

1. Under Article 40(1a) of the Staff Regulations, Article 12b of the Staff Regulations shall continue to apply during a period of leave on personal grounds. Accordingly, staff members on leave on personal grounds must request prior permission for any outside activity or assignment at any time during the period of leave, except in the cases listed under Article 4, paragraphs 2 and 3 applied mutatis mutandis.

2. Under Article 40(1a) of the Staff Regulations, staff members shall not be granted permission to engage in an occupational activity or assignment, whether gainful or not, which involves lobbying or advocacy vis-à-vis the institution and which could lead to a conflict of interest, or the possibility of such a conflict, with the legitimate interests of the institution.

3. In other cases than those covered by paragraph 2, permission shall, in principle, be granted except where the outside activity or assignment could give rise to a conflict of interest or be incompatible with the interests of the institution. If a potential conflict of interest is identified or a detrimental effect on the interests of the institution is shown, the Appointing Authority may authorise the activity in question while imposing appropriate restrictions or not grant such an authorization.

Article 16

Remunerated tasks for the Commission during leave on personal grounds

1. A staff member on leave on personal grounds may not receive remuneration for tasks carried out for the Commission. Reimbursement of expenses is not counted as remuneration in this context.

2. 'Task' for the purposes of this Decision means:

- (a) any direct contract, other than a contract concluded under the conditions of employment of other servants, between the staff member on leave on personal grounds and the Commission;
- (b) any relationship with a company in which the staff member holds a substantial direct or indirect financial interest and which entertains a contractual relationship with the Commission

3. Notwithstanding the general prohibition provided for in paragraph 1, the Appointing Authority may, in agreement with the Director-General for Human Resources and Security, grant an exception if the staff member takes leave on personal grounds to follow his or her spouse who is also a staff member of the European Union. This exception shall, however, not be made for tasks consisting of a contractual relationship between the Commission and a company in which the staff member who is on leave on personal grounds holds a substantial direct or indirect financial interest.

4. In cases where the exception under paragraph 3 is granted, the remuneration to which the tasks give rise shall not exceed the remuneration the staff member would have received had he or she been in active service. This may be increased to cover reasonable professional costs which the staff member incurs through his or her new activity.

5. Working as an employee or sub-contractor for a company with which the Commission has a contractual relationship, and provided the staff member has no direct or indirect substantial financial interest in that company, shall be declared as an outside activity pursuant to Article 15 of this Decision. The Appointing Authority shall make a case-by-case assessment.

Article 17

Procedure for granting permission to engage in outside activities and assignments during leave on personal grounds

1. Decisions on requests for permission to engage in an activity during leave on personal grounds are taken by the Appointing Authority, in agreement with the Director-General for Human Resources and Security.

2. Applications must be submitted to the Appointing Authority at least two months before the beginning of the activity or the assignment. The permission is valid for the period which is set out in the application, and should not be longer than 12 months.

In addition,

(a) the staff member shall sign a declaration confirming he or she is fully aware of his or her obligations under the Staff Regulations. The staff member shall declare therein that the provisions of Article 11a have at all times been complied with, including when negotiating the terms and conditions of the envisaged activity while being in active employment;

(b) for every additional activity, a new application needs to be submitted at least two months before the beginning of the activity or the assignment;

(c) for every extension or renewal of the activity or assignment, a new application must be submitted at least two months before the expiry of the current permission. A new application must also be made for each change in the activity or assignment - in which case the Appointing Authority shall decide whether to maintain the permission or withdraw it;

(d) in the event of non-renewal or withdrawal of permission, the Appointing Authority may give the staff member an appropriate period of time to take the necessary measures to adapt to the situation.

Article 18

Reinstatement in the Commission upon return from leave on personal grounds

Upon reinstatement in a post at the Commission following leave on personal grounds, a staff member shall complete a specific form declaring any personal interest. In particular, the declaration shall include any family or financial interest, such as to impair his or her independence or any other actual or potential conflict of interest relevant to the post in which he or

she is being reinstated. Should a conflict of interest be confirmed in a reasoned opinion, the Appointing Authority shall take the measures referred to in Article 11a (2) of the Staff Regulations.

TITLE FOUR: STAFF MEMBERS LEAVING OR HAVING LEFT THE COMMISSION SERVICE

(including staff members receiving an invalidity allowance or an allowance provided for in Annex IV to the Staff Regulations)

Article 19

Obligations of integrity and discretion unlimited in time

Under Article 16, first paragraph, of the Staff Regulations, staff members who have left the service continue, without any limit in time, to be bound by the duty to behave with integrity and discretion as regards the acceptance of certain appointments and benefits.

Under Article 17, second paragraph, of the Staff Regulations, staff members who have left the service shall refrain from any unauthorised disclosure of information received in the line of duty, unless that information has already been made public or accessible to the public.

Article 20

Obligations under Article 16 of the Staff Regulations

1. Under Article 16, second paragraph, of the Staff Regulations, all staff members, including former staff members, must inform the Commission beforehand of their intention to engage in an occupational activity, whether gainful or not, by using a specific form. This obligation applies for two years after leaving the service. If that activity is related to the work carried out by the staff member during the last three years of service and could lead to a conflict of interest with the legitimate interests of the institution, the Appointing Authority may, having regard to the interests of the service, either forbid him or her to undertake it or give its approval subject to any conditions it thinks fit. Moreover, the staff member shall declare in the specific form that, the provisions of Article 11a have at all times been complied with, including when negotiating the terms and conditions of the envisaged activity while being in active employment.

2. Taking up employment at a European Union institution or body in the meaning of the Treaty on European Union and/or the Staff Regulations does not trigger the obligation to inform the Commission, as described in paragraph 1, as engaging in this activity does not lead to leaving the service of the Union for the purpose of applying Article 16, second paragraph, of the Staff Regulations. This is without prejudice of Article 40 of Annex VIII of the Staff Regulations.

3. The activities expressly listed as examples under Article 4, paragraph 3, do not constitute occupational activities within the meaning of Article 16, second paragraph, of the Staff Regulations provided that:

- (a) they do not give rise to lobbying or advocacy vis à vis staff of their former institution;
- (b) are not remunerated;
- (c) are carried out in the staff member's personal capacity.

4. The occupational activities which are not in any way directly related to the work of the former staff member in the Commission, cannot by their very nature, give rise to a conflict of interest with the legitimate interests of the Commission. They shall however be notified to the Appointing Authority using the specific form referred to in paragraph 1.

Article 21

Information on occupational activities pursuant to Article 16 of the Staff Regulations

1. When leaving the service of the Commission the staff member must sign a declaration confirming that he or she is aware of the obligations under Article 16, second paragraph, of the Staff Regulations.

2. On the basis of the specific form referred to in Article 21(1), the Appointing Authority shall assess whether the notified activity could lead to a conflict with the legitimate interests of the institution. When assessing the possibility of any actual

or potential conflict of interest, the Appointing Authority takes into account factors such as:

- (a) any relation between the occupational activity and the work carried out by the former staff member during the last three years of service;
- (b) whether the occupational activity would involve working on specific files for which the former staff member was responsible during the last three years of service;
- (c) whether the occupational activity would risk harming the reputation of the former staff member and the Commission, for example by retroactively casting doubt on the former staff member's impartiality while he or she was still in service, thereby tarnishing the Commission's image;
- (d) the quality of a future employer (for example whether it is a public authority or a private/commercial company) or the situation of self-employment;
- (e) whether the envisaged activity would involve representing outside interests vis-à-vis the institution;
- (f) whether or not the envisaged activity is remunerated.

3. The Appointing Authority defines an appropriate balance between the need to ensure integrity through temporary prohibitions and restrictions and the need to respect the former staff member's fundamental right to engage in work and to pursue a freely chosen or accepted occupation. In particular, the Appointing Authority may, during the two year period after the staff member has left the service:

- (a) prohibit the former staff member from dealing with files, cases or matters related to the work carried out by him or her during his or her last three years of service, including related or subsequent cases and/or court proceedings; and/or
- (b) impose a 'cooling off period' excluding the former staff member from, for example, professional contacts with former colleagues or from representing opposing parties.

4. Staff members shall inform the Commission of their intention to engage in an occupational activity at least 30 working days before the envisaged starting date. Staff members shall not start the activity before receiving either explicit or implicit acceptance, whichever comes first.

5. The Appointing Authority shall, within 30 working days after being informed of the occupational activity, notify its decision, after consulting the Joint Committee as provided in Article 16, second paragraph of the Staff Regulations. Failure by the Appointing Authority to notify its decision within the 30 day period constitutes implicit acceptance of the occupational activity. If a declaration submitted by the applicant is incomplete, the Commission shall request additional information and the 30 day period is suspended until the requested information is provided.

6. For former senior officials ⁽⁵⁾, the Appointing Authority shall, in principle, prohibit them during the first 12 months after leaving the service from engaging in lobbying or advocacy, vis-à-vis staff of their former institution, on behalf of their business, clients or employers on matters for which they were responsible during the last three years in the service. This is without prejudice to a possible "cooling off period" as in paragraph 3b).

7. The Commission shall publish information annually on how the provisions regarding former senior officials are implemented, including a list of the cases assessed having due regard to the rules on the protection of personal data as contained in Regulation (EC) No 45/2001 of 18 December 2000.

⁽⁵⁾ The term 'senior officials' refers to officials occupying functions corresponding to the basic post of Director-General in grades AD16 or AD15 as well as those occupying functions corresponding to the basic post of Director in grades AD15 or AD14. Basic post in this context, and in accordance with Annex 1 of the Staff Regulations, means all positions falling within the function group of Director-General or Director, as the case may be.

⁽⁶⁾ For the purpose of this provision, the term 'invalidity allowance' also covers 'invalidity pension'.

Article 22

Recipients of an invalidity allowance under Article 78 of the Staff Regulations

1. The recipient of an invalidity allowance ⁽⁶⁾ shall sign a declaration confirming that he or she has full knowledge of his or her obligations.

2. The recipient may not be given an assignment of any kind, paid or unpaid, by the Commission.

3. If the recipient intends to engage in employment, whether gainful or not, which does not fall under paragraph 2, and at the request of the person concerned:

(a) the Appointing Authority shall, under Article 15 of Annex VIII to the Staff Regulations, require the recipient to undergo a medical assessment to ascertain whether he or she still satisfies the requirements for payment of the invalidity allowance.

(b) if this medical assessment is positive, and if the person concerned is or intends to engage in gainful employment, the Appointing Authority shall assess whether, under Article 13(2) of Annex VIII, such employment is consistent with the current basis for granting the invalidity allowance.

(c) Any income from such activity shall comply with Article 13(2) of Annex VIII to the Staff Regulations. This provision states that any income from such gainful employment which, in combination with the invalidity allowance, exceeds the final total remuneration received while in active service as determined on the basis of the salary scale in force on the first day of the month in which the allowance is to be paid shall be deducted from the invalidity allowance.

The term 'senior officials' refers to officials occupying functions corresponding to the basic post of Director-General in grades AD16 or AD15 as well as those occupying functions corresponding to the basic post of Director in grades AD15 or AD14. Basic post in this context, and in accordance with Annex 1 of the Staff Regulations, means all positions falling within the function group of Director- General or Director, as the case may be.

For the purpose of this provision, the term 'invalidity allowance' also covers 'invalidity pension'.

(d) If the Appointing Authority considers that the envisaged employment is consistent with the current basis for granting the invalidity allowance, it shall subsequently assess on a case by case basis whether the activity in question, gainful or not, is compatible with the conditions of application of Article 12b of the Staff Regulations.

4. Once the recipient of an invalidity allowance reaches pensionable age, he or she shall be subject to Article 16 of the Staff Regulations and the relevant provisions of this Decision from the date of retirement, if he or she has been in active service at any time during the last three years preceding the date of retirement.

Article 23

Staff members to whom Articles 41 (non-active status), Article 42c (leave in the interest of the service), and Article 50 (retirement in the interests of the service) apply: applicability of Article 16 of the Staff Regulations

1. Staff members to whom Articles 41 and 50 of the Staff Regulations apply shall comply with the obligations under Article 16 of the Staff Regulations and the relevant provisions of this Decision applied by analogy, until the end of the period of entitlement to the allowance as defined by Articles 41 and 50 of the Staff Regulations.

2. Staff members to whom Article 42c of the Staff Regulations applies shall comply with the obligations under Article 12b of the Staff Regulations and the provisions of Title Three of this Decision. When the period of entitlement to the allowance as defined by Article 42c has ended, the staff member is subject to Article 16 of the Staff Regulations and the relevant provisions of this Decision.

3. Remuneration received by staff members from any new employment during the period of entitlement to the allowance

⁽⁶⁾ For the purpose of this provision, the term 'invalidity allowance' also covers 'invalidity pension'.

provided by Articles 41, 42c and 50 of the Staff Regulations shall be deducted from that allowance, if the remuneration and allowance together exceed the total remuneration last received by the staff member. This calculation is based on the table of salaries applicable on the first day of the month for which the allowance is to be paid.

Article 24

Activities for or assignments by the Commission

1. The Commission may ask a former staff member to carry out activities for its benefit. A procedure under Article 16 of the Staff Regulations is not required in such cases.
2. In principle, such activities exclude remuneration of any kind other than reimbursement of any expenses reasonably incurred by the former staff member. An agreement is concluded between the Commission and the former staff member.
3. Paid activities are authorised on an exceptional basis only and are generally subject to the following cumulative conditions, for which the Commission must provide evidence:
 - (a) the activities are in the Commission's general interest;
 - (b) they meet a specific need requiring knowledge that is not available other than through the former staff member in question.

Any payment made by the Commission may not exceed the difference between the total annual amount of the last salary when the former staff member was still in service and his retirement pension in the year in question. Annual remuneration is established on the basis of the salary table applicable on the first day of the month in which the salary is paid. The reimbursement of expenses for which the former staff member has provided supporting documents shall not be taken into account for this purpose.

4. The Commission must conclude a contract with the former staff member.

Nevertheless, the Commission shall not conclude any contract, paid or unpaid or otherwise, with former temporary agents or former contract agents as long as they are in receipt of unemployment allowance from the Union Budget.

TITLE FIVE: FINAL PROVISIONS

Article 25

Disciplinary measures

Infringements of the rules on outside activities and assignments and occupational activities carried out after leaving the service expose staff members and former staff members to the risk of disciplinary penalties under Article 86 and Annex IX of the Staff Regulations.

Article 26

Eighteen months after the date at which this Decision will take effect, the Commission shall undertake a review of its implementation, in particular with respect to Article 4.

Article 27

Repeal

Commission Decision C(2013)9037 is repealed.

Article 28

Day of taking effect

This Decision enters into force on the date of the adoption and shall take effect on 1 September 2018.

Done at Brussels, 29.6.2018

For the Commission Günther OETTINGER Member of the Commission

Commission Decision of 27.2.2019 on the conduct of officials and other staff during the European elections campaign in 2019

THE EUROPEAN COMMISSION,
Having regard to the Treaty on the Functioning of the European Union,
Whereas:

(1) It is necessary to give guidance on the application of the Staff Regulations of Officials (the 'Staff Regulations'), and the Conditions of Employment of Other Servants of the European Union (the 'CEOS'), laid down by Council Regulation (EEC, Euratom, ECSC) No 259/681, namely, Articles 11, 11a, 12, 15, 17 and 17a of the Staff Regulations, and Articles 11 and 81 of the CEOS.

(2) The policy followed by the Commission on the occasion of previous European elections should be maintained to facilitate the exercise of the right of staff to stand for election to the European Parliament in the same way as any other citizen.

(3) In the interest of transparency, the independence of the Commission and its impartiality with regard to the campaign, a clear separation should be made between the professional activity of staff members and their political engagement.

(4) This Decision clarifies the rules that need to be observed by staff members whether they are or are not standing as candidate in the elections of the European Parliament.

(5) Staff members wishing to stand for election often need to carry out campaigning activities before they are officially selected by their political party and have an interest in ensuring that they are selected as candidate. The rules should therefore also cover the period even before candidates have formally been selected.

(6) This Decision covers the political engagement of staff in the various capacities described above. By contrast it does not cover civic campaigning carried out in a private capacity to promote participation in the European elections,

HAS DECIDED AS FOLLOWS:

Article 1

The rules, as set out in the Annex, for staff members engaging in campaigning activities whether they are or are not standing as candidates in the elections to the European Parliament, are approved.

Article 2

This Decision shall enter into force on the day following that of its adoption.

Done at Brussels, 27.2.2019

For the Commission Günther H. Oettinger Member of the Commission

ANNEX

1. Introduction

1.1. In line with the principles and provisions of the Staff Regulations and Conditions of Employment of Other Servants of the European Union (the 'CEOS'), the Commission's general approach is not to object to staff members ⁽¹⁾ participating in the election campaign if they so wish, but on three conditions:

- Staff members must make a clear, public distinction between their private capacity as campaigners and their official capacity as staff members.
- Staff members must not use Commission resources for the purpose of the campaign.
- Staff members must take particular care to comply with the general rules which require staff members to exercise due prudence and discretion at all times as regards information that comes into their possession in the course of their duties, and to abstain from any action or public expression of opinion that might reflect badly on their position. All staff members must also bear in mind that the Member States have very differing attitudes towards the participation of public servants in election campaigns.

1.2. The statutory provisions on which this approach is based (Articles 11, 11a, 12, 15, 17 and 17a of the Staff Regulations and Articles 11 and 81 of the CEOS) apply to all staff members involved in the campaign preceding the elections to the European Parliament.

2. Officials and other staff in the period preceding the selection of candidates by political parties

2.1. The time preceding the official election campaign, i.e. prior to the formal selection of candidates by the political parties, will often already require campaign activities, notably for staff members who intend to stand for election and have an interest in ensuring that they are selected as a candidate. The activities of staff in this regard must be pursued in a strictly private capacity outside working hours, on weekends or during annual leave.

2.2. If a staff member engaged in campaign activities prior to being formally selected as a candidate by one of the political parties finds he or she is not able to pursue these activities outside working hours, on weekends or during annual leave, he or she should inform the Directorate-General for Human Resources and Security.

In accordance with Article 15 (1) of the Staff Regulations, a decision will be taken, in the light of the interests of the service, whether the staff member should (1) apply for leave on personal grounds, which shall be granted for a maximum period of three months or (2) be discharged of his or her duties at the Commission on a part-time basis.

3. Officials and other staff standing as candidates

3.1. Leave for campaign activities

3.1.1. Staff members who have been selected as candidates shall inform the Directorate-General for Human Resources and Security. Subject to 3.1.2, the Directorate-General will adopt one of the decisions indicated in Article 15(1) of the Staff Regulations, i.e. (1) requiring the staff member to apply for leave on personal grounds ⁽²⁾, or (2) granting the staff member annual leave, or (3) requiring the staff member to discharge his duties at the Commission on a part-time basis, or (4) allowing the staff member to continue to discharge his duties at the Commission as before. That Decision may also provide for a combination over time of those options.

3.1.2. Officials and other staff selected and standing as candidates as a general rule will be required by the decision referred to in Article 15(1) of the Staff Regulations to apply for leave on personal grounds for a period of one month before polling day. Other options provided for in Article 15(1) of the Staff Regulations may be decided taking into account in the assessment the amount of time devoted to the campaign and the degree of involvement and its outreach.

⁽¹⁾ For the purposes of this Decision the term « staff members » cover officials, temporary agents and contract agents. For temporary agents and contract agents see however point 6.3.

⁽²⁾ Articles 17 and 91 of the Conditions of Employment of Other Servants (unpaid leave) will apply in the case of temporary and contract staff.

3.2. Publications

3.2.1. Staff who are selected as candidates and who wish to publish campaign materials (election manifestos, posters, newspaper articles, etc) either individually or with fellow-candidates are authorised to sign or publish such material on their own responsibility, on condition that they do so as candidates and not as officials.

3.2.2. That authorisation applies only to the period between selection as a candidate and the date of the election and remains subject to Article 17(1) of the Staff Regulations.

4. Staff involved in election campaigns who are not candidates

The political activities of staff members who are not intending to stand and are not standing for election must be pursued in a strictly private capacity and so take place outside working hours, at weekends or during annual leave. The provisions of the Staff Regulations referred to in point 1.2. must be complied with.

5. Any official activities connected with the election campaign/missions

5.1. Without prejudice to the Commission's normal information activities and subject to points 3 and 6 for staff standing as candidates and staff who are elected, staff shall not take part in a specific campaign event organised by a political party or a candidate - or by another organisation to offer a platform to parties and candidates - in an official capacity as staff member, whether through canvassing assistance to a candidate, provision of communication material or any other form of involvement in a campaign.

5.2. Any staff member wishing to participate in a specific campaign event in an official capacity must ask for permission not only from their immediate superiors in the usual way but also from the President and the Member of the Commission in charge of Budget and Human Resources. To that effect duly justified applications should therefore be sent by the staff member in agreement with his or her immediate superiors to the Director-General of the Directorate-General for Human Resources and Security, who will handle the necessary formalities.

5.3. Missions:

- Missions to participate in the campaign in a private capacity (as someone selected and standing for election or otherwise) will not be granted;
- Authorisation for official missions involving activities connected with the campaign will be subject to approval in accordance with point 5.2.

6. Officials and other staff who are elected

6.1. Staff who are elected must immediately inform the Directorate-General for Human Resources and Security.

6.2. Staff are reminded that, if elected, they are required to take leave on personal grounds for the term of their elected office in accordance with Article 15(2) of the Staff Regulations, since the demands of a mandate as Member of the European Parliament are incompatible with active employment in the Commission.

6.3. For temporary staff and contract staff, the duration of the leave referred to in point 6.2. shall be limited to the remainder of the term of the contract, pursuant to Articles 11 and 81 of the CEOS.

Communications

Commission policy on the internal use of email (SEC(2009) 1412)

1. CONTEXT

The Commission considers email to be a core communication service that is critical to the continuity of its operations ⁽¹⁾ and plays a key role in the conduct of our work. How well staff communicate by email not only reflects on them as individuals, but also impacts on the organisation as a whole.

Like many other organisations, the Commission faces growing difficulties with email overload, the time spent managing mailboxes, the rising costs associated with transmitting documents via email and questions of legal liability relating to the transmission and retention of emails.

This document establishes a comprehensive Commission Policy on the way email should be used:

- It is not about introducing new rules but rather about consolidating existing administrative notices, staff policy rules and best practice recommendations.
- It is not about setting up new arrangements for documents retrieval, filing and archiving; these issues are covered by the new Ares document management system.
- It is not about imposing a straight jacket to all services but rather about setting up a general framework conducive to a better use of email within the Commission.
- It is about responding to the challenges of email overload and the exponential increase in spending for the operation of the Commission email service.

In practical terms, it advises users on how to make more efficient and responsible use of email and makes them aware of the constraints under which the email service operates.

2. PURPOSE

The purpose of this Communication is to establish a reference framework which will be made operational through implementing measures to ensure a smooth transition from current operating practices to a more efficient electronic communications environment.

Its goals are to:

- Establish a basis upon which to improve existing practice and develop new working methods with email.
- Ensure that users of the Commission's email system fully understand the guidelines on its acceptable use and the specific requirements placed upon them.
- Increase awareness of consequences of abuse.

It does not lay down rules to cover every possible situation, but sets out the general principles that staff should apply when using email.

3. SCOPE

This Communication covers the use of email for sending and receiving messages internally and transmitting messages externally, and addresses both business and personal usage. It extends to the administration of the user's mailbox including the means, methods and decision criteria for storing email messages and their corresponding attachments. It applies to all users having access to a Commission email account, i.e. in one of the following forms:

- "mailbox_name@ec.europa.eu"
- "mailbox_name@ext.ec.europa.eu"
- "mailbox_name@publications.europa.eu".

This includes personal, functional and temporarily allocated mailboxes

⁽¹⁾ Commission Staff Working Document SEC(2006) 899 of 12.7.2006 "Framework for business continuity management in the Commission".

4. RISKS

The Commission recognises that operating an email service involves the following risks to the Commission's reputation, business efficiency, operational environment and staff well-being, of which users should be aware and take into account when using email:

- (1) Possible adverse effects on the reputation of the Commission when staff communicate inappropriately with citizens, stakeholders, businesses and other organisations.
- (2) Legal and financial liability relating to nature of message content, its disclosure and retention (confidentiality, data protection, defamation and evidentiary value).
- (3) Disruption of data transmission services potentially affecting the continuity of the Commission's operations.
- (4) Excessive data storage costs.
- (5) Inappropriate use of email that can have a negative impact on staff relations.
- (6) Reduction of productivity through non-compliance with guidelines on effective and efficient use.
- (7) Exposure of the Commission's computing environment to viruses, spyware and malicious software.

5. BEST PRACTICES

The Commission encourages initiatives ⁽²⁾ that promote more secure, effective and efficient use of the email system. Clearly written messages with focused content and properly structured format make for more effective professional communication.

The following seven best practice principles for the use of email should be respected as new tools and facilities become available, and users should take note of the specific best practices described in Annex 2 that conform to these general principles:

(1) Pull not push

This concept seeks to minimise the number of document attachments transmitted through the email system by promoting the working method whereby users send links to documents in the body of an email message whenever this option is feasible, rather than attach documents to the email message. New document management (ARES/HERMES) and collaborative working tools (My IntraComm corporate portal) will help to reinforce this principle. Annex 2 describes the working method in detail.

(2) Need to be informed

This involves a common understanding of who needs to receive directly an email message and who should receive a copy. The direct addressee(s) or "To:" recipients in the message distribution list are expected to take direct action and/or respond. However, the "Cc:" recipients should be strictly limited to users requiring the information in the message to perform their duties. Furthermore, mailing lists should be limited in size, supervised by their owners and regularly updated. Staff should be prudent when using the Reply to All function and should normally never reply to mailing lists. Annex 2 outlines the protocol guidelines for applying this principle.

(3) Observance of email communication protocols

This involves a set of guidelines on when to use email and when to use alternative means of communication. It also builds on the Optim@il best practice working methods in terms of creating effective message content, smart distribution settings, secure communications and optimal storage techniques. Annex 2 covers this catalogue of best practice techniques.

(4) Proper deployment of email in business processes

This concerns the inappropriate and excessive use of email to drive business processes and act as the information system

⁽²⁾ In 2001 the Email Service led a best practice workgroup which in 2003 produced an Optim@il best practice guide: http://www.cc.cec/home/dgserv/digit/corporate_ict/infrastructure/corp_systems/email_tech/optimail/index_en.htm

underpinning the process rather than to support the communications within the process. This is fully explained in Annex 2 and is directed at those users who perform roles as process managers or process owners.

(5) Reporting spam/abuse/spoofing

This is the principle whereby users take responsibility, as part of the email user community within the Commission, for reporting issues and events that could adversely affect the proper and correct functioning of the email system. Annex 2 provides sample cases and procedures to be followed.

(6) Using the Out of Office Assistant

The email user community must be responsible for informing other users (both the internal and external email community) if they are not available to respond to incoming messages. The Out of Office tool should always be used when users are not in a position to read and/or respond to messages for one working day or more and no delegations or other mechanisms (eg internal auto-forward) are in place to actively manage incoming email ⁽³⁾.

(7) Mailing list management

The inappropriate use of mailing lists carries risks of sudden surges in email traffic. This leads to degraded service, information overload and increased mailbox maintenance for mailing list members. Using mailing lists for a limited number of well-defined purposes, maintaining up-to-date membership lists and suppressing reply options will greatly reduce these risks.

6. LEGAL CONSIDERATIONS

Email messages are increasingly produced as evidence in legal cases and disciplinary actions. Consequently, users should be aware of their obligations under both the Staff Regulations ⁽⁴⁾ and civil and criminal law when using the Commission's email system.

The use of the email system for illegal or irregular purposes, in any way that might disrupt the functioning of the service itself or in any manner contrary to the interests of the Commission is prohibited.

In particular, the following are contrary to the principles laid down in the Staff Regulations or in other provisions applicable to officials and are consequently prohibited:

- Messages involving remarks of a defamatory, discriminatory (e.g. based on sex, race or disability), harassing, libellous, obscene, offensive or threatening nature ⁽⁵⁾.
- Messages unlawfully disclosing confidential information, including personal data, to recipients who do not have a need to know.
- Distribution of messages of a non-official character that are unsolicited and addressed to a large number of recipients and/or featuring requests for recipients to forward such messages widely (for example chain mail, spam or personal advertisements).
- Forged messages.
- Messages which seek to disguise the identity of the author.
- Messages from another user's email account unless authorised.
- Deliberate deletion of messages relating to internal or external enquiries e.g. as part of an administrative investigation.
- Messages containing EU classified ⁽⁶⁾ information (EU TOP SECRET, SECRET UE, CONFIDENTIEL UE, RESTREINT UE ⁽⁷⁾).

Messages transmitted inside the Commission must use the encryption tool provided for secure e-mail (currently SECEM ⁽⁸⁾) when these contain sensitive non-classified business or personnel information (e.g. tendering details or medical data). Similarly, transmission of such information to third parties should always be conducted via secure IT systems.

⁽³⁾ As an example "I am not available to read email, contact person name etc"; one not need specify fixed periods or other information that could compromise a user's personal security.

⁽⁴⁾ See Administrative Notice No 45-2006/15.09.2006 and Articles 11(1),12 and 12a of the Staff Regulations.

⁽⁵⁾ This is not contrary to the freedom of expression recognised under Article 17a(1) of the Staff Regulations.

⁽⁶⁾ http://www.cc.cec/security/help_advice/information_en.htm

⁽⁷⁾ The RUE system is however available for those needing to send and receive 'RESTREINT UE' documents.

⁽⁸⁾ http://www.cc.cec/home/dgserv/digit/everybody/e_mail/secem/index_en.htm

Staff should be aware that any messages or information sent, in particular when transmitted externally using the Commission's email system, are statements that are attributable to the Commission. Depending on the context, an email can carry the same weight in law as a letter written on headed Commission paper.

Staff should take particular care when sending messages externally which constitute information that a third party may rely upon in accordance with the relevant rules or the Code of Good Administrative Behaviour ⁽⁹⁾.

Furthermore, staff should note that even with a disclaimer, a connection with our institution exists and a statement could be imputed legally to the Commission. Therefore, no one should rely solely upon disclaimers as a way of protecting the Commission from the personal comments and opinions expressed by an individual user. Expressions of opinion should be avoided while using the Commission's email system. Any reservation that the content of the message expresses personal views should be made explicitly in the message body itself instead of relying on this being implicitly understood through an appended standard disclaimer.

Any investigation into abuse or infringement of this email policy and, in particular, these legal aspects may lead, where appropriate, to disciplinary or other legal sanctions.

7. PERSONAL USE

The Commission's email system is provided to staff for performing job-related functions and for general staff welfare matters (e.g. contacts with schools, accommodation agencies, local and central government offices, pension offices). Limited, occasional, or incidental use of email for personal, non-professional purposes is acceptable. For instance, users may also, or alternatively use their personal webmail services, provided that they comply with the Commission's administrative notice ⁽¹⁰⁾ on acceptable use of the information and communication technology services, which covers email and internet use, and that they take care to avoid introducing viruses or spyware (malware) when accessing private webmail through the Commission's data network.

For security and spam prevention reasons, users should be prudent in divulging their Commission email address for personal matters.

The fundamental rights to confidentiality of communication and privacy are guaranteed. However, in exceptional cases such rights may – in accordance with the applicable regulations – be limited, for example in cases of investigations concerning fraud and other illegal behaviour (see section 9 below) or in cases where there are grounds for suspecting abuse (ref. section 6 above).

Acceptable personal use does not include private emails for profit-making or commercial purposes and shall not conflict with users' contractual obligations or Staff Regulations.

Personal emails should be clearly indicated as such either by using the message property settings, or by use of a disclaimer or by an indication in the message header.

8. MESSAGE STORAGE

The primary purpose of the Commission's email system is to facilitate communication, not to provide document archiving and data storage. In fact, the email system has no formal repository or archival role whatsoever. In order to manage email storage appropriately users are required to do one of three actions on a message in a timely manner – REGISTER the message where necessary ⁽¹¹⁾, FILE it ⁽¹²⁾ and/or DELETE it.

⁽⁹⁾ Code of good administrative behaviour - http://www.cc.cec/pers_admin/code/conduct/index_en.html.

⁽¹⁰⁾ Administrative Notice No 45-2006/08.06.2006 "Acceptable Use of the Commission's ICT services (PC equipment, email and internet access systems, telephone, fax and mobile phones)".

⁽¹¹⁾ In Ares or Adonis.

⁽¹²⁾ Either in a personal folder opened in Outlook, or on a drive.

While it is recognised that existing working practices depend heavily on email storage facilities, the launch in 2008 and 2009 of two new corporate tools to support document management and collaborative working should have a significant impact in reducing dependency on email message stores as informal information reference repositories to support the Commission's business processes.

Centralised and harmonised electronic document management facilities underpinned by DGs' official filing plans are in the process of being implemented through the ARES system being progressively rolled out across all DGs. This will impact both directly and indirectly on email storage requirements:

(1) Where an email message qualifies as a document, it will have to be registered and filed in accordance with document management rules and guidelines ⁽¹³⁾ using the ARES system.

(2) The central e-Domec compliant document repository HERMES will act as a fully accessible and commonly shared platform for electronic document storage, update and retrieval. This document management system will facilitate access to documents through links according to the "pull not push" best practice principle described in section 5 above.

The launch of the new My IntraComm corporate portal, which replaces Intracomm will gradually stimulate changes to collaborative working methods. This new technology will in the future support activities such as on-screen workflow, shared workspaces, drafting and reviewing tools, project management utilities, and other features in an integrated environment. Over time, this development will reduce the need to use email messages to drive standard workgroup operations and at the same time facilitate easily accessible workgroup repositories underpinning collaborative working structures and practices.

The emergence of these new tools will impact upon working practices and gradually reduce reliance on email storage capacity as a reference system for working documents and associated commentaries. The Commission currently invests considerable resources in data storage media for the email system and it is important that this investment is used economically and contained in the future so that resources can be switched to meet the emerging storage needs of the new tools.

It should be noted that the Commission is not in the position of some publicly available free email services which offer considerable amounts of individual storage capacity — their revenue is based on commercial profit, whereas the Commission uses public funding. It is true that over the years the cost of storage has gone down, in particular the price of disks for home use in electronics stores; however secured heavy duty equipment required for professional use in data centres remains extremely expensive.

One major area of concern for the on-line storage of emails has been linked with the introduction of the EAS (Email Advanced Storage) system, which automatically compresses and removes messages from the mailbox, transfers them to another storage facility and uses a reference link to maintain their presence in the mailbox. This measure was brought in to alleviate pressure on fixed storage capacities in on-line mailboxes. However, the storage capacity requirements for EAS have grown exponentially since its introduction, in the absence of any control on its size. The spiralling costs need to be contained, so the physical capacity of EAS will have to be limited in the longer term. This means that older messages stored in EAS will have to be erased to make way for newer arrivals.

Another area that will require change concerns the Public Folders facility within the email system, as it has been utilised as a shared information space. Actions are already under way to reduce dependency on this facility and alternative facilities will be required as this functional aspect of the email system will become obsolete in the future for technical reasons.

It is expected that the best practice of email usage and the emergence of new working tools will go a long way towards containing the mass of unnecessary email storage and free-up IT resources for more productive uses. But it may prove necessary to accompany the change with technical constraints, which will further encourage good use of email, so that messages and attachments with no storage value are quickly and definitively removed from the system.

⁽¹³⁾ SEC(2006) 353 "Guidelines for the registration of e-mails in the framework of the Electronic Archiving and Document Management Policy of the European Commission (e-Domec)".

The following rules will be phased in (some only as a last resort, if the other measures prove insufficient to stem the rapid growth of email cost to the Commission) — see Annex 1 for proposed future target parameters:

(1) All messages that are retained using the Email Advanced Storage system (EAS) will be permanently deleted after a fixed period of time (x years).

(2) Document attachments for internally generated emails should be limited to file formats necessary for work-related purposes. Moreover, large files (especially those with multi-media format with embedded video, music and images) should only be attached to e-mails for fully justified professional reasons.

(3) The current service of automatically storing messages in EAS will be gradually phased out and users are encouraged to manually select messages destined for EAS storage in order to take advantage of this facility.

(4) Mailbox messages in the Inbox folder that have been read but not filed as well as those remaining in the Sent items folder will be automatically deleted from the online email system after a fixed period of time (x months). An alternative storage system will be used as a failsafe mechanism to ensure this information can be retrieved if necessary. [This measure is intended only as a last resort; its introduction would require a pilot testing phase and availability of new tools for document management and collaborative working that offer alternative operational means of document and information sharing.]

For memory, the following existing rules are recalled:

(5) Individual mailboxes continue to be of a fixed and limited size ⁽¹⁴⁾.

(6) Documents that are freely available and directly accessible on the Commission's information systems should not be attached to emails nor stored within the email system — whenever possible, messages should feature only hyperlinks to these documents.

(7) Documents which fulfil the formal criteria for registration and filing must be registered and filed as such in the official document management system(s) in use in a DG, where they will be retained in accordance with the Common (or, where appropriate, a DG-specific) Retention List ⁽¹⁵⁾.

This Email policy encourages more efficient communication and active mailbox management in order to improve the use of central email storage facilities and help users with classifying and filtering their message stores.

9. EMAIL PRIVACY

DG DIGIT routinely monitors statistics of the global volume of email traffic for the following operational and service improvement purposes:

- Service planning
- Service operations
- Cost analysis and resource allocation
- Configuration management of information resources
- Detection of abnormal activity levels that could lead to delays or blockage of the email system, thereby affecting the continuity of the Commission's operations.

The Commission has the right to review any electronic files and messages in cases of suspected breaches of legal or security

⁽¹⁴⁾ Whereas the mailbox size will continue to be of fixed limit, an individual mailbox capacity can be increased in the case of an exceptional business reason (critical function, emergency etc.) by application from the DG IRM to DIGIT's Email Service. Such increases are granted by DIGIT within certain limits and under specific conditions, amongst which, where there is evidence that despite thorough mailbox administration (e.g. cleaning messages from the mailbox) being actively applied, the email traffic density is too high to allow effective use of the mailbox within the standard limits.

⁽¹⁵⁾ The common retention list for Commission files was circulated as a document from the Secretary-General: SEC(2007) 970 of 4.7.2007.

obligations, and may check the contents of email messages under the conditions set out in the Commission's investigation procedures. Subject to appropriate authorisation this may include access to email message content and attachments without prior notification.

However, all monitoring and investigation activities have to fully comply with data protection rules.

It should be stressed that the Commission may be held liable for damages caused by its staff in the performance of their duties. As a result a member of staff may be held personally liable pursuant to Article 22 ⁽¹⁶⁾ of the Staff Regulations.

10. ENCRYPTION

It must be assumed that internal or external electronic communications are by their nature not totally secure. Accordingly, particularly sensitive information should be transmitted by other means and where necessary encryption should be used.

Only encryption software approved by ADMIN/DS and supplied by a DG's IT support team may be used for purposes of safeguarding sensitive or confidential information. This must provide the possibility for third parties to recover encrypted information when necessary.

11. CONTRACTORS AND EXTERNAL STAFF

Contracts between the Commission and companies or agencies supplying workers as contractors and external staff should contain a provision according to which their personnel is required to fully respect the conditions laid down in this Communication and that the company will take full responsibility for any breach. Furthermore, for email accounts assigned to non-Commission staff it should be mandatory that all messages (new, forwarded or replies) feature a footer identifying the author as external staff, and the company to which they.

12. ROLES AND RESPONSIBILITIES

The SG will be responsible for the organisational aspects of the use of the email system (i.e. this email usage policy) as part of its role and responsibility for electronic document management and archiving in the Commission.

ADMIN will be responsible for policies relating to use of the Commission's intranet and other central communication tools as an alternative to email, as part of its responsibility for internal communications; and for IT security matters.

DIGIT in collaboration and consultation with local IRM services within DGs will be responsible for the service support and delivery, including evolution of the service, which encompasses the technical enforcement of this policy.

The Communication establishing a business continuity management framework ⁽¹⁷⁾ identifies the roles and responsibilities of the key actors in the case of risks of disruption of the Commission's activities, including for maintaining the continuity of critical communication services such as the Commission's email system.

13. REVIEW

This email policy and its implementation will be reviewed initially three years after it comes into force and periodically thereafter to take account, inter alia, of emerging technological developments and organisational requirements ⁽¹⁸⁾.

⁽¹⁶⁾ Article 22(1) states "An official may be required to make good, in whole or in part, any damage suffered by the Communities as a result of serious misconduct on his part in the course of or in connection with the performance of his duties."

⁽¹⁷⁾ SEC(2008) 898 and 899 of 12.7.2006.

⁽¹⁸⁾ Especially for crisis management and business continuity.

Annex 1: List of target operating parameters for future use of email

(1) Mailbox automatic deletion time limit (Inbox — Read & Sent Items): to be defined after operational impact analysis of the pilot exercise(s). Initial notional target – 6 months.

(2) EAS object lifetime limit: 7 years.

(3) In cases where attachments are required, recommended maximum size of internally bound message attachment: 2 Mb.

(4) Recommended maximum number of mailing list members: 150 (if exceptionally a larger mailing list appears to be necessary, its establishment and use should be carefully considered and justified and will require prior agreement by senior DG management).

(5) Recommended document formats for attachments for professional purposes: doc, rtf, xls, pdf, txt, ppt, zip, tiff, jpg, odt, ods, xps

Annex 2: Email best practice guidelines

Introduction

Email has evolved to the point where it has become the standard form of internal and external communication for all Commission staff. A consequence of this is that a number of initiatives have been taken in terms of awareness ⁽¹⁾ and training ⁽²⁾ to ensure that maximum effectiveness is derived from the email communication tool. This annex aims to consolidate recommended best practice approaches in terms of effectiveness, efficiency, security, and staff morale.

The guidelines are grouped into the following three categories:

- Working methods — ways of creating and transmitting messages
- Communication protocols — a common user understanding of message distribution
- Data retention considerations — communicating information.

1. Working methods

Users themselves can be more consistent and efficient in the way they use email, thereby significantly alleviating pressure on the email system, on themselves and on their colleagues, including senior managers, who receive a growing number of messages that do not directly concern them. There is also considerable scope for staff to improve their communication style by being more selective in their use of email and by actively engaging other means of relaying and exchanging information such as phone or personal contact.

The following measures improve the way users interact with the email system and in so doing raise efficiency and effectiveness:

• Alternative modes of communication

Users should be encouraged to make full use of alternative forms of communication (e.g. phone, voice mail, personal contact, intranet), which in many situations can be preferable, more efficient, more secure and more productive than email.

⁽¹⁾ Optim@il: http://www.cc.cec/home/dgserve/digit/everybody/e_mail/use_email/brochure/doc/top15_low_en.pdf.

⁽²⁾ Syslog entry (2007) SY_OUTL2003_MAIL — Outlook 2003 — Manage your email more efficiently.

• Observance of email's seven functions

Email is designed for:

- Transmission of official documents (e.g. final communication) using document links.
- Procedural collaboration (e.g. message exchange in pursuance of a complaint).
- Workgroup collaboration (e.g. evolution of a draft policy document) using shared file stores.
- Informal exchange of opinion on a focused issue (e.g. individual viewpoints on a particular issue).
- Personal exchanges without focus (e.g. general information exchange on a subject area).
- Automated notifications of an event (e.g. a workflow action for a procedure).
- Non-controversial private communications (e.g. personal appointments, information exchange).

• Protection of identity

Users should only disclose their Commission email address to outside persons if there is a professional need.

• Segregation of personal and professional use

Users should be encouraged to take advantage of the many free web email services available for their private email needs. This will reduce overload on the Commission's system and personal mailboxes. In cases where the Commission's email system is used for personal messages, they should be clearly indicated as such.

• Common message structures

– Subject headers

The subject header should never be left blank and should indicate purpose (action, info, log, etc). In case where an action is expected the subject header should be even more explicit, indicating theme / expected action / deadline.

– Priority (Importance)

The high priority flag should only be used for messages requiring action on the same day. The low priority flag should be used for personal exchanges.

– Sensitivity

This should be used whenever information is sensitive and in such cases users should seek the permission of the author of the message before forwarding it.

– Netiquette

Abbreviations, symbols and other short cuts often used in forums, blogs, and SMS messaging should be avoided as they can be a source of confusion and annoyance for the recipient.

– Format

In the case where a service has defined guidelines for message format standards including signatures, users are required to observe these guidelines for all email communications of a professional nature.

• Attachments and links

Wherever possible document attachments should be replaced by links to common drives or document repositories on web servers (see examples ⁽³⁾). The development of collaborative tools across the Commission will further facilitate systematic use of this approach.

• Common document format

Whenever attachments are used, they should preferably be in one of the document formats recommended for professional purposes (doc, rtf, xls, pdf, txt, ppt, zip, tiff, odt, ods, xps).

⁽³⁾ ABM/SPP Network: http://www.cc.cec/home/dgserv/sg/i/spp/index.cfm?lang=en&page=mm_network.

- **Formal messages**

All messages of a formal nature should be logged in a document registration system — ARES (or Adonis, for DGs that have not yet migrated).

- **Disclaimers**

Disclaimers do not guarantee legal protection. Any protection they can provide will only be effective if disclaimers are correctly drafted in relation to the material concerned and if they reflect the actual practice of the Commission. The wording and format of an email disclaimer should be approved in each DG ⁽⁴⁾.

- **Out of Office**

“Out of Office” messages should be mandatory during absences of one working day or more and where no delegations or other mechanisms (eg internal auto-forward) are in place to actively manage incoming email. This form of message should conform to the DG’s convention on format and information content (including alternative contact information). From the time the technology will allow for it, different Out of Office messages should be used for internal and for external recipients.

- **Politeness and professionalism**

Message tone must remain polite and avoid expressions that might be perceived as offensive or insulting by recipients. Email should not be used in situations of potential conflict. If an email requires a reply this should be executed in a timely manner (days, not weeks).

- **Malware, spam and phishing**

DG DIGIT’s email service filters out a considerable amount of harmful and unsolicited emails entering the Commission. Nevertheless, users should be vigilant and avoid acting upon or forwarding or replying to suspicious email messages since these could contain viruses and spyware (malware) or be masquerading as a trustworthy entity, while attempting to acquire sensitive information such as passwords or private information (phishing). Such messages should be reported immediately ⁽⁵⁾ to the local IT Support Service as well as the Local Information Security Officer (LISO)

2. Communication protocols

The speed and ease of communication by email has not only encouraged the introduction of more recipients into the information distribution chain but also invited an increased number of replies and responses to replies. In the past, paper-based communications have been selfregulating by the nature of their lengthy production and transmission processes.

The net effect is that email traffic is getting denser and the average user’s inbox becomes over-populated with messages. This reduces system performance and creates the added work to filter out the most relevant and urgent information.

One of the remedies to tackle this growth in information flows is to apply the “need to be informed” principle to the email distribution functions (To, Copy, Blind copy, Forward, Reply and Reply to All) by establishing the following protocols for using them responsibly:

- **Email distribution functions**

- **Direct addressee function**

The addressee function (“To:”) should be used either for an action or for information directly affecting the recipient’s job function.

⁽⁴⁾ SG will make available a standard general corporate disclaimer approved by SJ.

⁽⁵⁾ Article 7 of Decision C(2006) 3602 on the security of information systems.

– Copy function

The copy function (“Cc:”) should be used for information purposes strictly on a need-to-know basis.

– Blind copy function

Blind copy (“Bcc:”) should be used in cases where the identity of some or all members of the distribution list needs to be kept confidential or alternatively when sending messages to a very large list of users. It should not be used whenever it compromises the principle of transparency in the workplace. Blind copies should not be sent to external recipients as a general rule, and should never be sent to external recipients where internal recipients are identified in the message header of the email.

– Forward function

The Forward function (“Fw:”) for internal email communication should not be used to send messages on to external recipients without the author’s knowledge. The recipient who needs to forward a message should inform the sender of the forwarding action, the new recipient(s) and the reason why they want to forward the message. Auto-forwarding to external recipients is not permitted, although an exception can be granted by ADMIN/DS on a case-by-case basis ⁽⁶⁾.

– Reply function

The Reply function should be used as the standard function for response (instead of Reply to All).

– Reply to All function

The Reply to All function should not be used with mailing lists, or with lists of recipients exceeding 10 users except in a situation where there are extraordinary compelling reasons for doing so.

– Functional mailboxes

The use of functional mailboxes should be encouraged for programme-, project- or taskrelated issues. The designated owner, or the designated manager acting on their behalf, is responsible for the management and transmission of messages using the mailbox. Any user with access to this mailbox transmits messages under the owner’s responsibility, in accordance with the responsibility rules established by the owner (the principle of nonrepudiation, i.e. the indisputable attribution of responsibility to a staff member needs to apply). However, attention must be paid when sending sensitive information since the sender may not know who has access to that functional mailbox.

– Mailing lists

Mailing lists should be used sparingly, and only following careful consideration of alternative non-email based forms of communication (IntraComm, local intranet, existing newsletters and networks, etc). All large mailing lists should require management approval prior to use, should be locked to prevent replies to them, and a procedure should be in place for mailing list members to unsubscribe themselves if they so wish and if it is demonstrated that they have no direct professional need for the information. Mailing lists should be limited in size and their membership should be reviewed periodically by the owner. As a practical guide for users DIGIT has developed a procedure for using mailing lists ⁽⁷⁾.

– Delegations

Email users can delegate mailbox rights to colleagues but should be aware that the responsibility for any information transmitted by a delegate lies with the owner of the mailbox. Delegations should only stay in place for as long as they are needed for operational reasons. Delegated users should not wilfully misrepresent the mailbox owner or use the owner’s mailbox identity for any purposes other than those operational requirements for which they have been given the delegation. Users must not give colleagues any of their passwords that would allow direct access to their mailbox.

– Spam

Staff should avoid generating internal spam by, for example, inappropriate use of mailing lists for routine communications, responding to mailing lists, using the Reply to All function when the recipient list is large or by sending messages asking others not to send messages.

⁽⁶⁾ See: http://www.cc.cec/security/security_management/infosec/infosec_liso_faq_en.htm#autoforward.

⁽⁷⁾ See: [http://www.cc.cec/home/dgserv/digit/corporate_ict/infrastruct/corp_systems/email_tech/doc/EC%20EVERYBODY%20E-MAIL%20Procedure%20\(v3.33\).pdf](http://www.cc.cec/home/dgserv/digit/corporate_ict/infrastruct/corp_systems/email_tech/doc/EC%20EVERYBODY%20E-MAIL%20Procedure%20(v3.33).pdf).

3. Data retention considerations

The ease with which email can be used to disseminate documents leads to duplicated storage in the Commission. Email messaging should be used to provide links to information sources and documents and not to multiply copies of the same document. This shift from “push” to “pull” would free up staff time and infrastructure resources while ensuring easy, unified access to the original sources of information. Also, large document attachments consume considerable proportions of a user's mailbox storage quota, requiring frequent mailbox administration interventions so that other messages can be received and posted. Action in the following areas can improve system performance and resource availability while reducing mailbox administration tasks:

- Document repositories for formal activities — committees and workgroups
- News and information services — protocols and links
- Selective use of EAS services
- Document linking protocol
- Personal folder structures (filing plan map)
- Weekly administration scheduling
- Documentation retention principles.

These will be elaborated upon during the policy implementation phase.

In Annex 1, a fixed retention period is established for messages contained in the Email Advanced Storage (EAS) system; DG DIGIT is studying other means of storing older email items off-line.

Communication of the Commission

A better workplace for all: from equal opportunities towards diversity and inclusion (C(2017) 5300)

1. A new Diversity and Inclusion strategy for Commission staff

1.1. Equality and non-discrimination in EU legislation and beyond

The European Union's founding values of freedom, democracy, equality, human dignity and the rule of law are as relevant today as ever before. They continue to guide EU legislation, policies and activities to advance equality, non-discrimination and diversity across Europe. This currently includes:

- A Strategic Engagement for Equality between Women and Men (2016–2019) for the EU ⁽¹⁾;
- Implementation by the EU (and its institutions) of the United Nations Convention on the Rights of Persons with Disabilities (UNCPRD) ⁽²⁾;
- The List of Actions to advance LGBTI Equality ⁽³⁾;
- The proposed Equal Treatment Directive aimed at expanding protection from discrimination in EU legislation ⁽⁴⁾;
- Awareness raising activities to promote business-oriented diversity management in companies ⁽⁵⁾.

But upholding values starts at home. Whatever we promote to Member States must first apply here in the European Commission. This Communication helps us achieve that by setting out the first comprehensive strategy promoting diversity and inclusion for all Commission staff.

1.2. The Commission as state-of-the-art employer

As an employer, the Commission has already gone a long way in fostering **non-discrimination and equality**. This has not been done as part of a comprehensive diversity strategy but rather through specific programmes aimed at ensuring compliance with non-discrimination rules.

1.2.1. State of play: non-discrimination and equality

Since 1988, the Commission has issued action programmes based on two guiding principles: non-discrimination and equal opportunities, focusing originally on achieving gender diversity. This is in line with the concept of fair treatment for all employees.

A reinforced Strategy on equal opportunities for women and men was adopted by the Commission for the years 2010–2014. Following President Juncker's public commitment, in July 2015 the European Commission set a target to have at least 40% women in its senior and middle management teams by 2019 ⁽⁶⁾.

⁽¹⁾ http://ec.europa.eu/justice/gender-equality/document/files/strategic_engagement_en.pdf

⁽²⁾ <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=COM:2010:0636:FIN:en:PDF>; <http://eur-lex.europa.eu/legal-content/EN/TXT/PD-F/?uri=CELEX:32010D0048&rid=1>

⁽³⁾ http://ec.europa.eu/justice/discrimination/files/lgbti_actionlist_en.pdf

⁽⁴⁾ <http://eur-lex.europa.eu/legal-content/en/TXT/?uri=CELEX:52008PC0426>

⁽⁵⁾ http://ec.europa.eu/justice/discrimination/index_en.htm

⁽⁶⁾ The presence of women in senior management posts has increased from 4% in 1995 to 33% in 2017, and has risen at middle management level from 10.7% to 35% in 2017. 45% of non-management AD posts are now occupied by women, and women constitute 55% of the Commission's total workforce, compared to 44 % in 1995. As many as 52% of staff in the AD5-AD8 categories are women, offering a large pool of skills for the future.

In relation to **staff with disabilities**, or with disabled dependents, the Commission has put certain decisions and guidance in place. These include the Decision on providing reasonable accommodation ⁽⁷⁾, the Guidance on reasonable accommodation ⁽⁸⁾ and the Code of good practice for the employment of people with disabilities ⁽⁹⁾.

More broadly, the 2016 Talent Management Strategy was designed to ensure the best possible match between staff competencies and service needs. The strategy supports:

- Managerial excellence, with a focus on middle managers;
- Recruitment and performance, for long term workforce planning, career opportunities and performance monitoring;
- Development of staff competencies, through learning at work and professionalisation programmes;
- Collaborative skills and corporate culture, in order to develop professional communities and training;
- Career development, notably for non-management AD functions, advisers, AST, contract agents 3a.

These five pillars will be supported by a horizontal effort to increase mobility and diversity across the Commission and to promote diversity and inclusion in all Human Resource processes.

With this Communication, the Commission complies with its pledge on Diversity and Inclusion.

1.2.2. The new concept of diversity and inclusion

In this Communication, the Commission goes well beyond ensuring compliance with non-discrimination and equality rules. It commits to welcoming and managing diversity and inclusion. This **pro-active approach** seeks to create a diverse working environment and an inclusive culture in which everyone feels valued and can live up to their full potential in the workplace.

Diversity is a given in an international organisation that is home to so many nations, languages and cultures. Yet, the concept of inclusiveness is not as straightforward. Inclusion is about an environment that allows our differences to thrive and be accepted and valued. It is a **corporate culture**.

The Commission believes that this concept fits better to today's challenges than a non-discrimination and equal opportunities strategy alone. And the **business case** for diversity and inclusion is just as strong. Organisations that embrace a diverse workforce and are inclusive to all tend to **deliver better results, innovate more and are able to take tough decisions**. The same should be expected from the Commission.

This new approach formally acknowledges that inclusion has different meaning for different groups. The need to take into account the particular situation and specific concerns of each group has been confirmed by the various stakeholders consulted when preparing this Strategy:

- **Women:** inclusion can mean having better access to management posts or not being confronted with stereotyping at work.
- **Staff with disabilities:** inclusion can mean taking into account different needs when providing for adapted reasonable accommodation. This can imply removing barriers to physically entering a building or providing appropriate IT equipment.
- **LGBTI ⁽¹⁰⁾ staff:** inclusion can mean putting measures in place to help all employees feel comfortable and confident to be open about their LGBTI identity and to fully participate in the social dimension of the workplace.
- **Older staff:** inclusion can mean having the same opportunity to work on interesting projects as younger staff, and being valued for their experience.

That is why this Strategy also contains a series of measures targeted to a number of specific groups.

The Commission embraces the concept of diversity and inclusion. It is a pro-active approach aimed at fostering a culture in which everybody is valued and respected. This goes beyond mere compliance with rules. For the first time, the meaning of inclusion for certain specific groups is addressed through a series of targeted measures.

⁽⁷⁾ http://www.cc.cec/guide/publications/infoadm/2004/ia04069_en.html

⁽⁸⁾ http://www.cc.cec/guide/publications/infoadm/2004/ia04069_en.html

⁽⁹⁾ https://myintracomm.ec.europa.eu/hr_admin/en/equal_opportunities/Documents/pwd_c_2003_4362_1_en.pdf

⁽¹⁰⁾ Lesbian, gay, bisexual, transsexual, intersex people

2. Diversity and Inclusion in action

The Strategy is based on measures taken at three levels:

- A new commitment: the Diversity and Inclusion Charter
- Cross-cutting measures relevant for all groups and individuals
- Targeted measures

A set of new measures laid out in this Strategy will already be implemented as of autumn 2017. With the support of stakeholders, they will be further developed and refined in an additional action plan.

The requirement to recruit staff from the broadest possible geographical basis is already enshrined in the Staff Regulations (Article 27). It is therefore not specifically addressed in this Strategy.

3. The Commission's commitment: A Diversity and Inclusion Charter

For the very first time, the Commission will have a Diversity and Inclusion Charter. The Charter sets out the guiding principles for the Commission's Human Resource policies.

Diversity charters are a voluntary initiative aimed at encouraging companies or public institutions to implement and develop diversity and inclusion policies. They outline what the organisation does – and will do – to promote those policies in the workplace. Most importantly, diversity charters are a valuable asset in fighting discrimination and promoting equality at work.

The Commission underlines the value it attaches to a culture of diversity and inclusion for its staff. To reinforce and formalise this commitment it approves, as a central part of this Communication, a "Diversity and Inclusion Charter of the European Commission" which is an integral part of this Communication. The Charter will be widely publicised in order to ensure it is as visible as possible.

DIVERSITY AND INCLUSION CHARTER OF THE EUROPEAN COMMISSION

This Charter is a commitment in favour of diversity and inclusion among the Commission staff, which must benefit from equal treatment and opportunities, irrespective of any ground such as sex, race, colour, ethnic or social origin, genetic features, language, religion or belief, political or any other opinion, membership of a national minority, property, birth, disability, age or sexual orientation.

The Commission commits to:

1. Implement a human resources policy where diversity is regarded as a source of enrichment, innovation and creativity and where inclusion is promoted by managers and all staff, through policies improving work-life balance and flexible working arrangements for both women and men, through appropriate support, particularly for the underrepresented sex, and through the implementation of the obligations enshrined in the UN Convention on the Rights of Persons with Disabilities.
2. Secure equal opportunities at every step of the career, through selection and recruitment procedures and mobility. Selection and recruitment must always be made on the basis of merit, irrespective of any other factors. The process must be devoid of bias while respecting the specific measures and rules so as to redress the gender imbalance at AST/SC level and to achieve the goal of at least 40% female representation in senior and middle management within the present mandate of the Commission.
3. Exclude any kind of discrimination, and promote the enforcement of this principle at every level of the Commission, in line with the Staff Regulations. There can be no place for divisive or opaque behaviours; nor any form of bullying or harassment.
4. Heighten managers' and Human Resource services' awareness of any barriers that can prevent individuals from succeeding. Organise special events and training to fight against stereotypes and to foster inclusion as a corporate culture built on greater diversity and inclusion.

5. Communicate widely and to each colleague the commitment to implement a diversity and inclusion policy, and deliver regular and detailed follow-ups of the results.

4 Diversity and Inclusion through concrete actions

The Strategy is based on a **mix of (i) cross-cutting measures relevant** for all groups and individuals, and **(ii) targeted measures**.

(i) Cross-cutting measures cover recruitment, work-life balance measures such as telework and flexible work arrangements, training for managers and staff, counselling, awareness raising (for example on International Women's Day, International Day Against Homophobia, Transphobia and Biphobia (IDAHOT), International Day of Persons with Disabilities, awards per Directorate-General/Unit, support to internal networks, information material, etc.). These cross-cutting measures clearly recall that no discrimination – direct or indirect – is tolerated within the Commission services. Equal opportunities must be for all, and respect and dignity in the workplace must be upheld ⁽¹¹⁾.

(ii) This Strategy will also include measures that target the **specific groups** identified. While the overarching focus is on diversity and inclusion for everyone, every targeted group faces its own challenges and thus requires different actions. They concern:

- Reaching the target of at least **40% of women in management**;
- Implementation by the Commission of the United Nations Convention on the **Rights of Persons with a Disability (UNCPRD)** ⁽¹²⁾, which is the first human rights convention to which the EU has become a party.
- Specific actions as regards **LGBTI staff** are warranted. The Staff Regulations contain some provisions which address the situation of LGBTI staff, in particular same sex-couples, and inclusive interpretation of some provisions of the Staff Regulations has been made to address situations which may be specific to LGBTI staff in view of ensuring equal treatment of staff. The actions outlined in this Communication aim to ensure that the Commission is a workplace where everybody can share moments of their personal life, and feels comfortable and confident at work.
- As the average age of Commission staff is rising, the Commission must maintain an engaging work environment for **older staff** in which they continue to use and develop their skills and share experience with younger colleagues.

5. Cross-cutting measures

5.1 Attracting a more diverse workforce

The Commission is already a diverse and inclusive organisation. It has staff from all Member States, 24 official languages, an improving gender balance ⁽¹³⁾ in its workforce and a self-declared share of around 6% of staff with disabilities ⁽¹⁴⁾. However, in a changing world, the Commission has to adapt and do more to be representative of our society. It must remain an attractive and motivating place to work in for all members of our society.

The European Personnel Selection Office (EPSO) is the gateway for recruitment to the European civil service. While EPSO consistently applies an equal opportunities policy and takes all reasonable measures to ensure equal treatment of all candidates, it will also work to further enhance the diversity of applicants. It will do so notably by broadening its outreach

⁽¹¹⁾ Art. Id (77) (96) of the Staff Regulations says: "any discrimination based on any ground such as sex, race, colour, ethnic or social origin, genetic features, language, religion or belief, political or any other opinion, membership of a national minority, property, birth, disability, age, or sexual orientation shall be prohibited."

⁽¹²⁾ <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=COM:2010:0636:FIN:en:PDF>

⁽¹³⁾ 55% women vs. 45% men of the Commission's total workforce, compared to 44 % in 1995.

⁽¹⁴⁾ 6.1% of respondents in the 2016 Commission's staff opinion survey indicated that their daily activities (e.g. walking, seeing, concentrating, communicating, etc.) are affected by longstanding health issues (longer than 6 months) or disability (physical, mental or sensory). This is on a self-declared basis. Surveys conducted at European level show that, depending on the definition employed by the studies, usually between 10% and 15% of the EU population aged 15-64 report a disability. Therefore the real prevalence of disability among Commission staff may be higher.

and further developing diversity communication channels. These will be made up of expert organisations and associations representing people from diverse target groups. It will therefore be easier to engage closely with these groups and understand their needs and the barriers they face. It will help present the EU institutions as potential employers and publicise current vacancies through these channels.

5.2 Fostering diversity in selection and recruitment procedures

Members of (pre-) selection panels within the Commission should be particularly encouraged to attend specific training to raise awareness of unconscious bias. This will help equip them with tools to eradicate bias in decision-making, notably on the grounds of sex, race, colour, ethnic or social origin, genetic features, language, religion or belief, political or any other opinion, membership of a national minority, property, birth, disability, age or sexual orientation. The structure of the interview conversation should take into account the principles of diversity and avoid risks of unconscious bias.

In general terms, diversity in all (pre-) selection panels should be encouraged, without prejudice to the specific requirements that have been established to achieve the target of at least 40% women in management ⁽¹⁵⁾.

5.3 An inclusive working environment and a good work-life balance for all

A culture of equal opportunities for all, respect, and safeguarding dignity is essential for a thriving and inclusive workplace. The Commission has the duty to maintain such a culture, offer support and where needed take action, if the dignity of an individual is threatened or infringed.

5.3.1 Discrimination prevention

All managers will be provided with specific training to ensure a respectful working environment and act against the biases mentioned in the Staff Regulations. This will heighten their awareness and increase their ability to detect any discrimination on the grounds of sex, race, colour, ethnic or social origin, genetic features, language, religion or belief, political or any other opinion, membership of a national minority, property, birth, disability, age or sexual orientation or gender identity. As a result, all managers would, for instance, intuitively keep a watchful eye on the scheduling of meetings to ensure they work for all participants. In addition, they would be open to women and men with caring or family-related responsibilities. They would reassure – and not penalise – those who use workplace flexibilities. Managers would also combat prejudice against older colleagues and put their experience to good use.

5.3.2 Harassment prevention

Discrimination can be manifested through harassment. To enforce its anti-discrimination policy, the Commission will continue to develop the existing conflict and harassment prevention framework ⁽¹⁶⁾. The Directorate-General for Human Resources will also, by **means of awareness raising actions**, encourage good practices to help pre-empt any negative behaviours. This would focus on:

- Supporting teams with team-building actions, consultancy and coaching, systematically strengthening what works well;
- Equipping Commission managers, by means of training and coaching, with appropriate people leadership skills. This will help them encourage their staff to adhere to good practices and pre-empt unsuitable behaviours; and
- Offering conflict management courses to managers and staff for immediate application in the teams they are responsible for or work in. This will help provide the tools needed to de-escalate budding conflicts at the outset.

5.3.3 Promoting inclusion

In addition to the efforts expected of managers and staff, the Commission will increase awareness-raising actions on the mechanisms designed to prevent non-inclusive practices at corporate level. The Commission will offer further training for staff and managers on respect and dignity in the workplace. In addition, on the basis of information and experience gained from anonymised individual cases, the Commission's Mediation Service will present a yearly general activity report to the

⁽¹⁵⁾ Commission Decision of 27 July 2016, PV(2016)2179, point 11; Commission Decision of 15 July 2015, PV(2015), point 5.1.

⁽¹⁶⁾ See https://myintracomm.ec.europa.eu/hr_admin/en/equal_opportunities/respectful_working/harassement/Pages/index.aspx

Commission. This report may contain general recommendations to promote good practice. As an independent actor, the Commission's Mediation Service can help develop comprehensive measures for the management of human resources, for example in relation to psychosocial risks. It seeks to improve relations between staff and the administration, thereby preventing recurrence of similar problems.

5.3.4 Opportunities to report discriminatory or hostile practices

Transforming the workplace environment into a diversity-friendly one implies offering applicants and staff safe means of reporting unfair, discriminatory or hostile practices, particularly on the grounds of the personal identity elements mentioned in the Staff Regulations, namely sex, race, colour, ethnic or social origin, genetic features, language, religion or belief, political or any other opinion, membership of a national minority, property, birth, disability, age or sexual orientation. Cases of discrimination, inequality or intolerance during the recruitment process or in the workplace will be rigorously followed up. A zero tolerance approach will be taken. Apart from the formal procedures included in the Staff Regulations, such as formal complaints or requests for assistance, staff may also, within the harassment prevention scheme, confidentially seek advice and help from counsellors and/or the Commission's Mediation Service.

5.3.5 Encouraging telework and flexible work arrangements and a good work-life balance

The Commission has set up an integrated health and wellbeing "fit@work" strategy for its staff. The strategy's primary aim is to care for Commission staff and protect their health and wellbeing. The "fit@work" strategy and action plan also include work-life balance related elements to better address the needs of the Commission staff. Indeed, achieving a good work-life balance and managing a higher workload are the second most common cause of concern among colleagues, according to the 2016 staff satisfaction survey. In order to address this situation, the "fit@work" strategy aims to highlight various actions through communication campaigns and ensure the highest degree of uniform application, for instance, for time management, part-time and telework formulas.

Flexible working arrangements are also key to attracting and retaining a diverse workforce, as evidenced for example by the Commission's initiative to address the work-life balance challenges faced in particular by working parents and carers ⁽¹⁷⁾.

In particular, in terms of result-oriented environment and work-life balance, the Commission has in place:

- Flexible working recognised in the Staff Regulations since 2014 as an essential tool for reconciling private and professional life, thereby ultimately increasing productivity. Flexitime is currently the default working regime.
- The Telework Decision of 17 December 2015 further increased the possibilities for telework. Managers and staff are encouraged to make maximum use of it within specified limits. A specialised course on managing teleworkers is offered to managers under the "fit@work" programme. "Tips & tricks" brochures for staff and managers on how to make teleworking a success are readily available. In addition, the Directorate-General for Human Resources, together with the Directorate-General for Informatics, is looking at the development of online and internet based video conference and telecommunication facilities in order to help managers communicate more easily with their teleworking staff and reduce the overall telework-related expenses.
- On 8 January 2016, the Commission adopted further flexibility measures for part-time work formulas ⁽¹⁸⁾. In this respect, the criteria for obtaining 95% part-time for staff suffering serious hardship will be revised in order to make it more accessible and to align the Commission with other European Institutions.
- The Staff Regulations and Commission rules foresee special leave entitlements for family-related events, such as adoption leave, maternity leave, paternity leave, parental leave, and family leave ⁽¹⁹⁾.

Persons benefitting from these arrangements must not suffer in their career development. Directorate-General Human Resource will analyse and scrutinise correlations between working patterns and career advancement to avoid situations of discrimination.

⁽¹⁷⁾ <http://ec.europa.eu/social/main.jsp?catId=1311&langId=en>

⁽¹⁸⁾ Commission Decision C(2015)0157 concerning telework; Commission Decision C(2015)9720 concerning part-time work.

⁽¹⁹⁾ https://myintracomm.ec.europa.eu/hr_admin/en/employment_conditions/leave/Pages/index.aspx

5.4 Preparing talented staff for management

Following the recently agreed guidelines on job shadowing ⁽²⁰⁾, the Directorate-General for Human Resources will provide all necessary support to shadowing actions targeting administrators that are interested in following managers in their daily tasks. Directorates-General will be encouraged to follow best practices for example in setting up local initiatives or programmes, addressed to administrators that may be interested in management functions. This could include setting up a training plan. Local management (direct superior, other managers having worked with the administrator) should encourage administrators whom they consider to have management potential to take part in further training, or to apply to “pre-management” positions such as team leader, head of sector or deputy head of unit. Directorate-General Human Resource will ensure that all relevant information on training options is passed on to the Directorates-General.

The Commission will, in addition to existing measures, offer further training on diversity and inclusion for all staff, with the aim of awareness-raising.

6. Targeted measures for specific groups

The cross-cutting measures described above are the very essence of the culture of diversity and inclusion in the Commission. However, the Commission will also pay particular attention to targeted measures for specific groups.

6.1. Achieving the target of at least 40% women in management

The Commission is committed to achieving the target of at least 40% women in management within its mandate. To this end, a number of tools have been approved by the College to ensure that the selection processes leading to the nomination of senior and middle managers provide equal opportunities to all talented women ⁽²¹⁾. Developments are being closely monitored at the highest level.

- **Targets for first time appointments:** While recognising the progress achieved during the first half of its term of office ⁽²²⁾, the Commission needs to adopt additional measures with a view to fully reaching the target of at least 40% female managers. Namely, as a follow-up to the present Communication, the Commission envisages to set quantitative targets in terms of first female appointments to middle management functions to be achieved by each Directorate-General and service by the end of 2019 ⁽²³⁾. The Commission departments could be prevented from filling middle management functions if they do not make sufficient progress towards the targets assigned.
- **Management Programmes for Women:** In parallel to the above-mentioned measures and in order to increase the number of first applications for middle management functions from women, the Commission will strengthen accompanying measures in the form of specific programmes for women. Details and outline of the programme will be presented in the action plan following this Communication.
- **Identifying talented women:** the Directorate-General for Human Resources will also promote relevant training, including participation in leadership courses. It will launch awareness raising activities to help reach out to potentially eligible female staff. In this context, the career guidance service in the Directorate-General for Human Resources is also available.
- **Fostering Mobility of AD women:** the Directorate-General for Human Resources will support the mobility of non-management female AD staff between Directorates-General so as to enable them to expand their experience, and work on further development opportunities.

⁽²⁰⁾ https://myintracomm.ec.europa.eu/hr_admin/Documents/TalentManagement/Job_Shadowing.pdf

⁽²¹⁾ Commission Decision of 27 July 2016, PV(2016)2179, point 11.

⁽²²⁾ On 1 July 2017, female representation was at 33% at senior management level while at 36% at middle management, all in all at almost 36% at both management levels.

⁽²³⁾ The targets for first appointments will replace the indicative sub-targets per Directorate-General for female representation in middle management as set out in the document SEC(2015)336.

- **Fostering Confidence:** the Directorate-General for Human Resources is developing further corporate initiatives with a view to identifying female ADs with the potential to grow into a middle management function.
- **Specific programmes for DGs:** In addition to the corporate measures, local initiatives are encouraged to allow female ADs to expand their capacities and boost self-confidence by enabling a more active exchange within and between women's networks. The Directorate-General for Human Resources will offer specific programmes for female ADs who are eligible to apply to middle management functions, to empower them to fulfil their real potential, develop their management capability, and to allow them to make informed career choices. These programmes can be adapted to the specific situation in the Directorate-General, considering their policies, organisation, size, staffing, gender composition and preponderance of grades. Implementing the corporate programmes in the Directorates-General will enlarge the pool of potential female managers. While not every talented woman can expect to take on a middle management position, experience has shown that these programmes bring numerous benefits to participants helping them find fulfilment in their careers. They also increase participants' engagement, motivation and a feeling of "belonging".
- **Understanding barriers for women:** The middle managers constitute the talent pool from which, ultimately, senior managers will be selected. Officials eligible for senior management positions should have at least two years of management experience in grade AD 14 or in grade AD 13 (in the latter case at least 2 years seniority in the grade is required). The Directorate-General for Human Resources will set out questions to this group, to be filled out on a voluntary basis. It will enquire on the motivation, possible barriers and perceived suitability for senior management positions.
- **Working with women networks:** Previous experience in Directorates-General has shown that formal or informal networks improve work processes and interconnections amongst different Directorates-General. They are also a key element to **provide information, mutual support, coaching as well as delivering role models**. In this respect, the Directorate-General for Human Resources will support women's local or cross-cutting networks throughout the Commission, by providing:
 - A space for support and exchange with other women's networks across the Commission;
 - A Central Desk for information on learning opportunities for leadership development;
 - Regular speaker events, open to members of the networks;
 - Support to provide mentoring opportunities;
 - A dedicated Connected or Yammer space to facilitate exchanges;
 - A platform for women's representative organisations and networks on the intranet webpages of the Commission;
 - Help to existing women networks which are largely organised by nations, to network amongst them and set up a "network of the networks" and establishing more networks.

The Directorate-General for Human Resources will focus on fostering potential female managers by developing central initiatives as well as by requesting Directorate-Generals to set up local management programmes. The Directorate-General for Human Resources will support women's networks across the Commission and will provide a common platform for these networks to meet and exchange views and best practices.

6.2 An inclusive environment for persons with disabilities

While the Commission has already implemented specific decisions for staff with disabilities, the objective is now broader - it is to ensure, as far as reasonably possible, that people with disabilities have the **same possibility to work and progress in their career as persons without disabilities**.

6.2.1 Improving accessibility to buildings, websites, communication tools

The Commission will:

- Continue to ensure full accessibility across the board. It will review, in light of the UNCRPD obligations on information and communication including ICT, and the UN Committee conclusions ⁽²⁴⁾, the accessibility of all its websites and of other means of communication (e.g. in sign language) and information provided, including easy-to-read formats.

⁽²⁴⁾ <http://ec.europa.eu/social/main.jsp?catId=1138&langId=en>.

- Continue to refit and refurbish its buildings in line with the highest possible standards, including going beyond certain minimum national legal obligations, for instance through the installation of vocal signalisation in lifts.
- Strive for high accessibility to all its standard buildings throughout the European Union. As local legal requirements vary in the Member States, the Commission will strive to meet the highest standards for accessibility. Representative associations of staff with disabilities will be involved in devising corresponding plans. The Commission will also integrate in its internal provisions the relevant EU legal obligations on accessibility and public procurement.
- Monitor compliance of its building environment and its communication tools with the UNCRPD obligations of accessibility following the “universal design approach” ⁽²⁵⁾.
- Ensure that staff with disabilities are duly represented in the decision-making processes of issues of their concern – as is for example the case under the social integration section of the “fit@work” action plan.

6.2.2 Information and assistance to staff

The Commission will:

- Set up a new online information portal which will feature relevant information for colleagues with disabilities, who will be invited to participate in the project;
- Establish a single help and contact point for all staff with disabilities to address their specific requests. The contact point will help ensure that their rights and requests concerning specific needs are given appropriate follow-up. It should also be available for consulting, encouraging and supporting line managers in recruitment, accommodation and retention of colleagues with a disability;
- From 2018 onwards, provide all newcomers at the entry into service with an optional questionnaire about special needs, if any, to have a better understanding about the different facets of disability;
- Support staff with disabilities networks by providing a space for exchange;
- Create a dedicated Connected or Yammer space to facilitate exchanges;
- Encourage all staff and managers to benefit from training on unconscious bias and discrimination relating to disabilities.

6.2.3 Staff with caring responsibilities

The Commission will ensure that staff and managers are sensitive to the situation of staff with caring responsibilities for dependents with disabilities, by means of appropriate training and awareness-raising. Staff must be enabled to use the possibilities for flexible working and special leave where warranted, without disadvantages to their careers.

The Commission is aware of the UNCRPD Committee's recommendation about the European Schools regarding an inclusive quality education for all students with disabilities. The Directorate-General for Human Resources is in a renewed dialogue with the Secretary-General of the European Schools in order to address this issue. However it should be noted that the European Schools are subject to an inter-governmental agreement between the Member States and the European Union, according to which the Commission has a single vote, as any other Contracting Party.

In addition, the Directorate-General for Human Resources will:

- Support representative organisations of staff with disabilities and with caring responsibilities for disabled relatives by offering logistic support where necessary; and
- Provide a platform for staff's corresponding representative organisations on the intranet webpages of the Commission.

6.2.4. Medical-costs scheme and other support

All beneficiaries of the Joint Sickness Insurance Scheme (JSIS), whether with or without disabilities, receive under certain conditions reimbursement of sickness costs of 80% or 85%, depending on the pathology and type of expenses, and of 100% in case of serious illness.

Payments by the JSIS should not be seen in isolation because staff members with a disability or staff members' disabled family members – in the meaning of the Staff Regulations – can benefit from other payments made outside the JSIS. This

⁽²⁵⁾ See Article 2 of the UNCRPD.

concerns financial support in case of non-medical expenses linked to a disability, such as adapting the home environment to the needs of a staff member with disabilities, or financial support for special schooling that may be necessary for children with disabilities.

Reimbursement of non-medical costs related to disabilities is however sometimes confused with the principles and guidelines from the medical insurance scheme, with sometimes important financial complexities and unsuitable analogies to “very ill” persons.

The Commission will set up a suitable body to study the current situation and to propose ideas and means to lighten as far as possible the burden of staff with disabilities. The Commission will closely consult with and actively involve persons with disabilities, through their representative organisations, in the decision-making processes concerning issues relating to them. These recommendations are expected to be implemented before the end of the current mandate of the Commission.

The Commission will set up a central help and contact point for information for staff with disabilities. It will organise trainings for all staff on unconscious bias and discrimination of staff with disabilities. It will also provide a platform for the relevant staff associations on its internet website. The Commission will set up a suitable body to study the current situation of costs and their coverage related to disabilities, with a view to lighten as far as possible the burden of staff with disabilities. From 2018 onwards, the Directorate-General for Human Resources will provide all newcomers at entry into service with an optional questionnaire about special needs to have a better understanding about the different facets of disability.

6.3 A working environment where LGBTI staff are comfortable and confident about their identity

In line with a resolution from the European Parliament and a joint call from Member States to increase efforts to combat discrimination on the grounds of sexual orientation and gender identity, the Commission set out the ‘List of actions to advance LGBTI Equality’. The objectives are to support progress across the EU and beyond in a number of policy areas, improve and enforce EU legislation and improve the social acceptance of LGBTI people. It includes activities envisaged by the Commission in different policy areas in 2016-2019. The first Annual Report on the Implementation of the List of Actions was published in February 2017 ⁽²⁶⁾.

As part of the List of Actions and its efforts to promote diversity and inclusion at the workplace, the Commission published on 17 October 2016 the report “The Business Case for Diversity in the Workplace: Sexual Orientation and Gender Identity” ⁽²⁷⁾. The report finds it makes good business sense to have LGBTI-supportive actions in the workplace. This is associated with reduced incidence of discrimination. Less discrimination is associated with better psychological health and increased job satisfaction among LGBTI employees. In addition, the presence of LGBTI-supportive activities and workplace environments are associated with improved relationships between LGBTI employees and their co-workers and supervisors; LGBTI employees are more engaged in the workplace, are more likely to go above-and-beyond their job description to contribute to the work environment, and report greater commitment to their jobs.

The Commission as an employer is committed to an inclusive culture in which everyone, including LGBTI staff, feels valued, can be themselves, and can realise their full potential. A two-way process is essential in this respect: managers’ inclusion of LGBTI staff creates favourable conditions for staff to feel comfortable and confident and to be open about their LGBTI identity; and when LGBTI people who so wish are open about their identity, they contribute to further LGBTI inclusiveness ⁽²⁸⁾. This is in line with the needs expressed by both representatives of the Commission’s/internal LGBTI staff association, and of external organisations’ representatives and by external ones in their meeting with Commissioner Oettinger.

The actions outlined below aim to foster such a culture where no one feels the need to conceal their sexual orientation and where everyone, including LGBTI staff, feels valued, can be their authentic selves and realise their full potential. These concrete actions come on top of the rules already enshrined in the Staff Regulations and the inclusive interpretation which,

⁽²⁶⁾ http://ec.europa.eu/newsroom/just/item-detail.cfm?item_id=54346

⁽²⁷⁾ http://ec.europa.eu/newsroom/just/item-detail.cfm?item_id=35768

⁽²⁸⁾ Workplace Pride, Talent to change for LGBT Employee Research Leading The Way In Diversity
<http://workplacepride.org/site/docs/Talent%20to%20Change%20For%20FINAL%20FULL%20REPORT.pdf>

when necessary, has been made of them. Those actions are mostly awareness-raising actions, such as staff events on the International Day against Homophobia, Transphobia and Biphobia (IDAHOT), or training for managers. It is evident that in creating such a culture, managers play a leading role. Managers' inclusion of LGBTI staff creates favourable conditions for staff to feel comfortable and confident, and to be open about their LGBTI identity.

To increase inclusiveness, the Directorate-General for Human Resources will engage particularly in actions such as:

- Exchanging information and good practices with international companies and public administrations;
- Promoting training on unconscious bias at all levels;
- Ensuring that managers are trained specifically to prevent discrimination and bias in relation to LGBTI people;
- Organising central staff awareness-raising events on the occasion of the International Day against Homophobia, Transphobia and Biphobia (IDAHOT);
- Launching further awareness-raising initiatives;
- Pursuing a zero tolerance policy against discrimination and harassment;
- Supporting representative organisations of LGBTI staff by offering logistic support where necessary;
- Providing a platform for representative organisations of LGBTI staff on the intranet webpages of the Commission;
- Supporting LGBTI staff networks by providing a space for exchange;
- Creating a dedicated Connected or Yammer space to facilitate exchanges.

In line with the new approach of formally acknowledging that inclusion has different meanings for different groups, the Commission addresses explicitly the social inclusion of its LGBTI staff. In this field the Commission will carry out in particular awareness-raising actions and exchange best practices with international companies and public administrations. The relevant staff associations will have a platform on the Commission's intranet webpages.

6.4 Valuing the talents of older staff

The Commission is committed to ensure that there is no discrimination in the careers of older staff. Any incidence of discrimination is strictly pursued. As first steps to foster inclusion, and in order to maximise the benefits from the expertise and experience of its older staff, the Directorate-General for Human Resources will notably monitor the mobility and development patterns and their success rates in applying for new positions in the institution, so as to identify any possible bias. In addition, the Commission implements a range of measures which also benefit older staff. Training is offered for staff of all ages, aiming to continuously help them maintain and broaden their knowledge and competencies, throughout their careers, and to remain at work until the legal retirement age. Suitable working arrangements, and reasonable accommodation when pertinent, including with regard to working time, are an option which is likewise open to older staff.

As first steps to foster inclusion, the Directorate-General for Human Resources will monitor the mobility and development patterns of older staff and their success rates in applying for new positions in the institution.

7. Enhancing leadership and delivering transparent monitoring

7.1 Responsibilities and commitment at the highest level

7.1.1 College

Commissioners and senior managers of the Commission are the key drivers for promoting diversity, gender equality and inclusion for all Commission staff. They will work alongside their portfolio Directors-General to foster and promote a culture of diversity and inclusion for all. They will encourage and support Directors-General in a collective effort to adequately involve and give space to representative diversity or gender equality staff organisations, require them to take preventive measures and to act immediately when there is any evidence of discrimination, harassment or other inappropriate behaviour within their Directorate-General.

The Commissioner in charge of Human Resources will regularly present to the College the progress made in the institution on gender equality, diversity and inclusion, starting in 2018.

7.1.2. Directors-General

Members of the Commission, Cabinets and Directors-General are responsible for achieving the women middle management targets at Directorate-General level ⁽²⁹⁾. Directors-General and Heads of Service are themselves “Diversity Champions” and are as such responsible for diversity and inclusion progress in their Directorates-General.

All Directors-General will fully implement the Commission’s diversity charter (cf. Point 5 below) and should commit to the following (non-exhaustive) practices if not yet in place:

- Set up meeting rules which strive to ensure a good work-life balance for both women and men;
- Promote time flexibility, e.g. part-time working and telework for managers as well as for other levels;
- Implementation of the corporate management programmes open for female ADs, that fulfil the technical conditions to apply for middle management positions, to develop their potential;
- Be responsible, with the support of the other relevant services, to remove and prevent barriers for colleagues with disabilities, by supporting the provision of appropriate ICT equipment, enabling them to fully participate in meetings, or setting up groups to assess reasonable accommodation rights in cooperation with the Directorate-General for Human Resources and other relevant services;
- Promote a full range of actions to enhance rights of LGBTI staff by supportive measures
- Encourage staff to report hostile or discriminatory attitudes;
- Set out best practices to be adhered to in a specific, measurable, assignable, realistic and time-related way; ensure monitoring and evaluation for instance by a competition of “Inclusive Department of the Year”, to be elected via staff vote, with the help of the Directorate-General for Human Resources; and
- Include in the reporting to the Directorate-General for Human Resources their annual action plans and achievements regarding diversity and gender equality, and on providing reasonable accommodation to staff with disabilities.

Diversity and inclusion measures should be promoted at the level of the Directorates-General. All Directors-General will fully implement the Commission’s diversity charter and should commit to a series of (non-exhaustive) practices if not yet in place.

7.1.3. Directorate-General for Human Resources

The Directorate-General for Human Resources is in charge of the relevant trainings, the improvement and monitoring of selection processes and the reporting:

- Yearly, to the College, on progress in reaching during its present mandate the at least 40% target of women in management positions ⁽³⁰⁾;
- Yearly, on the achievement of the above target with a chapter in its annual report;
- Yearly, a diversity and gender equality report.

7.2. Indicators and reports

With regards to the at least 40% target for women in management, the Directorate-General for Human Resources will set out a number of questions to women exercising middle management functions as part of the annual staff satisfaction survey. This will take place during this mandate and be aimed at women in the grades AD 13, with at least 2 years seniority in the grade, and AD 14. It will be on a voluntary and anonymous basis. It will ask about motivation, possible barriers and perceived (un-) suitability for senior management positions.

As regards disability issues, the Commission will more systematically collect information on the types of reasonable accommodation measures and accessibility measures to be taken in order to address effectively and efficiently the needs of its staff. In line with the requirements of the UNCRPD, the Directorate-General for Human Resources will make available as from 2018 to all newcomers at the entry of service a questionnaire about their special needs, to which they can reply anonymously and on a voluntary basis ⁽³¹⁾. In addition, newcomers will get at their entry into service the relevant forms as well as a list of relevant contact persons to obtain the reasonable accommodation that may be needed. The Directorate-General

⁽²⁹⁾ Commission Decision of 15 July 2015, PV(2015)2135, point 5.1; SEC(2015)336.

⁽³⁰⁾ See the first report of 27 July 2016, SEC(2016)362.

⁽³¹⁾ In accordance with the provisions of Regulation 45/2001 on the protection of individuals with regard to the processing of data by the Community institutions and bodies and on the free movement of such data, OJ L 8/1, 12.1.2001.

for Human Resources will, in addition, continue to make use of the annual staff satisfaction survey for existing staff to obtain information on staff with disabilities and their satisfaction about the reasonable accommodation currently provided.

In more general terms, the Commission will also need to collect data on staff satisfaction with the work environment in terms of diversity and inclusion. To this end it will include in the annual staff satisfaction survey questions relating to respectful and inclusive behaviour, and practices, of staff and management, notably in relation to sex, race, colour, ethnic or social origin, genetic features, language, religion or belief, political or any other opinion, membership of a national minority, property, birth, disability, age or sexual orientation.

Progress of this Strategy will be measured quantitatively and qualitatively by the Directorate-General for Human Resources:

- Work Environment: yearly measurement Commission-wide and per Directorate-General of telework and use of flexible working formulas (by women and men); monitoring of career progression of teleworkers and part-time workers (women and men); qualitative measurement of the correlation between flexible working arrangements/job satisfaction/engagement (women and men); qualitative measurement of the work environment and working relationship in the yearly staff satisfaction survey.
- Gender gap in management positions: regular progress measurement Commission-wide and per Directorate-General towards the at least 40% target to be achieved during the present mandate of the Commission; obtaining information from female middle managers on motivation, possible barriers and perceived (un-) suitability for senior management positions; qualitative measurement in yearly staff satisfaction/engagement survey of female and male managers, with particular attention on work-life balance issues; analysis of career progression, effects of career breaks and working patterns between men and women; recruitment of female ADs.
- Gender balance in assistants' positions: yearly measurement Commission-wide and per Directorate-General, with specific attention to strong imbalances; recruitment of male secretaries (AST/SC).
- Disability: staff engagement of people with disabilities measurement in the context of the annual staff satisfaction survey; quantitative measurement and publication of results of recruitment of persons with a disability.
- LGBTI inclusion: staff engagement of LGBTI employees; progress towards fostering an inclusive working environment based on the number of awareness-raising/training actions.
- Discrimination and harassment-free working environment: yearly measurement of the number of discrimination complaints and anti-harassment procedures.
- Age inclusion: staff engagement of older staff; analysis of mobility patterns.

In order to measure progress in inclusion in qualitative terms, new questions regarding diversity and inclusion will be included in the next staff satisfaction survey.

8. The way forward

The Commission, working closely with the relevant stakeholders, will now immediately prioritise and get to work on the operational implementation of the principles and measures set out in this Strategy.

While all actions contained in this Strategy deserve the same level of attention, the operational implementation will concern first the following areas:

- Trainings for all staff to promote diversity and inclusion at the workplace, with particular encouragement for managers and panel members to attend;
- Awareness raising actions, in particular through regular speaker events;
- Preparation of talented staff for management, with a particular focus on supporting programmes for women in light of the at least 40% target of female managers;
- Reinforced continuity between EPSO's and the Commission's actions to foster diversity in selection and recruitment procedures;
- Support (including logistic support) to associations and networks to which greater visibility will be ensured;
- Review of the processes and procedures, in particular at the entry into service, for staff with disabilities;
- Review of the questions contained in the Staff Survey as regards Diversity and Inclusion.

The operational steps to be taken in order to achieve the objectives of this Strategy will be based on the above global orientations and incorporated in an operational Action Plan.

The first Diversity and Gender Equality Report will be elaborated by the Directorate-General for Human Resources in 2018 and will be widely publicised.

Implementation will be started immediately. In 2018, the Directorate-General for Human Resources will establish its very first Diversity and Gender Equality Report which will be widely publicised.

Annex: Timetable

SEPTEMBER 2017

ENGAGE STAKEHOLDERS

Directorate-General for Human Resources elaborates first draft operational action plan with stakeholders' input.

SUPPORT PARTNERS

Support to associations and networks to which greater visibility will be ensured.

AUTUMN 2017

INFORM STAFF

New training sessions for all staff to promote diversity and inclusion at the workplace, with particular incentives for managers and panel members to attend.

SUPPORT WOMEN IN MANAGEMENT

Preparation of talented staff for management, based on a strengthened focus on supporting programmes for women in light of the at least 40% target of female managers.

ENHANCE ACCESSIBILITY FOR STAFF WITH DISABILITIES

Start building the central help and contact point for staff with disabilities, with involvement of their representative association in the Commission.

DECEMBER 2017

AWARENESS RAISING CAMPAIGN

Cycle of Awareness raising actions, launched in conjunction with the International Day of Persons with Disabilities.

SPRING 2018

STAFF SURVEY FEEDBACK ON DIVERSITY & INCLUSION

Revamped questions to be inserted in the Staff Survey as regards Diversity and Inclusion.
First Diversity and Gender Equality Report elaborated and widely publicised.

Guidelines and other texts

Guidelines for applying Article 22 of the Staff Regulations (Financial Liability of Officials) (SEC(2004) 730)

1. INTRODUCTION

On 19 July 2001, as part of the Commission reform process, the College singled out the key aspects with regard to dealing with the personal liability of officials ⁽¹⁾, which form the basis for this document.

The latter should, however, also be seen in the context of other initiatives adopted by the Commission, in particular those aimed at improving and clarifying the general regulatory framework for authorising officers and the annual activity reports and declarations of Directors-General.

This initiative fits into the Commission's efforts to ensure that its resources are strictly and effectively managed as part of ongoing improvements

A principle common to Member States' legal systems is that a person may be required to make good damage caused as a result of his or her misconduct. For officials and other servants of the European Communities, Article 22 of the Staff Regulations constitutes the legal basis that enables the Communities to obtain redress for damage caused to them by their officials and other servants. Article 22 of the Staff Regulations is applicable by analogy to temporary staff, auxiliary staff and special advisers. These provisions implement Article 288, fourth indent of the Treaty concerning the personal liability of officials to the Community.

This document reflects a twofold aspect:

- The Commission's determination to combat fraud, misappropriation of funds, theft, etc. and to apply Article 22 in those cases.
- The assurance that an official or other servant will not be held financially liable for an error or negligence insufficiently serious to amount to gross negligence, which alone entails financial liability.

Since the task of evaluating conduct in the light of the circumstances concerned (working environment) should be given to specialists, the Commission has set up a specialised financial irregularities panel as referred to in Article 66(4) of the Financial Regulation ⁽²⁾ the Appointing Authority will decide, on the basis of the panel's opinion, whether the matter can be closed without further action being taken (where appropriate, making proposals for systemic improvements) or whether the procedure under Article 22 of the Staff Regulations should be initiated.

According to the letter and spirit of Article 22, invoking the personal financial liability of an official must remain the exception. The legislator has specified proof of serious misconduct involving a high level of personal responsibility.

2. WHEN SHOULD ARTICLE 22 OF THE STAFF REGULATIONS APPLY?

For Article 22 to be applied three conditions must be met simultaneously, and the burden of proof that the conditions for the application of Article 22 of the Staff Regulations are met rests with the Administration. The three conditions are dealt with separately under sections 2.1, 2.2 and 2.3.

2.1. The cause of damage: failure to fulfil a legal obligation

Article 22 of the Staff Regulations applies in all situations where an official causes damage to the Communities. It is harmful misconduct by the official which triggers the application of Article 22. In an overwhelming majority of cases such misconduct

⁽¹⁾ See "New orientations for the reform of personnel policy" of 19 July, point 5.4, pp. 17-18:
http://www.cc.cec/home/admref/en/pdf/orientation_19072001_en.pdf

⁽²⁾ Commission Decision of 9 July 2003.

will entail infringement of a text requiring the official concerned to fulfil a clear and precise legal obligation. In order to give rise to legal obligations likely to entail financial liability on the part of the official, the texts concerned must be public ones.

In a few rare cases the harmful misconduct will result from failure to fulfil a legal obligation on the person concerned, even though that obligation is not specified in a text. One such case would be loss resulting from the destruction of property belonging to the Institution. In the case of an obligation on the official to carry out the instructions of his superiors, the Staff Regulations provide that where the official receives instructions which he or she considers to be irregular, the official has a duty to make this opinion known to his/her immediate superior. If the superior provides written confirmation of the instructions the official must carry them out unless they are manifestly illegal or constitute a breach of criminal law or of the relevant safety standards ⁽³⁾. In these circumstances, the carrying out of instructions means that an official who acts in accordance with the third paragraph of Article 21 of the Staff Regulations ⁽⁴⁾ cannot be held financially liable even if the action results in damage to the Communities.

2.2. Damage resulting from failure to fulfil a legal obligation

There must be a causal link between, on the one hand, the act or failure to act on the part of the official failing to fulfil the legal obligation and, on the other, the financial damage suffered by the Communities. Financial damage may arise in all situations where Community resources are managed, whether they are human resources (staff of the institutions), movable property (financial resources, computers, telephones, furniture, vehicles, etc.), or immovable property (premises, etc.). Financial damage can occur in areas other than the straightforward management of Community funds.

Examples of sources of financial damage include theft and destruction of movable property belonging to the Communities, unlawful use of resources, for example, under contracts (calls for tender, co-financing of programmes, failure to recover funds for the benefit of the Communities and funds forming part of own resources).

2.3. Serious personal misconduct

Article 22 of the Staff Regulations is very clear on this point: for an official to be held liable for redress, the damage needs to have occurred as a result of serious personal misconduct on his/her part.

2.3.1. The misconduct must be personal

The personal dimension of misconduct must be established for each official or other servant on a case-by-case basis in the light of his/her individual actions and failures to act which resulted in the damage. This aspect has to be assessed in association with Article 21 of the Staff Regulations, whereby the responsibility of subordinates does not release superiors from their own responsibilities, notably in terms of carrying out the necessary supervisions (for more detail see SEC(2000) 2203 and updates). Serious personal misconduct on the part of a subordinate does not ipso facto entail serious personal misconduct on the part of his/her superior or vice versa.

2.3.2. The misconduct must be serious

While disciplinary action may be taken in any case of misconduct, Article 22 is applicable only in cases of deliberate misconduct and gross negligence.

2.3.2.1. Deliberate misconduct

Any breach of an unambiguous provision, that is to say, one whose meaning is clear inherently implies the existence of serious misconduct if the party concerned has intentionally caused damage to the Communities. The object of the person's act in such a case is personal gain and/or an intention to cause damage to the Communities.

The Commission will in all these cases systematically apply Article 22 to seek redress. This paper is primarily concerned with this type of misconduct.

⁽⁴⁾ See also Article 66(2) of the new Financial Regulation.

2.3.2.2. Serious misconduct in cases of gross negligence ⁽⁵⁾

The damage caused by the negligence is not intentional. Only gross negligence is likely to entail serious misconduct. It can be defined as negligence which would never be committed by an official exercising normal care who finds himself or herself in a comparable situation. This definition features a number of aspects which must be taken into consideration:

Negligence is always measured in relation to the duty of care of an “official exercising normal care”. This means officials in the same grade who are careful, sensible and aware of their duties and responsibilities. Such officials are not “ideal” ones, therefore, but officials with an ordinary capacity for care, understanding and professional conscience. There would be no justification for expecting equal levels of experience and skills from officials in different categories and/or grades. The level of care required also depends on the degree of responsibility exercised. Account is taken of the experience of the person concerned in the area in question and the training received, in addition to his/her original skills.

In assessing the misconduct of an authorising officer by subdelegation, for example, the standard reference is that of an “authorising officer by subdelegation who exercises normal care”. The degree of care will be assessed mainly in the light of the training and experience of the person concerned and accessible documents setting out the rules to be applied and the activities to be carried out (in vade mecums, manuals of procedures, internal control standards, etc.);

In assessing negligence in a “comparable situation”, all the circumstances – especially the official’s working environment – are taken into consideration by the administration. Thus the official’s action is assessed not in isolation but inclusively, in relation in particular to– personal difficulties; the workload,

– the general functioning of the service; the working tools made available to the person;– his or her hierarchical status, since it is up to the Administration to assign and plan the tasks of the service and not to place inappropriate responsibilities on officials; the clarity of the rule that has been infringed and any conflicts between the various rules and documents (manuals, vade mecums, etc.), as officials cannot be held responsible if they are obliged to apply imprecise or conflicting rules. However, in cases of uncertainty, officials are required to seek instructions from their superiors.

An in-depth analysis of the environment in which an official is working when misconduct occurs makes it possible for the Administration to consider all the factors affecting his/her behaviour. The context in which the official carries out his or her duties thus plays a major role. Article 22 will be applied only if the negligence does not occur mainly as a result of that context.

Generally speaking, account should be taken of the repetitive or persistent nature, if any, of the act of negligence. It should be noted here that an obvious work overload which is liable to make the sound administration of financial tasks impossible must be brought to the attention of superiors, who must take the necessary action ⁽⁶⁾.

- Gross negligence is established only if “it ought never to be committed” by an official exercising normal care in a comparable situation. Gross negligence is a very restrictive concept: it does not cover simple errors or slight negligence, or even ordinary negligence committed occasionally by officials exercising normal care.

Lastly, the definition of serious misconduct cannot be reduced to establishing whether the negligence was gross. There has to be an element of awareness on the part of the official of the implications of the negligence (predictable damage).

The examples below seek to illustrate a number of cases of gross negligence – which should, however, be assessed in the light of the circumstances in which they occur:

– where an act or failure to act causes damage to the European Communities and the official concerned has received all the training needed to carry out his or her duties. By contrast, officials newly arrived in their units who have not been given the training they need to carry out their tasks cannot be held liable for the gross negligence likely to be characteristic of personal

⁽⁵⁾ See 5.1 of the Charter of tasks and responsibilities of accounting officers by subdelegation; 5.3 of the Charter of tasks and responsibilities of the Accounting Officer; and 5.3 of the Charter of tasks and responsibilities of accounting officers by subdelegation.

⁽⁶⁾ It should be noted also that ultimate responsibility for a lack of the human resources needed to perform the tasks of the administration in accordance with the requirements of sound administration may – in some cases – reside at political level.

misconduct within the meaning of Article 22 of the Staff Regulations. In the latter case, the act or failure to act is not assessed in terms of what an official in the same grade with practical experience would do but what an “official exercising normal care” faced with a difficult situation is able to do. If this kind of negligence is likely to be committed by any “new recruit” then the person concerned will not be financially liable.

– An “official exercising normal care” but acting in disregard of repeated instructions to the contrary from a superior – or, conversely, an official failing to act despite repeated instructions from a superior – may be regarded as committing gross negligence.

3. THE EXTENT OF REDRESS

The first paragraph of Article 22 of the Staff Regulations does not make it obligatory for the damage to be made good, even where serious misconduct is established.

Article 22 of the Staff Regulations gives the Appointing Authority/AECE wide discretionary powers that it must exercise in the light of the circumstances of the case, assessing all the facts and taking account of all aggravating and extenuating factors.

3.1. A. Full redress in the case of deliberate misconduct

As a general rule, the Commission takes the view that *restitutio in integrum*, i.e. full redress, should be sought in the case of serious deliberate misconduct. Without being exhaustive, the most serious cases will be considered to be theft, misappropriation of Community funds, fraud, bribery and corruption, which normally involve personal gain for the individual responsible or a close relation of that individual or benefit a business in which the individual responsible or a close relative has an interest.

Personal gain resulting from misconduct is a seriously aggravating circumstance.

3.2. B. Redress for a part of the damage in cases of gross negligence

While it cannot be excluded that full redress may be sought in certain exceptional cases for damage caused by serious misconduct involving gross negligence, as a general rule the person guilty of the act or omission should in such cases be asked to make good only part of the damage suffered by the Communities. It seems reasonable that an amount corresponding to one year basic salary be set as a maximum in this context. This ceiling also applies in the case of a number of closely related cases of misconduct (for example several wrongful non-recoveries by the same official or other servant).

In determining the extent of partial redress, the following should be taken into account:

3.2.1. The financial position of the official

Together with considerations of fairness, the Administration's duty to ensure the welfare of its staff justify taking into account the official's financial position in the light of his family situation (number of dependants, child with a disability, etc.). In most cases, officials are responsible for dossiers that may have financial consequences well beyond their means. The Communities must bear part of that responsibility, since officials cannot be compelled to risk their means of existence and those of their family while fulfilling their day-to-day functions.

3.2.2. The working environment

As when determining whether or not the person concerned is guilty of gross negligence and, where appropriate, assessing the seriousness of that negligence, account must be taken of the working environment when assessing the extent to which the damage caused by gross negligence should be made good. The Commission needs to establish clear and unambiguous administrative procedures as regards the hierarchy, responsibility for actions and adequate staffing to enable the unit concerned to carry out the tasks assigned to it satisfactorily. Where shortcomings in the system may have contributed to the negligence of the person concerned, although they are not the principal cause, the extent of the redress should be

reduced accordingly. Nevertheless, overwork due to a total lack of organisation on the part of the person concerned cannot be considered to be an extenuating circumstance when calculating the redress.

For example, let us take the case of an official working in a unit managing significant financial resources who is alleged to have infringed the Financial Regulation through gross negligence. If it is found that the hierarchy did not ensure the smooth operation of the unit and that this contributed to the misconduct committed by the official but was not the decisive factor, the Appointing Authority/AECE could reduce the extent of the redress.

The average internal control standards of a Commission department, as defined by the Commission in December 2000 in its Communication on standards for internal control in the Commission departments ⁽⁷⁾, will serve as a reference for assessing the working environment.

Any shortcomings, in particular in terms of human resources and suitable training, are taken into account at two levels: in determining whether or not there has been gross negligence and in determining the extent of the redress.

3.3. C. Misconduct by several people

Where the damage is the result of serious personal misconduct by more than one person (act committed jointly by several people or committed with the approval of the hierarchy or with the complicity of other people), the Appointing Authority/AECE will take this into account in determining the financial redress that each person concerned must make. It will in such cases assess each person's individual responsibility in the light of the role they played in the infringement. At all events, the overall redress obtained by the Communities should not exceed the amount of damage suffered. The Appointing Authority will examine the individual responsibility of each person concerned in the light of the circumstances of the case. Thus, fraud by a subordinate might have been possible thanks only to the grossly negligent approval of a superior.

4. PROCEDURE FOR INVOKING THE LIABILITY OF AN OFFICIAL

4.1. A. Determining the procedure applicable

The second paragraph of Article 22 of the Staff Regulations refers to "the procedure laid down in regard to disciplinary matters", i.e. the procedure laid down in Title VI of, and Annex IX to, the Staff Regulations.

Article 22 of the Staff Regulations, constitutes a *lex specialis*. It is this procedure which should in principle be applied in order to determine the amount of damage suffered by the Communities which should be made good. The Institution does, however, retain the right to refer the matter to the competent criminal court, in particular where joining a civil claim allows it to consult the case-file and thus obtain, *inter alia*, evidence. In such cases proceedings initiated under Article 22 are suspended until the criminal proceedings have been completed. Similarly, when determining the amount of redress under Article 22, account will, by virtue of the *non bis in idem* principle, have to be taken of the amounts of sanctions (fines and damages) imposed by national courts. Lastly, if a criminal court orders the person concerned to pay, in respect of damage suffered by the Institution a sum which exceeds the maximum amount provided for in these Guidelines and the Appointing Authority takes the view that the said maximum amount is applicable in accordance with the Guidelines, the Administration may waive payment of the sum it is owed in excess of that maximum amount.

4.2. B. Procedure specified in Annex IX to the Staff Regulations

As a general rule, the Appointing Authority/AECE will decide to initiate the procedure provided for in Article 22 on the basis of a case report from the European Anti-Fraud Office (OLAF). The Appointing Authority/AECE can also open an administrative inquiry in order to establish all the relevant facts and give the official the opportunity to put his or her case before initiating disciplinary proceedings and the procedure provided for in Article 22. Such inquiries are carried out by the Commission's Investigation and Disciplinary Office (IDOC) ⁽⁸⁾.

⁽⁷⁾ Communication on standards for internal control in Commission departments (SEC(2000)2203 of 13 December 2000).

⁽⁸⁾ See Commission Decision of 19 February 2002 on the conduct of administrative inquiries and disciplinary proceedings, doc. C(2002) 540.

Alleged cases of gross negligence for which authorising officers could be liable will automatically be referred to the panel mentioned in Article 66(4) of the Financial Regulation ⁽⁹⁾. The same applies to cases of deliberate misconduct not falling within the remit of OLAF.

In its final decision, the Appointing Authority/AECE must examine the disciplinary responsibility and financial liability separately, even if both aspects are dealt with on the basis of a Disciplinary Board opinion delivered following a single procedure. Where the Appointing Authority/AECE deviates from the opinion issued by the Disciplinary Board, it must detail the reasons for doing so.

Since it is up to the Administration to prove that alleged negligence by an official/servant is gross, and since the documents for the accounting system and for the preparation of the accounts are kept only for a certain period ⁽¹⁰⁾, the possibility of finding sufficient evidence decreases significantly once that period ends. Nevertheless, the Commission will, even after that period, endeavour to invoke financial liability in cases involving deliberate misconduct.

Lastly the Commission will ensure that the rights enshrined in the Charter of fundamental rights of the European Union, in particular in Article 41 thereof (the right to good administration), are fully respected.

4.3. C. Rights of defence

4.3.1. Disciplinary procedure

The official concerned has in particular the right to be assisted throughout the proceedings by a person of his or her choice (a colleague, a lawyer, etc). Costs incurred on the initiative of an official in the course of disciplinary proceedings, in particular lawyer's fees, are to be borne by the official where the disciplinary proceedings result in any of the measures provided for under Article 9 of Annex IX of the Staff Regulations. If, however, the disciplinary proceedings cover financial liability, all the costs arising from the single procedure are either refunded or, where appropriate, remain the responsibility of the interested party on the same conditions. If financial liability is dealt with under separate proceedings, the costs incurred in the course of those proceedings remain the responsibility of the official concerned only if the Appointing Authority/AECE decides that the official must make good all or part of the damage.

4.3.2. Appeals under Article 90(2) of the Staff Regulations and to the Court of First Instance

A decision by the Appointing Authority/AECE under Article 22 can be challenged under Article 90(2) of the Staff Regulations. The Appointing Authority/AECE should endeavour not to resort to tacit rejection in cases involving the financial liability of an official or other servant.

According to the third paragraph of Article 22 of the Staff Regulations, the Court of First Instance is qualified to check the appraisal of the facts by the Appointing Authority/AECE. A judgment of the Court can annul the decision of the Appointing Authority/AECE, fix an amount other than the one it has imposed or even decide not to apply Article 22 in the case concerned. The interested party may ask the Court of First Instance to order a stay of execution of the implementation of the Appointing Authority/AECE's decision.

5. IMPLEMENTATION OF THE DECISION

The decision based on Article 22 will specify the amount the official has to pay the Communities in compensation for the damage caused. The official concerned can then agree with the Institution on how to pay the amount.

⁽⁹⁾ See Article 75 of Commission Regulation (EC, Euratom) No 2342/2002 of 23 December 2002 laying down detailed rules for the implementation of Council Regulation (EC, Euratom) No 1605/2002 on the Financial Regulation applicable to the general budget of the European Communities, OJ L 357 of 31 December 2002.

⁽¹⁰⁾ See Article 65 of Commission Regulation (EC, Euratom) No 2342/2002 of 23 December 2002 laying down detailed rules for the implementation of Council Regulation (EC, Euratom) No 1605/2002 on the Financial Regulation applicable to the general budget of the European Communities, OJ L 357 of 31 December 2002: "Supporting documents for the accounting system and for the preparation of the accounts referred to in Article 121 of the Financial Regulation shall be kept for at least five years from the date on which the European Parliament grants discharge for the budgetary year to which the documents relate".

Having regard to the Administration's duty to ensure the welfare of its staff, the official concerned should be allowed reasonable time to pay the sum required in compensation for the damage caused. The person concerned may accordingly defer payment of his debt until the end of the third calendar month following that in which he was notified by the Appointing Authority of the amount payable.

Moreover, taking account of the personal situation of the person concerned (family responsibilities, alimony payments, current financial commitments, etc.), the Administration may, provided the official submits an application to that effect, allow the sum to be repaid in instalments ⁽¹¹⁾. The request must be sent to the Administration, in writing, within 15 working days of receipt of the decision notifying the amount payable. The detailed arrangements for payment of the debt will be the subject of an agreement between the Administration and the official concerned ⁽¹²⁾.

With regard to officials and other servant in service, the most appropriate solution would normally be to deduct the amount specified in the decision from the official's salary ⁽¹³⁾. The minimum income to be paid to the official is that laid down by national legislation, where such legislation exists. To ensure equal treatment for officials in service, account should be taken of the minimum subsistence figure provided for in Article 6 of Annex VIII to the Staff Regulations, i.e. the basic salary of an official in Grade 1, step one, although that figure may not be less than any minimum subsistence figure laid down by the relevant national legislation.

Equally, the amount specified in the decision could be deducted from the retirement or invalidity pension received by the person concerned or from the severance grant received by servants other than officials at the end of their contracts.

If there is no current link between the official or other servant concerned and the Institution, the amount laid down in the decision should be recovered from the wages the individuals concerned receive from their current employers, but also from their assets (savings, property, etc.) by all legal means available under the relevant national legislation.

Enforcement involving the competent national authorities could be carried out in accordance with Article 256 of the EC Treaty.

6. CONCLUSIONS

Officials and other servants of the Commission are to be informed individually of the adoption of these guidelines, which will then be available on the Intranet. Newly recruited officials and servants are to be made aware of this aspect of their responsibility towards the Institution on entry into service. The heads of the units responsible for human resources will ensure that all officials and servants taking up duties involving active financial administration or management duties personally receive a copy of this document. The guidelines will also be included in the training courses on financial management.

The guidelines for applying Article 22 of the Staff Regulations will be evaluated and, where appropriate, revised after four years. Account will be taken of the views of the special financial irregularities panel.

The Member of the Commission with special responsibility for personnel shall ensure that these guidelines are applied and ask the other Institutions to examine the possibility of extending this procedure for applying the rules laid down in the Staff Regulations to all officials of the European Communities.

⁽¹¹⁾ This decision will be taken in compliance with the relevant provisions of the Financial regulation and its implementing rules, in particular Article 73.

⁽¹²⁾ *idem*.

⁽¹³⁾ In the most serious cases (personal gain, for example) seizure of the official's assets could be considered.

General guidelines for ‘staff as ambassadors’

Brussels, 4.7.2007 SEC(2007) 912/9

In view of the priority given to communication by the Commission, these guidelines are intended to provide you with guidance on speaking to the public or the media as part of your work as a member of staff or interacting with members of the public and/or stakeholders in the course of your duties.

A NEW COMMUNICATION ENVIRONMENT

The new Staff Regulations represent a clear recognition of a changed communication environment, to which a public administration must adapt. A more open, transparent, communicative Commission capable of responding to citizens' needs and questions requires more communicative staff.

The new Staff Regulations are based on the idea that staff are an important communication resource for the Commission and should be trusted and encouraged to speak about their work, while taking due account of the need for loyalty and impartiality. Of course, many staff already do this successfully on a regular basis, with very few problems. There is, however, the potential for more staff to participate more often in contacts with stakeholders and the public and for a wider sharing of responsibility for contacts with the media. This can both benefit the Commission and be very rewarding for the staff involved, as the perspectives gained from such experiences are likely to impact positively on their work and thereby on the Institution's. In this context, there is a need both for clarity on how the Staff Regulations apply to outside contacts undertaken as part of staff duties and for more help and support for staff, so that they can be even more effective ‘ambassadors’ for the Commission.

This new approach to communication was reinforced by the Commission in its Action Plan to improve communicating Europe SEC(2005) 985, adopted in July 2005; Action 11 of that Plan makes clear provision for staff to “actively speak to the public and, when necessary, to the media in close collaboration with the Spokespersons’ Service”.

Training to develop relevant communication skills, such as speaking in public, media skills, etc. is available. See ‘communication’ training in the Syslog catalogue: http://www.cc.cec/di/syslog_formation/catalogue/catalogue.cfm.

TYPES OF ‘AMBASSADOR’

In this context, two types of ‘ambassador’ can be distinguished:

- **Staff in general.** This comprises all staff because our interactions with the public and stakeholders inevitably have an impact on how the Commission and, by extension, the EU is seen. Furthermore, all of us will – in our life outside work – communicate an image of the Commission, regardless of our function or grade.
- **Staff as representatives of the Commission.** This covers staff who are called upon to take on a representative role because of the nature of their job, or who are selected or volunteer to do so in the framework of a particular initiative or activity. This includes in particular:
 - Commission Spokespersons
 - Management
 - Specialist speakers
 - Generalist speakers
 - Staff in Representations (including DGT field offices)/Delegations
 - Staff speaking at seminars, conferences or other events/initiatives, or negotiating on behalf of the Commission.

STATUTORY FRAMEWORK

Under the Staff Regulations, the relevant obligations in this context are:

Execution of duties and conduct – Article 11

The general principles governing how staff should carry out their duties and conduct themselves are laid out in Article 11 of the Staff Regulations:

“An official shall carry out his duties and conduct himself solely with the interests of the Communities in mind; he shall neither seek nor take instructions from any government, authority, organisation or person outside his institution. He shall carry out the duties assigned to him objectively, impartially and in keeping with his duty of loyalty to the Communities.”

Actions that might reflect on your position – Article 12

Staff should refrain from any action or behaviour which might reflect adversely on their position or could bring the European civil service into disrepute. In this context, this is relevant, notably with regard to – publications and speeches (on professional matters)(Article 17a(2)), and – disclosure of information (Article 17).

Freedom of Expression – Article 17a(1)

The new Staff Regulations now make clear reference to the staff member's right to freedom of expression (Article 17a(1)), with the necessary provisos:

“An official has the right to freedom of expression, with due respect to the principles of loyalty and impartiality.”

CORE PRINCIPLES OF CONDUCT

In combination with the Code of Good Administrative Behaviour, it is therefore possible to distil a set of core principles that should guide staff in how they carry out their tasks and behave. These are:

- **Objectivity**, which means presenting any situation in a reasoned and unprejudiced manner.
- **Impartiality**, which involves weighing opinions in a balanced manner and without taking a position – for example, explaining the reasons behind a Commission position, while acknowledging differing views.
- **Loyalty** to the Institution, which means presenting the Commission's views within your field of competence to the best of your ability, and by clearly respecting the views expressed by the Commission and the Commissioner responsible so far.
- **Discretion**, which essentially refers to the non-divulgence of any information that has not yet been made public (Staff Regulations, Article 17).
- **Circumspection**, which calls for a degree of caution, carefulness and moderation and a due sense of proportion and propriety.

Above all, this is a matter of common sense. As a rule, officials should be prudent in their behaviour. It is also important to be clear about the difference between, on the one hand, circumspection and, on the other, discretion with regard to facts and information to which staff are privy while performing their duties (professional secrecy), which is also an obligation.

‘STAFF IN GENERAL’

All of us have the potential to exert a positive impact on the external image and reputation of the Commission through our daily work in how we interact with members of the public and stakeholders, external visitors, Member State representatives, representatives of interest groups or associations, opinion-makers, journalists, etc.

In terms of what can be expected of you as a member of staff, a clear distinction has to be drawn between:

- the **image you project of the Commission in the course of your duties** as a member of staff, and
- your **private persona**.

Interactions with members of the public and stakeholders in the course of your duties

Most of us will, from time to time, have contacts with members of the public and stakeholders, and perhaps even opinion-makers and multipliers, during the course of our work – when answering a phone call, when attending a meeting with stakeholders, when replying to a letter or an e-mail, etc.

In these instances, the way we behave may have a lasting impact. The impressions we give to people interacting with us will be taken home and passed on to others. Such experiences then form the basis of our reputation.

We need to keep this in mind in the course of our duties. In addition to the general obligations of **objectivity, loyalty** and **impartiality**, as well as **discretion**, in particular when handling certain types of information, it is worth recalling two other important qualities called for in the Code of Good Administrative Behaviour: courteousness and efficiency.

Speaking as a private individual to people outside the Commission

The right of freedom of expression is explicitly recognised in the new Staff Regulations, subject to certain limits as described above.

Of course, there will also be occasions when you are simply expressing opinions as a private individual. It is worth considering that, on such occasions, those views can carry a certain weight with those hearing them, who will probably see you as a Commission official as well as a private individual.

‘STAFF AS REPRESENTATIVES OF THE COMMISSION’

Some of us may be called on as part of our duties, or may volunteer, to take on a specific representative role for the Commission as an ‘ambassador’ or ‘speaker’. This may involve speaking to the public and/or having contacts with the media, as part of our work.

Speaking to the public as part of your work

You may be called on, or volunteer, to talk to groups of visitors, to make a speech or presentation at a conference or speak at another type of event. This could involve speaking to stakeholders, specialists or members of the public, either in the framework of your own DG’s activities or in the context of the Commission’s Visits Service or a Commission initiative.

If you are assigned a role as ‘ambassador’ or ‘speaker’ within your DG or are participating, as part of your duties, even on a voluntary basis, in a Commission public outreach initiative, the mission order itself should be treated as an authorisation to speak to the public or address a conference or similar type of event. For high-profile engagements likely to be reported in the media (national, regional or local), your DG’s information and communication unit or media/public relations officer should be informed, so as to be able to notify the relevant Spokesperson(s) prior to the activity, where necessary. As an ‘ambassador’ or ‘speaker’, you should also follow relevant “Lines To Take” developed by the Spokespersons Service, to ensure that the Commission speaks with one voice on the same subject. Immediately after the activity, your DG’s information and communication unit or media/public relations officer should be informed about any reactions or developments in the context of your activity that could trigger media attention. If necessary, they will bring it to the attention of the Spokesperson concerned. Commission staff in Representations or Delegations should refer themselves to the local press/media officer or Head of Representation/Delegation.

When speaking to external audiences as part of your duties as a member of staff, you need to keep in mind the following:

- The Commission’s position will form the point of departure of a presentation or speech. Based on good practice within

the Commission, your task as ‘ambassadors’ and ‘speakers’ should be facilitated, as far as possible, by providing you with:

- A mandate and guidelines from your DG (information and communication unit) or DG COMM, for Commission-wide initiatives (e.g. 50th anniversary of the Treaty of Rome);
 - A clear frame of reference in terms of subject matter (policy, issues), including the ‘Lines to Take’ developed by the Spokesperson’s Service;
 - An agreed set of key messages and narratives (including, where appropriate, for potential ‘hot topics’ outside the particular target policy area(s));
 - Ad hoc guidance from management and the DG’s information and communication units, upon request.
- In presenting material or answering questions, you should be guided by the following key obligations as a member of staff: objectivity, impartiality, loyalty to the Institution, and non-divulgence of information not yet made public. In the interests of balance, you should acknowledge, where appropriate, the existence of differing viewpoints on a topic. Nonetheless, where the Commission position needs to be explained and defended, you should do so robustly.

Clearly, how you speak, how much you go into depth or detail, and what you say will be fundamentally determined by the framework in which you are to communicate. However, in order to communicate well with your audience, you will need adapt the presentation of material to your audience’s needs, interests and degree of knowledge and, wherever possible, relate it to their daily lives or experiences. This may involve translating complex, technical or bureaucratic language into terms that are easily understandable to your audience. This relies on your good judgement, analytical skills and common sense.

In making an engaging presentation, you are strongly encouraged to introduce certain personal elements and structure, as well as to arrange and focus your material in a way that corresponds to the audience’s interests and expectations. Before giving a speech in public, as a DG expert, you should clarify whether media representatives will be or are in the audience and whether the so-called “Chatham House Rules” apply. A meeting, or part of a meeting, held under such rules means that participants are free to use the information received, but neither the identity nor the affiliation of the speaker(s), nor that of any other participant, may be revealed. Where media representatives are likely to be in the audience, the advice of your DG’s information and communication unit or media/public relations officer should be sought; they, if necessary, can also refer you to the Spokesperson.

While you enjoy freedom of expression with regard to views you express as a private individual, it is worth noting that when you speak in a private capacity as part of an official event or mission, your interlocutors may not easily be able to make the same distinction between your ‘public’ and ‘private’ persona.

‘Speaking’ on the Internet

The same considerations apply when staff ‘speak’ on the Internet. Participation in discussion forums, blogs or Internet chats may play an increasingly important role as the Commission engages in dialogue with citizens. There is essentially no difference between a Commission member of staff attending an event, visiting a school or delivering a speech and the same person taking part in a discussion forum or contributing to a blog. When ‘speaking’ to external audiences via the Internet, the same guidelines apply as mentioned above (remit, clear frame of reference, key staff obligations). Likewise, you are strongly encouraged to introduce certain personal elements and structure, relying on your good judgement and common sense.

Recording or publication of presentations

Particular care should be taken if your presentation is going to be recorded (TV, radio, tape) or reproduced (publication). If it is likely to be recorded, before proceeding, you should contact your DG’s information and communication unit or media/public relations officer, who can, if necessary, refer you to the Spokesperson responsible. Likewise, if your speech might be published, under Article 17a(2) of the Staff Regulations, the Appointing Authority should be informed in advance (in principle 30 working days), just as would be the case for any other article or publication on an EU matter. In practical terms, however, this means that your speech or its essential content should, where possible, have prior clearance from your DG’s hierarchy. Make sure this is covered by your mission order. Do not forget that it is often the case that speeches delivered during conferences, congresses and symposia are subsequently published.

Contacts with the media as part of your work

What should you do if you are contacted by a journalist? As a general rule, DG Communication (including the Representations in the 27 Member States) and the Spokespersons Service are responsible for contacts with the media. In view of their public profile, Directors-General and Heads of Delegation in third countries also have specific responsibilities in the field of communication and information. Especially where a request is of a political nature, you should refer the journalist directly to the appropriate Spokesperson for that portfolio, giving the journalist, if necessary, the Spokesperson's contact details.

However, when requests for information concern technical subjects falling within your specific areas of responsibility, you may answer them, informing your DG's information and communication unit or media/public relations officer; this may refer to a specific enquiry or to all technical questions on a given topic. Offer to call back, if necessary, but take responsibility for the question and ensure that an answer is sent promptly to the journalist. Do not simply refer the question to the Spokesperson. There is no justification for not giving a journalist an item of factual, technical information that would be given to any member of the public. You should notify your DG's information and communication unit or media/public relations officer, who will, if necessary, inform the Spokesperson responsible, so that he or she can supplement the information given to the journalist, where necessary, or put it in the relevant political context. If in doubt, you should first contact the Spokesperson. All staff have a role to play in giving thought to the issue of communicating with the press. You can give the Spokesperson for your portfolio an early warning on issues that might spark media interest and you should respond promptly to requests for information from the Spokesperson's Service so that extremely tight deadlines can be met.

Be aware that you should avoid discussing any matter which is still at the preparation or discussion stage and on which the Commission has not adopted an official position. Information on questions of this kind is specifically a matter for the Spokespersons, in consultation with the Cabinets concerned, unless they have given specific authorisation to the contrary.

As a DG expert, you may be asked by the Spokesperson to provide expert information to the media. As a rule, this should always be done on a "background" basis without your name being cited (i.e. "off the record"), and you should make this absolutely clear before speaking to a journalist.

When attending conferences or other external events as part of your duties, you should anticipate the possibility of spontaneous requests from the media, by coordinating with your DG's information and communication unit or media/public relations officer. In politically sensitive cases or when in doubt, you should inform the Spokesperson responsible.

Some practical guidelines when talking to the media

Where possible, 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 guidance for staff wishing to engage in volunteer activities (Administrative notice No 22-2011)

2011 is the European Year of Volunteering (<http://europa.eu/volunteering/>) and volunteer activities will be in the spotlight. The purpose of this Administrative Notice is to give you some information and guidance if you want to do some volunteering yourself.

Many members of staff already engage in charitable or volunteer activities, either occasionally or on a more sustained basis. As is the case for many employers nowadays, the Commission recognises the value of such activities: when staff members volunteer, they not only give to others, but they also benefit themselves. By volunteering, staff can acquire new skills and competences, or use their existing abilities in new ways, which in the end also benefits the institution as a whole.

What is volunteering?

Volunteering is about working in your community or elsewhere during your free time without being paid – for example, in schools, hospitals, and sports clubs, protecting the environment, providing social services or helping people in other countries. Volunteering covers a very wide range of unpaid activities and involves varying degrees of involvement. It can range from organising a church charity bazaar once a year to being an active volunteer member of a volunteer or non-profit organisation.

However, before rushing out to volunteer, there are some obligations under the Staff Regulations that should be kept in mind.

Basically, you are required to ask for permission to carry out your intended external activities – whether paid or unpaid. These will generally be permitted, as long as your free-time activity does not threaten the quality of your work during office hours, and it must not be “incompatible with the interests of the institution”.

What sorts of activities require authorisation from the Appointing Authority?

With regard to the Staff Regulations (notably Article 12b on external activities) and volunteering, there are two primary concerns.

Firstly, such activities should not interfere with or impact negatively on your work for the Commission and they should take place outside working hours.

Secondly, they may not be “incompatible with the interests of the institution”. In other words, such activities should not be the source of any real or potential conflict of interest or damage the image of the Institution.

Under Article 12b of the Staff Regulations, staff need to ask for prior authorisation for external activities – paid or unpaid – they wish to undertake.

In 2004 the Commission adopted a Decision on outside activities and assignments (see below). Under it, permission is, in principle, granted for voluntary work not giving rise to remuneration (or the like), whether charitable or not, as long as it is not likely to impair the official's ability to work for the Commission, and takes place outside working hours. However, permission will not be granted for assignments or activities for profit-making firms and companies, even if the activity itself were unpaid.

Common sense plays a role in determining whether you should seek prior authorisation for a particular volunteer activity. For example, you would not need to seek authorisation to undertake occasional activities in your free time, such as organising a charity bazaar once a year. Similarly, being merely a member of a volunteer or non-profit organisation, such as a parents association for your children's school, would not require you to ask for authorisation.

More care and thought, however, should be given if you wish to be an active volunteer for a volunteer or non-profit organisation. Could there be any real or potential conflict of interest between such work and your position and responsibilities

as a Commission member of staff? How much of your time is this activity likely to take up and could it impinge on your availability to the Commission?

In certain circumstances, however, such a volunteer activity may even be in the interest of the service or the Commission. In this case, you may be entitled to some special leave (see below for more information on your eligibility for this).

How do I request authorisation?

The process is easy.

Simply introduce an authorisation request for an external activity in the ETHICS application which you will find in Sysper2. Please see Administrative Notice 51-2010 for detailed instructions. Where possible, the request should be introduced two months before the beginning of the external activity.

This data treatment has been notified to the Data Protection Officer and the data collected via this module can only be used to check the compatibility of the external activity with the Staff Regulations – it cannot be used for other purposes.

Where can I find further information?

The current Commission Decision on outside activities and assignments (C(2004)1597) is to be found in Administrative Notice 85-2004 at: <https://myintracomm.ec.europa.eu/infoadm/en/2004/Pages/ia04085.aspx>

For more information on external activities, see: <https://myintracomm.ec.europa.eu/staff/EN/staff-conduct/individual-obligations/outside-activity/Pages/index.aspx?ln=en>

If you need further advice, please contact your DG's Ethics Correspondent or DG HR.B1. For the list of Ethics Correspondents, as well as and more general information on staff ethics and conduct, see: <https://myintracomm.ec.europa.eu/staff/EN/staff-conduct/individual-obligations/outside-activity/Pages/index.aspx?ln=en>

For more information on special leave granted for external activities, see the Commission decision of 5 November 2010 on implementing provisions on leave (item II.b.4): http://myintracomm.ec.europa.eu/infoadm/en/2010/Documents/ia10072_leave_en.pdf

For information on the European Year of Volunteering, see: <http://europa.eu/volunteering/>

For volunteering activities within the Commission, see: <http://myintracomm.ec.europa.eu/serv/en/Volunteering/>

Communication to the Commission — communication from Vice-President Šefčovič to the Commission on guidelines on gifts and hospitality for the staff members (SEC(2012) 167)

PURPOSE OF THE GUIDELINES AND DEFINITIONS

1. PURPOSE OF THE GUIDELINES

The European civil service is expected to live up to the highest standards of professional ethics, and to remain independent at all times. This is why the Staff Regulations, specifically Article 11 (2), provide that an official shall not accept any favour, gift or payment from sources outside of the institution without the permission of the Appointing Authority. In these guidelines, the term “official” includes officials, temporary agents, contractual agents and special advisors.

The current guidelines are addressed to staff members covered by Article 35 of the Staff Regulations, i.e. in active employment, on secondment, on leave on personal grounds, on parental or family leave, and on military leave.

However, for officials who are not in active employment in the Commission, any gifts and hospitality that they might receive which are not related, and may not be reasonably perceived to be related, in any way to their capacity as officials, (including, for example, gifts received in a new professional capacity while they are on leave on personal grounds) are not deemed to be covered by Article 11 of the Staff Regulations or by these guidelines.

Although staff members who have left the service are not obliged to seek authorisation under Article 11 (and are not subject to these guidelines), Article 16 (1) of the Staff Regulations provides that they continue to be bound by the duty to behave with integrity and discretion as regards the acceptance of certain benefits.

It is the responsibility of all staff members to ensure that their conduct is in line with the Staff Regulations in both letter and spirit. The purpose of these guidelines is to enable staff to comply with their statutory obligations with respect to gifts and hospitality offers.

2. DEFINITION OF GIFTS

A gift is understood to mean:

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

Low value items given for purely information purposes (brochures, booklets, catalogues...) are not considered as gifts in this context.

Indirect gifts are those which are not offered directly to staff members, but to a third party that is close to the staff member.

Gifts that are offered to the institution (Article 19 of the Financial Regulations) are not covered by these guidelines.

3. DEFINITION OF HOSPITALITY

Article 11 of the Staff Regulations furthermore refers to favours. These guidelines deal with hospitality offers, which are considered to be one particular type of favour. Hospitality is defined as an offer of food, drink, accommodation and/or entertainment from any source outside the institution.

PRINCIPLES

4. GENERAL CONSIDERATIONS

It should be stressed that as a general rule, staff members should not accept any direct or indirect gifts or hospitality offered by third parties.

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

Acceptance of gifts or hospitality may, exceptionally be authorised (within the limits indicated under “Specific provisions related to Gifts” below) when it is clear that this will not compromise or reasonably be perceived to compromise the staff member’s objectivity and independence and will not damage the Commission’s public image. This evaluation can only be based in the first place on sound judgement from the staff member in the given circumstances, and then should be confirmed by the Appointing Authority in the relevant cases.

5. RELEVANT CRITERIA

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

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

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

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

Gifts and hospitality motivated solely by a family relationship or personal friendship, or in a context not related in any way to the staff member’s duties do not, in principle, fall under the provisions of Article 11 of the Staff Regulations. However, even here situations may arise when acceptance can be perceived as compromising the staff member’s independence.

SPECIFIC PROVISIONS

6. SPECIFIC PROVISIONS RELATED TO GIFTS

In the first place staff members should always remember that they should not accept any gifts as a general rule and should make use of sound judgement in order to assess, in the given circumstances, if acceptance could be envisaged.

Subject to the general principles set out in points 1, 2, 4 and 5 above, gifts should therefore only be accepted if in line with or if required by social, courtesy or diplomatic usage. In that case, the following administrative arrangements apply:

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

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

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

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

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

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

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

- (4) *General considerations.*

In general terms, the following applies:

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

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

7. SPECIFIC PROVISIONS RELATED TO HOSPITALITY

(a) Hospitality in general

In the first place staff members should always remember that **they should not accept any hospitality** as a general rule and should make use of sound judgement in order to assess, in the given circumstances, if acceptance could be envisaged.

Subject to the general principles set out in points 1, 3, 4 and 5 above, hospitality should therefore only be accepted if in line with or if required by social, courtesy or diplomatic usage. In that case, the following administrative arrangements apply:

- (1) Prior permission by the Appointing Authority is presumed to be granted, in accordance with Article 11 of the Staff Regulations and in the interest of expedient administrative practice:

- of hospitality in the form of lunches or dinners strictly linked to the function of the official, and as such not prejudicial to the interests and public image of the Commission, and in which the official participates in agreement with his hierarchy and in the interest of the service;
- of occasional offers of simple meals, refreshments, snacks etc.

Even if such hospitality offers can be accepted without prior formal authorisation, in the interest of transparency and in the interest of the person concerned, some Directorates- General, given the specific nature and sensitivity of their work, may wish to introduce additional rules such as a recommendation that staff inform their immediate hierarchical superior in writing/by e-mail of the acceptance of an offer.

As in the case of gifts, it is important to stress that this presumption of authorisation does not mean that any staff member may consider himself or herself at liberty to accumulate a number of hospitality offers, bearing in mind that an accumulation may be seen to compromise the staff member's objectivity and independence, or may damage the Commission's public image.

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

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

Again, it is stressed that that this does not mean that any staff member may consider himself or herself at liberty to accumulate a number of hospitality offers - which will also be an element that will be taken into consideration by the Appointing Authority.

In any case of doubt, staff members are invited to consult their hierarchy or their local ethics correspondent.

(b) Hospitality offered during missions

The mission order will as a rule cover all predictable offers of hospitality, based on the mission programme - notably meals, accommodation and transport. These will not be considered as hospitality offers if the programme of the mission and the participation of the official has been authorised - as they form part of the performance of his duties in the interest of the service. The acceptance of these offers will then be declared in the mission expense statement.

Particular prudence is necessary in sensitive situations. For instance staff members participating in inspections and similar missions should whenever possible inform their immediate superior or team leader on an ad hoc basis, and in accordance with any other specific provisions, when hospitality is offered in the course of such missions. If this is impossible, they should

exercise their individual judgement and act according to the principles set out in these guidelines. Any hospitality thus accepted should be declared in the mission expense statement

In this respect, it is within the discretion of each Directorate-General to give practical advice, in addition to the general approach as defined in points 1 and 2 above, on what can be considered as usual and acceptable practice in view of avoiding real or perceived potential conflicts of interest, based on its own specific experiences in the domain.

8. ENFORCEMENT

Staff members are reminded that infringements of Article 11 expose them to the risk of disciplinary action on the basis of Article 86 and Annex IX of the Staff Regulations.

9. REVISION

The practical application and effectiveness of the guidelines on gifts and hospitality will be evaluated after two years following its adoption. In the light of this evaluation, these guidelines may be revised as appropriate.

Communication from Vice-President Šefčovič to the Commission on guidelines on whistleblowing (SEC(2012) 679)

1. INTRODUCTION

1.1. General

Having procedures for raising concerns about fraud, corruption or other serious wrongdoing is relevant for all responsible organisations and for the people who work there. While good internal control systems can reduce the probability of something going seriously wrong, this risk can never be reduced to zero. Where this risk materialises, the first people to realise or suspect the problem will often be those who work in or with the organisation. Yet unless the culture is one where employees believe that it is safe and accepted that such concerns are raised, the risk is that people will stay silent. This denies the organisation an important opportunity to detect and investigate the concern, to take any appropriate action and to protect its assets, integrity and reputation.

The most effective way to encourage staff to report concerns is to provide assurance of protection of their position. Clearly defined channels for internal reporting as well as safe and accepted routes through which staff may raise concerns outside the organisation as an option of last resort should be in place.

Viewed in this way, having whistleblowing procedures and whistleblower protection in place is simply a question of good management and a means of putting into practice the principle of accountability. They contribute to improving the diligence, integrity and responsibility of an organisation.

It is against this background that rules on whistleblowing were adopted and included in the Staff Regulations (articles 22a and 22b) in 2004. They complement the general principle of loyalty to the European Union, the obligation to assist and tender advice to superiors (Article 21) as well as the rules on how to deal with orders which are considered to be irregular or likely to give rise to serious difficulties (Article 21a).

While these rules have already triggered a number of significant investigations by the European Anti-Fraud Office (OLAF), some staff may be reticent to make full use of the whistleblowing procedure, because of a fear of negative repercussions on their reputation or career. As part of the Commission's duty to have regard for the interests of officials ("devoir de sollicitude"), it is necessary to ensure that members of staff who report serious wrongdoings or concerns in good faith are afforded the utmost confidentiality and greatest degree of protection against any retaliation as a result of their whistleblowing.

As whistleblowing arrangements are widely recognised as an important tool to detect fraud, corruption and serious irregularities, it is important that staff fully understand the types of situations where the obligation to "blow the whistle" applies, and to whom they should address their concerns. Providing guidance on this issue is part of the Commission's overall ethics policy, which aims inter alia at clarifying the rules regarding professional ethics in the Commission ⁽¹⁾.

Accordingly, the Commission has issued the following guidelines, in agreement with OLAF.

1.2. Basic principles

- Members of staff have a duty to report serious irregularities.
- For this purpose, members of staff must have a choice between a number of reporting channels for whistleblowing. The principal channel is the normal chain of hierarchical command. If staff consider it to be safer to bypass the normal

⁽¹⁾ See Communication from Vice-President Kallas to the Commission on enhancing the environment for professional ethics in the Commission, SEC(2008)301 final, and the Practical Guide to Staff Ethics and Conduct.

chain of hierarchical command, they must be able to do so. Under certain conditions, staff may address their concerns to another EU institution as an option of last resort.

- Members of staff who report serious irregularities in good faith must not under any circumstances be subject to retaliation for whistleblowing. They must be protected and their identity must remain confidential if they so desire.
- The reported facts must be verified in the appropriate manner and, if they are confirmed, the Commission will take all necessary steps to ensure the appropriate follow-up.
- The rights of defence of any person implicated by the reported incidents must be respected.
- Malicious or frivolous denunciations will not be tolerated.

1.3. Scope of the policy

The Commission's whistleblowing rules and guidelines apply to all members of staff, irrespective of their administrative position ⁽²⁾.

1.4. Definitions

For the purpose of these guidelines, a whistleblower is a member of staff, acting in good faith, who reports facts discovered in the course of or in connection with his or her duties which point to the existence of serious irregularities. The reporting should be done in writing and without delay ⁽³⁾.

Under the whistleblowing rules, staff are obliged to report serious irregularities. In the present context, serious irregularities are illegal activities, including fraud and corruption, and serious professional wrongdoings. As the whistleblowing arrangements are essentially a detection mechanism to bring cases to the attention of OLAF, the duty to report concerns only serious professional wrongdoings, and particularly those that may be detrimental to the financial interests of the European Union.

Accordingly, not every disclosure of any type of information qualifies as whistleblowing in the sense of these rules. For example, the rules are not intended to apply to the reporting of the following types of information:

- Information already in the public domain (for example: newspaper articles, publicly available audits);
- Unsubstantiated rumours and hearsay;
- Matters of a trivial nature;
- Disagreements over legitimate policy;
- Information not linked to the performance of one's duties ⁽⁴⁾.

Neither do the rules apply to information for which specific procedures are available to staff:

- Personnel issues where staff have a personal interest in the outcome. In these cases staff may wish to exercise their statutory rights, for example by lodging a request or complaint with DG HR under Article 90 of the Staff Regulations ⁽⁵⁾;
- Harassment claims and personal disagreements or conflicts with colleagues or hierarchy. In appropriate cases, staff may wish to address themselves to their Human Resources Unit, to the Mediation Service ⁽⁶⁾, to HR.B.5 (Equal opportunities

⁽²⁾ While the whistleblowing rules do not strictly speaking apply to seconded national experts, trainees, interim staff and local agents, these categories of staff are also encouraged to make use of the arrangements set out in this documents and the Commission undertakes to protect these categories of staff against retaliation if they do so in good faith.

⁽³⁾ Prior to reporting, a staff member may seek guidance and support as described in section 5. This does not have to be done in writing

⁽⁴⁾ This is not to say that the Commission does not react to this information, but that the rules on whistleblowing do not apply in this case.

⁽⁵⁾ http://myintracomm.ec.europa.eu/hr_admin/en/appeals/Pages/index.aspx

⁽⁶⁾ <http://myintracomm.ec.europa.eu/serv/en/mediation/Pages/index.aspx>

and working conditions) or to a confidential counsellor ⁽⁷⁾, or to lodge a request for assistance with DG HR under Article 24 of the Staff Regulations ⁽⁸⁾.

Nor do the rules apply to disclosures that cannot be considered as reasonable or honest, such as:

- Abusive disclosures (repeated disclosures of alleged facts aimed merely at paralysing a service);
- Malicious, frivolous or potentially defamatory disclosures (i.e. false or unverifiable accusations with the aim of harming another person's integrity or reputation).

"Good faith" can be taken to mean the belief in the veracity of the reported facts, i.e. the fact that the member of staff reasonably and honestly believes the transmitted information to be true. Good faith is presumed unless and until proven otherwise.

"Retaliation" is defined as any direct or indirect action or threat of action which is unjustly detrimental to the whistleblower and resulting from the whistleblowing, including, but not limited to, harassment, discrimination, negative appraisals and acts of vindictiveness.

"Confidentiality of identity" means that the identity of the whistleblower is known to the recipient of the information, but is kept confidential vis-à-vis the person(s) potentially implicated in the serious irregularity reported and used on a strict need-to-know basis.

"Anonymity" refers to the situation whereby the identity of the source of the information is not known to the recipient.

Staff members who make a report in bad faith, particularly if it is based knowingly on false or misleading information, shall not be protected and shall normally be subject to disciplinary measures. The burden of proof in this context is on the Commission.

2. REPORTING PROCEDURES

Internal whistleblowing – first option

Staff members who, in the course of or in connection with their duties, discover that serious irregularities may have occurred or may be occurring, are obliged to report this discovery forthwith and in writing to either their immediate superior or to their Director-General or Head of Service.

Internal whistleblowing – second option

If there is a concern that this disclosure may lead to retaliation or that the intended recipient of the report is personally implicated in the serious irregularities, then the staff member may also bypass this direct means of internal reporting and address his or her report to the Secretary-General or directly to OLAF. OLAF may also be notified through the Fraud Notification System ⁽⁹⁾.

In any case, the recipient of the information is in turn obliged to transmit the information thus received without delay to OLAF. Therefore, while the staff member concerned has a choice of reporting channels, the information should ultimately reach OLAF in a short period of time.

External whistleblowing – option of last resort

Upon receipt of the information reported internally, OLAF or the Commission must give the whistleblower within 60 days of receipt of the information an indication of the period of time that it considers reasonable and necessary to take appropriate action.

⁽⁷⁾ http://myintracomm.ec.europa.eu/hr_admin/en/equal_opportunities/respectful_working/harassement/employee_Pages/contacts.aspx

⁽⁸⁾ http://myintracomm.ec.europa.eu/hr_admin/en/appeals/Pages/assistance.aspx

⁽⁹⁾ http://ec.europa.eu/anti_fraud/contact_us/index_en.html

If no action is taken within that period of time, or if the whistleblower can demonstrate that the period of time set is unreasonable in light of all the circumstances of the case, he or she may make use of the possibility of external whistleblowing as provided for in Article 22b of the Staff Regulations.

Under this Article, if neither the Commission nor OLAF has taken appropriate action within a reasonable period, the staff member who reported the wrongdoing has the right to bring his or her concerns to the attention of the President of either the Council, the Parliament or the Court of Auditors, or to the Ombudsman. In this case, the whistleblower protection continues to apply.

However, the duties of discretion and of loyalty imply that this is an option of last resort, justifiable only if the official concerned honestly and reasonably believes that the information disclosed, and any allegation contained in it, are substantially true and if s/he has allowed the Commission or OLAF a reasonable period of time to take the appropriate action.

The Commission generally receives and handles large quantities of confidential information, much of it highly sensitive and some of it of great commercial value. The Commission is under the obligation to ensure that this confidentiality is maintained and Commission staff members are therefore necessarily subjected to a duty of discretion.

External disclosure to other EU institutions, which are clearly able to hold the Commission to account because of their institutional role, but are also themselves subjected to the duty of discretion, therefore strikes an effective balance between the public interests of confidentiality and loyalty and those of transparency and accountability.

It is up to the staff member to choose the most appropriate channel for reporting the serious irregularities that they must disclose. However, if a matter is reported to a Commission service that is not competent to deal with it, it is up to that service to transmit, in the strictest confidence, the relevant information and documents to the competent service and to inform the member of staff accordingly.

3. PROTECTION FOR WHISTLEBLOWERS

Any staff member who reports a serious irregularity, provided that this is done in good faith and in compliance with the provisions of these guidelines, shall be protected against any acts of retaliation. Regarding burden of proof, it shall be up to the person taking any adverse measure against a whistleblower to establish that the measure was motivated by reasons other than the reporting.

It should be noted that staff members will not be expected to prove that the wrongdoing is occurring, nor will they lose protection simply because their honest concern turned out to be unfounded.

The protection continues to apply in cases of external disclosures, provided that the staff member honestly and reasonably believes that the information and any allegation in it are substantially true. In this context, account will be taken of any information the staff member has had from the Commission and from OLAF following the initial internal reporting.

The following specific protective measures apply:

Confidentiality of identity

The protection of a person reporting a serious irregularity in good faith shall be guaranteed first of all by the fact that their identity will be treated in confidence. This means that their name will not be revealed to the person(s) potentially implicated in the alleged wrongdoings or to any other person without a strict need to know, unless the whistleblower personally authorises the disclosure of his/her identity or this is a requirement in any subsequent criminal law proceedings. In all other cases, the Commission is committed to keeping the identity of the whistleblower confidential. To this end, the Commission has asked OLAF not to include the identity of the whistleblower in the information about investigations that OLAF transmits to the Commission.

In this respect the Court has ruled that disciplinary procedures that are opened on the basis of information of which the

source is not revealed are regular, as long as it does not affect the possibility of the person who is subject to a subsequent disciplinary procedure to comment on the facts or documents transmitted, or on the conclusions that the Commission draws from them ⁽¹⁰⁾. The disciplinary rules of the Commission allow it to keep the identity of the whistleblower confidential, while ensuring that the rights of defence of the person concerned are fully respected.

Mobility

If the member of staff concerned wishes to be moved to another Commission department in order to safeguard him- or herself against potential hostile reactions from his or her immediate work environment, then the Commission will take reasonable steps to facilitate such a move. In practice, those members of staff who consider it necessary to move to a different DG or service may address themselves to the Director responsible for resources of his or her own service or to the Central Career Guidance Service (SCOP) ⁽¹¹⁾ in DG HR, who will provide them with counseling in order to identify the type of post which fits their profile and professional aspirations.

In urgent and duly justified cases, the protective measure of a transfer in application of Article 7(1) of the Staff Regulations will be taken by the Director-General of DG HR, and by the Secretary General of the Commission for staff working in DG HR.

Appraisal and promotion

Particular care will be taken during staff appraisal and promotion procedures to ensure that the whistleblower suffers no adverse consequences in this context. Accordingly, the new appraisal system ⁽¹²⁾ provides for the possibility of the whistleblower to ask that the role of appeal assessor is taken on by the Director-General of DG HR or by the Secretary General.

Anonymity

In order for the Commission to be able to apply protective measures, the staff member concerned should identify him- or herself as a whistleblower to the institution, and to observe the procedures as outlined above.

The protection which is offered reduces the need and justification for anonymity. Anonymity deprives the investigative services of the possibility of asking the source for clarification or more information and enhances the risk of frivolous, malicious or unreliable information.

For these reasons, anonymous reporting is not encouraged ⁽¹³⁾.

Penalties for those taking retaliatory action

No members of staff or managers of the Commission may use their position to prevent other members of staff from complying with their obligation to report serious irregularities.

Any form of retaliation undertaken by a staff member against any person for reporting a serious irregularity in good faith is prohibited. In such cases, disciplinary measures will normally be taken.

Where members of staff consider that they have been the victim of retaliation as a result of the disclosure of a serious irregularity, they shall be entitled to ask for assistance from the Commission under Article 24 of the Staff Regulations and to request that protective measures be adopted. Such requests should be addressed to DG HR.

⁽¹⁰⁾ Judgment of 15 May 1997, N / Commission (T-273/94, RecFP_p_II-289) (cf. point 81).

⁽¹¹⁾ http://myintracomm.ec.europa.eu/hr_admin/en/career_management/Pages/index.aspx#1

⁽¹²⁾ Article 3 (2) of Commission Decision of 14 November 2011 on general provisions for implementing Article 43 of the Staff Regulations.

⁽¹³⁾ As potential whistleblowers may hesitate to come forward with their identity for fear of retaliatory action, the OLAF Fraud Notification System offers the facility to enter into an initially anonymous dialogue with specialised staff before a person decides to come forward and make use of the whistleblowing procedures.

Limits

As explained above, the whistleblowing provisions are concerned with disclosure of information pointing to fraud, corruption and other comparable serious wrongdoings. They are not intended to be used as substitutes for grievance procedures where staff have some personal interest in – or seek to dictate – the outcome. They are also inappropriate for dealing with disagreements over legitimate policies. Their purpose is to allow the staff member to raise a concern about wrongdoings so that those in charge may look into it.

It should be noted that the protection may be lost if the staff member makes unwarranted or damaging allegations that s/he cannot show to be honest or reasonable. The effect of this is that wherever a staff member is contemplating a disclosure in the sense of these guidelines, it is advisable to let the facts speak for themselves.

Similarly, if the staff member makes the disclosure for purposes of private gain – for instance by selling the information to external parties – he or she will forfeit this protection as that would not be a legitimate disclosure in the sense of the whistleblowing rules.

Finally, if the staff member is him- or herself implicated in the serious irregularities and decides to come forward and report these irregularities, this fact may constitute a significant attenuating circumstance in any ensuing disciplinary proceedings, but it is not a qualifying disclosure in the sense of this policy and does not provide him or her with full protection against disciplinary consequences on the basis of the whistleblowing rules.

4. FEEDBACK TO THE WHISTLEBLOWER

According to Article 22b of the Staff Regulations, OLAF or the Commission must give the whistleblower an indication of the time needed to take appropriate action. If no action is taken within that period of time, or if the whistleblower can demonstrate that the period of time set is unreasonable in light of all the circumstances of the case, he or she may address his or her concerns to one of the other institutions referred to above.

It should be noted that the whistleblower is entitled to be informed within 60 days of the time needed to take appropriate action, but that it is up to OLAF and/or the Commission to determine the appropriate course of action.

5. GUIDANCE AND SUPPORT

While reporting serious irregularities is an obligation under the Staff Regulations, some staff may be reticent to come forward and report their concerns. In order to help staff who are unsure of whether or not certain facts should be reported, the Commission offers confidential and impartial guidance and support to (potential) whistleblowers.

Guidance to potential whistleblowers in an early stage also helps to avoid ill-advised reporting, which may cause frustration to the staff member concerned and may be detrimental to the interests and the reputation of the Commission. This guidance therefore lessens the risks of disclosure-related conflicts.

The guidance and support function was until recently offered by the judicial and legal advice unit in OLAF. However, experience suggests that this is best carried out by a point of contact not connected with the investigation function of OLAF, taking account of the fact that, in particular, support to whistleblowers is essentially the responsibility of the Commission as employer.

In agreement with OLAF, it has therefore been decided to transfer this function to the Network of Ethics Correspondents of the Commission. Each DG and service of the Commission has one or several designated Ethics Correspondents ⁽¹⁴⁾, who are trained to provide guidance to staff on ethical issues, including whistleblowing.

These designated officials will provide confidential and impartial guidance on, for example, whether the information in question is covered by the whistleblowing rules, which reporting channel may best be used for the information concerned, and

⁽¹⁴⁾ http://myintracom.ec.europa.eu/hr_admin/en/ethics/Pages/index.aspx

which alternative procedures are available if the information concerned does not qualify for whistleblowing ('signposting'). They will also be able to tender advice and guidance to staff members on protective measures that the staff member may wish to seek following the reporting.

Naturally, this guidance function is without prejudice to the possibility of staff members to consult their line manager, or a specialised service ⁽¹⁵⁾.

In addition, the web-based Fraud Notification System of OLAF gives potential whistleblowers who hesitate to come forward the opportunity to enter into a dialogue with OLAF investigators, which allow these staff members to verify whether the information in their possession fall within the remit of OLAF.

In case of doubt, staff are encouraged to seek the guidance offered to them when contemplating a disclosure under the whistleblowing rules.

6. ROLE OF MANAGEMENT

The duty on managers to notify OLAF of information received on the basis of the whistleblowing rules does not of itself discharge them from their own responsibilities to tackle the wrongdoing.

Managers will therefore have to reflect on whether the evidence provided reveals shortcomings that could be redressed or requires other measures in addition to the transmission of the information to OLAF. In particular, if following such information it occurs that a procedural or organisational change could prevent the risk of serious professional wrongdoings in the future, such measures should be considered and, where appropriate, taken as soon as possible. Care should be taken that any such measure does not harm any future OLAF investigation into the reported facts. In case of doubt, managers are therefore advised to consult OLAF before taking any such measures.

7. COMMUNICATION AND AWARENESS-RAISING

In order to increase the awareness of the whistleblowing arrangements amongst staff, these guidelines will be given adequate publicity through the internal communication channels in the Commission and will be included in the course material of the Commission's courses and trainings on ethics and integrity.

8. REVISION

The practical application and effectiveness of these whistleblowing guidelines will be evaluated at the end of a period of three years following their adoption. In light of the results of this evaluation, these guidelines may be revised as appropriate.

9. FINAL PROVISION

This Communication replaces the Communication of Vice-President Kinnock to the Commission of 9 February 2004 on how to enhance effective application of the whistleblowing rules and protection of whistleblowers (SEC(2004 151/2), which is hereby abrogated.

⁽¹⁵⁾ Examples are OLAF, IDOC, DG HR.B.1 (ethics, rights and obligations) and SG.B.4 (public service ethics).

ANNEX 1: Staff Regulations – articles on whistleblowing

Article 22a

1. Any official who, in the course of or in connection with the performance of his duties, becomes aware of facts which gives rise to a presumption of the existence of possible illegal activity, including fraud or corruption, detrimental to the interests of the Communities, or of conduct relating to the discharge of professional duties which may constitute a serious failure to comply with the obligations of officials of the Communities shall without delay inform either his immediate superior or his Director-General or, if he considers it useful, the Secretary-General, or the persons in equivalent positions, or the European Anti-Fraud Office (OLAF) direct.

Information mentioned in the first subparagraph shall be given in writing.

This paragraph shall also apply in the event of serious failure to comply with a similar obligation on the part of a Member of an institution or any other person in the service of or carrying out work for an institution.

2. Any official receiving the information referred to in paragraph 1 shall without delay transmit to OLAF any evidence of which he is aware from which the existence of the irregularities referred to in paragraph 1 may be presumed.

3. An official shall not suffer any prejudicial effects on the part of the institution as a result of having communicated the information referred to in paragraphs 1 and 2, provided that he acted reasonably and honestly.

4. Paragraphs 1 to 3 shall not apply to documents, deeds, reports, notes or information in any form whatsoever held for the purposes of, or created or disclosed to the official in the course of, proceedings in legal cases, whether pending or closed.

Article 22b

1. An official who further discloses information as defined in Article 22a to the President of the Commission or of the Court of Auditors or of the Council or of the European Parliament, or to the European Ombudsman, shall not suffer any prejudicial effects on the part of the institution to which he belongs provided that both of the following conditions are met:

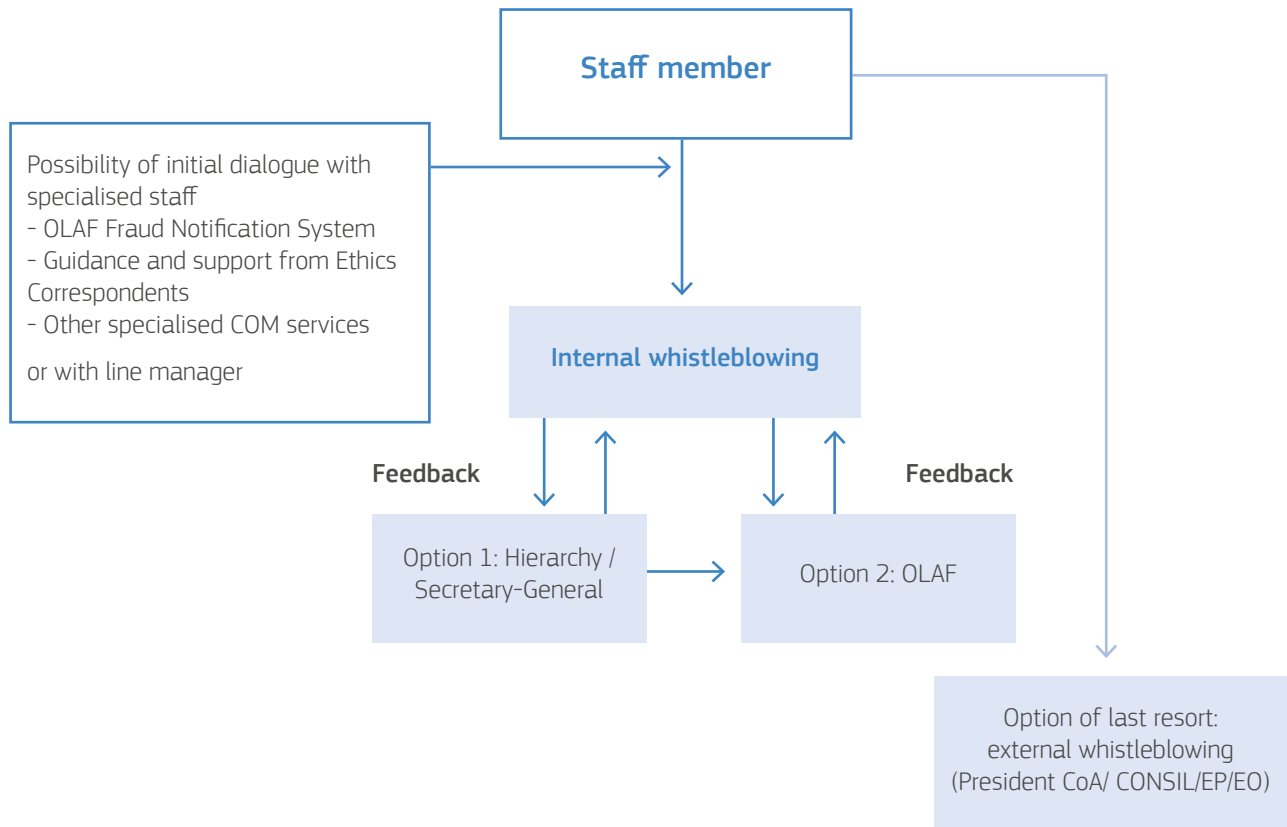
(a) the official honestly and reasonably believes that the information disclosed, and any allegation contained in it, are substantially true; and

(b) the official has previously disclosed the same information to OLAF or to his own institution and has allowed the OLAF or that institution the period of time set by the Office or the institution, given the complexity of the case, to take appropriate action. The official shall be duly informed of that period of time within 60 days.

2. The period referred to in paragraph 1 shall not apply where the official can demonstrate that it is unreasonable having regard to all the circumstances of the case.

3. Paragraphs 1 and 2 shall not apply to documents, deeds, reports, notes or information in any form whatsoever held for the purposes of, or created or disclosed to the official in the course of, proceedings in legal cases, whether pending or closed.

ANNEX 2: WHISTLEBLOWING REPORTING CHANNELS



Guidelines for staff on the use of the Commission's Information and Communications Technology (ICT) services (Administrative notice No 24 — 2016 / 18.05.2016)

The guidelines in a nutshell:

- The Commission provides ICT services ⁽¹⁾ to you, as a member of staff, for work purposes.
- Your private use of the Commission's ICT services is allowed as an exception, as long as this use is limited and reasonable.
- Both professional and private use of the Commission's ICT services must respect security requirements.
- Abuse of the Commission's ICT services may lead to disciplinary follow-up.

Introduction

As a member of staff, you are enabled, and indeed encouraged, to work in a modern and flexible manner and to make good use of ICT equipment, services and systems provided by the Commission ('the Commission's ICT services') to undertake your work.

In this context, the Commission must take the necessary measures to protect the security of its ICT systems and services including the information and knowledge held on them, in order to safeguard its image, reputation and business interests.

These guidelines are intended to improve staff awareness by setting out the rules ("dos and don'ts") and providing guidance ("tips") on the proper use of the Commission's ICT services.

The guidelines should be read alongside the general obligations set out in the Staff Regulations as well as more specific guidelines ⁽ⁱ⁾.

The guidelines apply to all categories of staff working at the Commission ⁽²⁾.

1 – General principles

The Commission provides ICT services to staff first and foremost for professional purposes.

As an exception, private use of the Commission's ICT services is also permitted under certain conditions.

Sensitive information must be protected at all times when using the Commission's ICT services.

1.1. The exception for private use

What are the rules?

You must ensure that your private use of the Commission's ICT services is limited and reasonable.

⁽¹⁾ Including, but not limited to, PCs and peripherals, tablets, email and internet access, telephones, smart and mobile phones, fax equipment, tokens, USB sticks, printers, scanners and photocopiers.

⁽²⁾ For the purpose of this text, the term "member of staff" also includes internal contractors and interim staff.

⁽ⁱ⁾ E.g. Commission policy on the internal use of email (SEC(2009)1412; Guidelines on the use of social media: <https://myintracomm.ec.europa.eu/infoadm/en/2011/Pages/ia11034.aspx>

Dos and don'ts

Make sure that your private use of the Commission's ICT services:

- Does not have a negative impact on your own work or the work of your colleagues
- Does not put the image and reputation of the Commission at risk
- Does not incur any significant expense for the Commission or tie up significant resources
- Is in line with the relevant legal and ethical obligations
- Does not include the storage of voluminous private multimedia files (sound, video) on the Commission's equipment, even if you have the copyright over this material ⁽³⁾.

Tips

Ask yourself the following questions before making private use of the Commission's ICT services:

- Would my actions be considered unacceptable if viewed by a member of the public?
- Would the cost-effectiveness of my use of time or consumption of the Commission's ICT services for my private use be hard to justify to my manager or an auditor?
- Will my private use have a negative impact upon the work of my colleagues? E.g. does the persistent distribution of jokes by email disturb their concentration?
- Could my private use bring the Commission directly or indirectly into disrepute?

If the answer to any of the above questions is yes, don't do it.

In your daily activities, when in doubt, you should seek guidance from your hierarchy, your local HR Unit or your local ethics correspondent regarding ethical issues; from your local Information Resource Manager (IRM) regarding technical issues, or from your Local Informatics Security Officer (LISO) regarding IT security issues.

If you are still in any doubt, you shouldn't do it.

Remember that web-surfing activity and emails sent using professional addresses are directly traceable to the Commission.

1.2. Dealing with sensitive information

Sensitive information is information which is not made available to the public and covers two categories of information:

- Classified information, which concerns information or material designated by an EU security classification ⁽⁴⁾ whose unauthorised disclosure could cause varying degrees of prejudice to the interests of the European Union or Member States ⁽⁵⁾. The handling of EU classified information is subject to specific rules, and for example excludes any transmission by email, even when the transmission is legitimate (i.e. when there is a "need to know").
- Sensitive (and unclassified) information, which concerns primarily personal (e.g. data in SYSPER2), financial, commercial, legal or policy matters, whose unauthorised disclosure would cause harm to parties, persons concerned or to the interests of the institution.

For the purpose of these guidelines, sensitive information means the second category.

What are the rules?

You must protect sensitive information at all times when using the Commission's ICT services, whether it belongs to the Commission or to third parties.

⁽³⁾ However you can save some personal files on network drives, as long as they are not voluminous and exclude multimedia files.

⁽⁴⁾ TRES SECRET UE/EU TOP SECRET, SECRET UE/EU SECRET, CONFIDENTIEL UE/EU CONFIDENTIAL, RESTREINT UE/EU RESTRICTED.

⁽⁵⁾ For specific rules on classified information, see Commission Decision (EU, Euratom) 2015/444 of 13 March 2015 on the security rules for protecting EU classified information: <http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32015D0444&from=EN>
For specific rules on classified information linked to information systems, see Commission Decision C(2006) 3602 concerning the security of information systems used by the European Commission.
http://ec.europa.eu/internal_market/imi-net/docs/decision_3602_2006_en.pdf

Any unauthorised disclosure of sensitive information constitutes a breach of the Staff Regulations ⁽⁵⁾.

Dos and don'ts

- Don't give out information received in the line of duty, unless that information is already public or you have a specific authorisation ⁽⁶⁾
- Don't upload sensitive data to the Internet, which may include draft policy proposals, information that could infringe commercial interests, personal data or court proceedings such as legal advice or on-going investigations
- Don't share sensitive information even on corporate collaborative platforms and services made available by the Commission (e.g. Yammer, blogs etc.).

Tips

- Use the Commission's tools for encrypted email ⁽⁷⁾ when emailing sensitive business or personal data (e.g. tendering details or medical data)
- Avoid sending sensitive information to your external webmail account in order to work remotely, e.g. from home (unless the information is protected by password or encrypted)
- Use secure IT systems, such as CIRCA, for exchanging sensitive information with third parties
- Avoid using online translation services (e.g. Google translate) for sensitive information; and use internal machine translation instead (MT@EC)
- Avoid using external webmail services, file store or social media ⁽⁸⁾ sites for internal communication or information sharing. Sensitive information is particularly at risk with these services
- Exercise caution when uploading photographs taken on Commission premises to public websites, such as social networks, as this can expose the Commission and its staff to security risks ⁽⁹⁾ and may raise data protection issues.

1.3. Taking active measures to ensure safe use of ICT services offsite

What are the rules?

You must use the Commission's ICT services in a safe manner.

What does this mean?

You must take reasonable safety precautions when accessing the Commission's ICT services when you are offsite.

Tips

Be aware that connecting to Commission servers from outside, e.g. from home or a hotel or an airport lounge, can increase the risks of being hacked or infected by malicious software ('malware').

Your network

- Ensure the security of your home Wi-Fi connection by encrypting and/or password protecting your network ⁽¹⁰⁾
- Avoid re-using passwords: keep work passwords distinct from those you use on home computers, networks and applications
- Avoid giving any Commission device (laptop, tablet, smartphone, token, USB stick etc.) to anyone else to use, not even family or friends
- Avoid writing down your passwords or other sensitive information and carrying them with you next to the devices you use to access Commission ICT services.

⁽⁵⁾ Article 17.1 of the Staff Regulations: *"An official shall refrain from any unauthorised disclosure of information received in the line of duty, unless that information has already been made public or is accessible to the public".*

⁽⁶⁾ Such as draft policy documents, which should not be disclosed unless you have been specifically authorised to do so.

⁽⁷⁾ Currently SECEM.

⁽⁸⁾ Such as Gmail, Dropbox, iCloud or Facebook.

⁽⁹⁾ For example disclosure of information visible on a computer screen when zooming on the image.

⁽¹⁰⁾ You should keep the antivirus, anti-spam and security patches up to date and change passwords on routers.

Other networks

- Avoid using shared computers or public networks (e.g. internet café computers, hotel lobby Wi-Fi services) to access Commission internal networks and servers. If you must do so, make sure you log out completely after using Commission webmail services ⁽¹¹⁾
- Exercise caution when using public Wi-Fi networks. In particular make sure that your browser connection is encrypted (check that the web address starts with https://). It is easy to intercept, access and modify unprotected information sent or received from devices connected to public wireless networks
- Avoid using networks offering 'free internet' or similar, which may be ploys to harvest data
- Avoid leaving on the Wi-Fi and Bluetooth functionality where possible:
 - When not in use. Remain on 'undiscoverable', 'hidden' or 'invisible' mode to prevent the device from broadcasting its Wi-Fi or Bluetooth device name or identifier
 - If your device starts behaving strangely, contact your IT helpdesk or LISO for advice
- Take extra care when travelling outside the EU, because the risk of hacking is considerable in some countries ⁽¹²⁾
- Turn off location tracking information on smart phone applications.
- A dedicated internal Cybersecurity portal ⁽¹³⁾ is at your disposal for additional advice on security issues (secure password, phishing, safe Internet browsing, safe store and share etc.).

Tips

In case of strange behaviour or when in doubt in general:

1. Do not forward suspicious email nor save suspicious file
2. Disconnect from the network
3. Contact your IT Service Desk

1.4. Upholding intellectual property standards

What are the rules?

Ensure at all times that the Commission is not exposed to liability for infringements of intellectual property rights (IPR).

Dos and don'ts

You must obtain written permission from IPR owners to reproduce any copyrighted material (e.g. trademarks and logos, text, sound, photographs, illustrations and other graphic images, audio and video files) in the course of your work. Copyrighted material should be identified as such.

You must not download and store IPR-protected content (e.g. video files, audio files, games or unauthorised software) from the Internet.

Tips

You may access audio and video streaming websites, provided that this use is limited and reasonable, and does not have a negative impact on your work.

As an illustration, watching live streaming for private use is tolerated for short clips of a few minutes, but watching a sports event for 60-90 minutes is not acceptable.

⁽¹¹⁾ Close all internet browser windows, quit the browser and delete the browser's history, cookies and downloads.

⁽¹²⁾ HR Unit DS.2 can provide you with specific briefings, via functional mailbox [HR DS MIPS TRAVEL ADVICE](#)

⁽¹³⁾ <https://myintracomm.ec.europa.eu/cyber-security/Pages/index.aspx>

2 – Application of the principles: a few examples

2.1. Email

In 2009, the Commission issued an internal communication on the internal use of email ⁽ⁱⁱⁱ⁾, whose scope is broader than these guidelines. In addition, guidelines for effective email use have been issued ^(iv).

What are the rules?

The private use of your professional email must be limited and reasonable, and must not interfere with your professional duties.

What does it mean?

You must not use your professional email for illegal or irregular purposes; in any way that might disrupt the functioning of the service itself, or might create a risk for the image, reputation, security and interests of the Commission.

Dos and don'ts

Don't send:

- Remarks of a defamatory, discriminatory (e.g. based on gender, race, religion or disability), harassing, libellous, obscene, sexual, offensive or threatening nature ⁽¹⁴⁾
- Sensitive information, including personal data, to recipients who do not have a need to know
- Unsolicited messages to a large number of recipients and/or featuring requests for recipients to forward such messages widely ⁽¹⁵⁾
- Messages which seek to disguise the identity of the sender or to deceive the recipient as to who the real sender is
- Messages from another user's email account, unless authorised by this user
- Be aware of your obligations under both the Staff Regulations ⁽¹⁶⁾ and civil and criminal law when using the Commission's email system, as email messages are increasingly produced as evidence in legal cases and disciplinary procedures
- When using your right to freedom of expression:
 - Show moderation, caution and circumspection when expressing personal opinions, in particular when these are closely linked to the subject and nature of your professional duties
 - Ensure that the content of your messages complies with the principles of discretion and loyalty to the institution.

Tips

You should be aware that any messages or information sent, in particular when transmitted externally using the Commission's email system, are statements that are attributable to the Commission. Depending on the context, an email can carry the same weight in law as a letter written on headed Commission paper.

- Avoid relying solely upon disclaimers as a way of protecting the Commission from your personal comments and opinions expressed in an email. Even with a disclaimer, a connection with our institution exists and a statement could be imputed legally to the Commission
- Take particular care when sending messages outside the Commission which constitute information that a third party may rely upon in accordance with the relevant rules or the Code of Good Administrative Behaviour ^(v)
- Use an external webmail service ⁽¹⁷⁾ for private needs, where possible
- Systematically register your important incoming/outgoing messages in accordance with Commission's rules and procedures on document management
- Ensure that messages requiring registration are registered immediately when they are sent or received, or as soon as possible after, using the email registration tools in operation

⁽¹⁴⁾ This is not contrary to the freedom of expression recognised under Article 17 a, paragraph 1, of the Staff Regulations.

⁽¹⁵⁾ Emails sent by Trade Unions and Staff Associations in the context of their activities are not to be assimilated with such unsolicited emails.

⁽¹⁶⁾ See in particular Articles 11, paragraph 1, 12 and 12a of the Staff Regulations.

⁽¹⁷⁾ Such as Gmail, Yahoo etc.

⁽ⁱⁱⁱ⁾ Commission policy on the internal use of email (SEC(2009)1412).

^(iv) <http://www.cc.cec/itservices/node/467>

^(v) <https://myintracomm.ec.europa.eu/staff/EN/staff-conduct/relations-with-public/code/Pages/index.aspx>

- Avoid acting upon or forwarding or replying to suspicious email messages. They could contain viruses and spyware (malware) or be masquerading as a trustworthy entity, while attempting to acquire sensitive information such as passwords or private information (phishing). Report these email messages immediately ⁽¹⁸⁾.

2.2. The Internet

What are the rules?

Your private use of the Internet access provided by the Commission or on Commission-owned devices must be limited and reasonable.

What does it mean?

Your private use should be limited and reasonable both in quantitative terms (how much do I access Internet for private reasons?) and qualitative terms (what kind of content do I accede to when I privately use my Internet access?).

Dos and don'ts

- Don't generate an excessive amount of electronic traffic (downloads, HD streaming etc.)
- Don't create, send, access, download or store inappropriate or prohibited material
- Don't create, send or access information that could damage the Commission's image or reputation, be misleading or deceptive, result in victimisation or harassment, lead to criminal prosecution or civil liability, or can reasonably be considered to be offensive, obscene, threatening, abusive or defamatory
- Don't access malicious, illegal or unethical websites, even if they are not blocked by the Commission's filtering ⁽¹⁹⁾, such as:
 - Websites that pose a direct threat to information security by endangering ICT resources or undermining ICT safeguards (e.g. malicious websites, hacking or spam)
 - Websites containing illegal or unethical material (e.g. relating to illegal drugs, pornography, violence/hatred/racism)
 - Websites encouraging activities incompatible with Commission duties (e.g. gambling, gaming, chat-rooms, adult online dating sites)

Visiting these sites can be damaging to the image and reputation of the Commission and could therefore have disciplinary consequences.

Tips

- Avoid using external/third-party cloud services ⁽²⁰⁾ to store professional files, as the confidentiality, integrity and availability of these files cannot be ensured by the Commission with this type of storage, unless specifically authorised ⁽²¹⁾
- Seek permission to access such websites from your line manager, IRM or LISO, if there is an established business need (e.g. in the context of an investigation or of policy preparation).

2.3 - Fixed telephones, mobile phones and tablets

What are the rules?

You can make occasional private use of Commission-owned phones at your expense, through salary deduction or individual invoicing ⁽²²⁾.

⁽¹⁸⁾ Send an email to "EC OPTIMAIL", with subject "false negative", including the received spam message as attachment

– See <http://www.cc.cec/itservices/en/system/files/ged/Email-SuspiciousEmails-howTo.pdf>

⁽¹⁹⁾ In order to limit the potential for misuse, the Commission has blocked access to a number of categories of websites. However, this filtering is not failsafe, and it may still be possible technically to access some sites in these categories.

⁽²⁰⁾ E.g. Dropbox, Microsoft SkyDrive, Apple iCloud.

⁽²¹⁾ This might be reviewed in the context of the new Cloud Strategy.

⁽²²⁾ Once the new Bring Your Own Device strategy is fully deployed in the Commission, privately-owned devices will be segmented into two separate spaces: professional and private, which might affect some of these rules. For example, Internet telephony services will not be allowed on the restricted professional segment, whereas they will be able to be used on the private one.

Dos and don'ts

- Request a personal access code (PIN code) to make your private calls, which are then automatically selected for payment at your expense on eGestel ⁽²³⁾, and/or
- Check in eGestel the list of all calls made from your office phone or Commission-owned mobile phone and identify your private calls so that they can be selected for payment at your expense. Define in eGestel a list of your private numbers so that each call to one of these numbers is automatically considered private for payment at your expense.

Tips

Follow the procedure under the Mobile Device Management service if you want to enjoy secure access to Commission e-mail, calendar, contacts, corporate applications and other corporate data from a mobile device, be it a corporate or a private one ⁽²⁴⁾. Corporate users are required to sign the corporate user charter, while private users are required to sign a BYOD (Bring Your Own Device) user charter.

Avoid using Internet telephony services, e.g. Skype ⁽²⁵⁾.

3 – Privacy and monitoring

3.1. Privacy

Your fundamental rights to confidentiality of communications and privacy are guaranteed when using the Commission's ICT services for private purposes.

However, the exercise of these rights is limited in the context of an investigation on potential infringement or abuse. In this respect, the Commission has the right to review any electronic files and messages in cases of suspected breaches of legal or security obligations, and may check the contents of email messages under the conditions set out in the Commission's investigation procedures ^(vi). Subject to appropriate authorisation, this may include access to email message content and attachments without prior notification.

All monitoring and investigation activities must comply with data protection rules ^(vii).

In the specific case of malware attacks, it might be necessary for the services handling the incident to identify the nature of the traffic and the user's identity in order to rapidly contain the incident ^(viii).

You should also be aware that Commission websites may install cookies on PCs to enhance web-surfing experience, which store your preferences when accessing internal websites.

You may send your specific questions on privacy issues to the contact point: HR-DATA-PROTECTION-COORDINATOR@ec.europa.eu.

You may also contact the Commission's data protection officer: DATA-PROTECTION-OFFICER@ec.europa.eu.

⁽²³⁾ <http://www.cc.cec/egestel>

⁽²⁴⁾ <http://www.cc.cec/itservices/en/content/mobile-device-management>

⁽²⁵⁾ For information, see [Position Paper on Peer to peer networks and Skype](#)

^(vi) See in particular Commission Decision C(2004) 1588 of 28 April 2004 on general implementing provisions on the conduct of administrative inquiries and disciplinary procedures.

^(vii) Regulation (EC) No 45/2001 of the European Parliament and of the Council of 18 December 2000 on the protection of individuals with regard to the processing of personal data by the Community institutions and bodies and on the free movement of such data.

^(viii) Pursuant to Article 7 of the Commission Decision C(2006) 3602 on the security of information systems.

3.2. Monitoring

The Commission monitors the traffic on its ICT services, and in particular email traffic, traffic on fixed and mobile phones and internet traffic for security purposes and to protect its image, reputation and interests ⁽²⁶⁾.

This monitoring is done in line with data protection legislation, since rules apply to the electronic processing of personal data ⁽²⁷⁾ throughout their life cycle, from collection to deletion ^(ix).

DG DIGIT produces monthly statistics on Internet and telephone traffic. These statistics are anonymous.

Regarding Internet traffic, these statistics concern:

- The quantity of traffic per anonymous user, to verify that there is no abuse or overuse of the Internet;
- The domain names which have been accessed during the month in question (e.g. Google, YouTube etc.), and the traffic generated per domain.

In case of suspected infringement, a Director-General may request the Security Directorate to launch an investigation into the identity of the user suspected of the infringement and may refer the case to the Investigation and Disciplinary Office of the Commission (IDOC) for appropriate follow-up ^(x).

4 – What does the Commission do in the event of abuse?

Potential infringements may be reported to the Security Directorate or IDOC in a number of ways.

If the infringement is established, it may result in disciplinary consequences, pursuant to Article 86 of the Staff Regulations and Annex IX to the Staff Regulations ⁽²⁸⁾.

The Appointing Authority ⁽²⁹⁾ will impose a sanction for misconduct that falls within the scope of these guidelines in proportion with the seriousness of the misconduct.

In this respect, the Commission expects its staff to abide by the highest ethical standards.

In the past, sanctions were imposed for infringements such as, inter alia, downloading of movies; viewing and distributing pornographic material, and sending defamatory email messages ^(xi).

In addition, the Commission may be held liable for damage caused by its staff at work. This includes liability for any compensation claim from the Commission by a third party as a result of actions that are in violation of these guidelines.

The Commission may seek redress from a staff member in case the damage is caused by serious personal misconduct by that staff member, pursuant to Article 22 of the Staff Regulations. This rule also applies to other forms of damage than those resulting from liability claims.

⁽²⁶⁾ The Commission does not monitor the content of telephone communications. However, the content of other communications using the Commission's ICT services (email, Internet browsing) may be examined in the context of investigations.

⁽²⁷⁾ Data concerning email, Internet and phone traffic generally qualify as personal because they can be traced to natural persons.

⁽²⁸⁾ For officials, former officials and other agents bound by the Staff Regulations or the Conditions of Employment of Other Servants of the European Union.

⁽²⁹⁾ Or the Authority Competent to Conclude Contracts in the case of staff employed under contract.

^(ix) See Commission policy on the internal use of email (SEC(2009)1412 and its provisions on data protection.

^(x) Pursuant to Commission Decision C(2004) 1588 of 28 April 2004 on general implementing provisions on the conduct of administrative inquiries and disciplinary procedures.

^(xi) See, in particular, IDOC Annual Activity reports: <https://myintracomm.ec.europa.eu/staff/EN/staff-conduct/idoc/Pages/index.aspx>.

Revision

The effectiveness of these guidelines will be evaluated three years after their adoption, or earlier if deemed necessary, and may be revised as appropriate.

These guidelines replace the information contained in Administrative Notice [N° 45-2006](#) of 15 September 2006 on the acceptable use of the Commission's ICT services ^(xii).

Irene SOUKA
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Gertrud INGESTAD
Director-General – DG DIGIT

^(xii) Administrative Notice [N° 45-2006](#) of 15 September 2006 on the acceptable use of the Commission's ICT services (PC equipment, e-mail and internet access systems, telephone, fax and mobile phones).

Règlementation interne relative aux frais de représentation des fonctionnaires de la Commission Européenne (SEC(95) 819)

CHAPITRE 1 - DISPOSITIONS GENERALES

ARTICLE PREMIER

Cette réglementation fixe les conditions de remboursement et de paiement des frais de représentation prévus à l'article 14, § 2 de l'annexe VII du Statut et imputables aux crédits de représentation inscrits à la section III du budget général pour l'Union Européenne.

ARTICLE 2 - HABILITATION

Sont **habilités** à engager des frais de représentation :

a) Les Directeurs généraux, les Chefs de service, les Chefs de cabinet, les Chefs de délégation de la Commission Européenne dans les délégations et antennes extérieures ainsi que les Chefs de Bureau et des Bureaux régionaux dans la Communauté.

b) Pour les Directions générales "Science, recherche et développement" et le Centre Commun de Recherche (C.C.R.) :

- les Directeurs Généraux ;
- les Directeurs d'Instituts ;

c) Avec l'accord préalable de l'une des autorités mentionnées à l'alinéa a) ou b), d'autres fonctionnaires ou agents de la Commission Européenne

ARTICLE 3

1. NATURE DES FRAIS

a) Les frais de représentation donnant droit à un remboursement ou à un paiement sont ceux que les fonctionnaires habilités ont dû engager, afin de s'acquitter d'obligations de représentation, au nom de la Commission Européenne, dans l'intérêt du service et dans le cadre de leur activité

b) Ces frais sont ceux occasionnés par des cocktails et des repas.

A titre exceptionnel, d'autres dépenses de **coût modique** peuvent être autorisées en fonction de la bienséance ou des usages locaux.

2. QUALITE DES INVITES

a) Il ne peut y avoir d'obligation de représentation qu'envers des **personnes étrangères** à la Commission Européenne et aux autres Institutions et organes de l'Union Européenne,

Toutefois, les Membres de la Cour de Justice, de la Cour des Comptes, du Parlement Européen, du Comité Economique et Social, du Comité des Régions et du Comité Consultatif CECA peuvent être invités au titre des frais de représentation.

b) Les frais occasionnés par la participation de personnes faisant partie de la famille du fonctionnaire habilité ne sont pas remboursés, sauf lorsque la bienséance l'exige ou lorsque les frais sont engagés au domicile de ce fonctionnaire.

3. NOMBRE DE PARTICIPANTS

Le nombre de fonctionnaires des Institutions ne peut être supérieur à celui des invités étrangers aux Institutions. Toutefois une dérogation peut être accordée par le Directeur général ordonnateur.

CHAPITRE II : DISPOSITIONS FINANCIERES

ARTICLE 4

- a) Les remboursements ou paiements des dépenses de représentation sont effectués dans les limites d'une dotation annuelle de crédits alloués à chaque Direction générale ou Service.
- b) Les dotations annuelles internes relatives aux frais de représentation sont établies conformément aux dispositions des Règles internes sur l'exécution du budget général de l'Union Européenne (section III Commission) relatives à l'établissement des dotations internes pour certains postes budgétaires.
- c) La dotation individuelle des délégations et bureaux dans la Communauté est déterminée par les Directions générales dont ils relèvent.
- d) Une procédure de répartition analogue est appliquée par les Directeurs généraux des Directions générales "Science, Recherche et Développement" et CCR.

ARTICLE 5

Les dépenses relatives aux frais de représentation font l'objet d'engagements provisionnels conformément au Règlement Financier et à ses modalités d'exécution établis par chaque Direction générale.

Chaque Direction générale ordonnance et liquide ses dépenses pour la partie des crédits qui la concerne

CHAPITRE III: DEMANDE DE REMBOURSEMENT OU DE PAIEMENT - PROCEDURE

ARTICLE. 6

Il y a

Remboursement lorsque le montant est inférieur ou égal à 380 écus ou l'équivalent de ce montant converti dans une devise quelconque (p.ex. 15.000,-BEC). Le fonctionnaire invitant paie le montant de la facture puis se fait rembourser au moyen de la demande de remboursement.

Paiement lorsque le fonctionnaire invitant ne paie pas la facture mais la soumet pour paiement, signée pour conformité aux faits,

Afin que les paiements aux prestataires de service puissent être exécutés dans un délai maximum de 30 jours les demandes de paiement devront parvenir au service gestionnaire de la Direction générale concernée dans un délai maximum de 10 jours, ce délai devant courir à partir de la date de réception de la facture.

Ces mêmes délais sont d'application pour les demandes de remboursement, courant à partir de la date de la dépense.

Passé ce délai, la demande devra justifier les **motifs** du retard et être accompagnée du visa d'un des fonctionnaires visés à l'art. 2, a) et b).

ARTICLE 7

- a) La demande de remboursement ou de paiement de frais de représentation doit :
 - être signée par le fonctionnaire invitant
 - être contresignée par le fonctionnaire visé à l'art. 2 a) et b) qui a autorisé la dépense.
- b) La demande de remboursement ou de paiement des dépenses de représentation doit être accompagnée:
 - d'une liste nominative des personnes présentes avec la mention de leur fonction ou qualité.

Si des motifs impérieux de service exigent la confidentialité de ces informations, les fonctionnaires habilités tiendront ces informations à la disposition du Directeur général du Contrôle Financier et des organes de contrôle, pendant une période de deux ans.

- des pièces justificatives pour le montant total de la dépense.
- de la preuve du paiement et/ou de la facture signée pour conformité aux faits, par le fonctionnaire invitant
- d'une copie du bon de commande le cas échéant.

ARTICLE 8

a) Bon de commande

(en cas de commande préalable)

| Evénement ayant lieu dans un restaurant des Institutions | Evénement ayant lieu dans un restaurant extérieur |
|---|--|
| Formulaire « commande de prestations et de fournitures » à envoyer au responsable du restaurant selon les modalités en vigueur. | Le formulaire doit indiquer le nom et l'adresse administrative de la personne à qui sera envoyée la facture. Application de la Réglementation T.V.A. de l'Etat Membre où s'effectue la prestation. |

b) Frais partagés

Si un fonctionnaire ou un autre agent de la Commission reçoit mission de participer dans l'intérêt du service, à un événement organisé à frais partagés par des personnes extérieures aux Institutions et Organes de l'Union Européenne, les frais effectivement déboursés peuvent être remboursés sur présentation des pièces justificatives, dans les conditions prévues à l'art. 7 et sans préjudice des dispositions prévues en la matière par la réglementation relative aux frais de mission.

c) Désistements

Si la facture comporte un nombre de participants supérieur au nombre effectivement présent, le fonctionnaire invitant devra justifier les désistements.

ARTICLE 9

Les fonctionnaires visés à l'art. 2, a) et b) sont chargés de veiller à l'application de la présente réglementation.

ARTICLE 10

a) La réglementation interne relative aux frais de représentation des fonctionnaires de la Commission des Communautés européennes, du 7 novembre 1988, est abrogée.

b) La présente réglementation interne entre en vigueur le premier jour du mois suivant celui de son adoption par la Commission.

Conclusion 221/041 ⁽¹⁾

EUROPEAN COMMUNITIES HEADS OF ADMINISTRATION
Luxembourg, 19 February 2004

**Subject: Access of officials or other servants to their medical files
New Article 26(a) of the Staff Regulations**

CONCLUSIONS

Article 26(a) of the new Staff Regulations provides that 'officials shall have the right to acquaint themselves with their medical files, in accordance with arrangements to be laid down by the institutions'.

Regulation (EC) No 45/2001 of the European Parliament and of the Council of 18 December 2000 on the protection of individuals with regard to the processing of personal data by the Community institutions and bodies and on the free movement of such data and Regulation (EC) No 1049/2001 of the European Parliament and of the Council of 30 May 2001 regarding public access to European Parliament, Council and Commission documents currently serve as the framework of reference for this issue.

The institutions consider it necessary to harmonise the application of the new provisions of the Staff Regulations concerning access by officials or other servants to their medical files.

For this purpose, it is agreed that:

Officials and members of the temporary staff shall have the widest access possible to their medical files under the following conditions:

1. The file must be consulted on the premises of the Medical Service of the institution, in the presence of a person designated by the Medical Service.
2. The official or other servant will be able to have access to psychiatric/psychological reports concerning him or her, through the intermediary of a doctor appointed by him or her.
3. The official or servant may not have access to personal notes by doctors if, under the terms of Article 20(1)(c) of Regulation 45/2001 and on the basis of a case-by-case examination, this is necessary to guarantee the protection of the person concerned or the rights and freedoms of others.

This conclusion shall apply from 1 March 2004.

***For the Secretariat,
(signed) L. Neale, Secretary***

***For the Heads of Administration,
(signed) R. Grass, President***

⁽¹⁾ This conclusion was approved by the Heads of Administration at their 236th meeting on 19 February 2004.

Social media guidelines for Commission staff (Administrative notice No 4 — 2019)

PURPOSE

Thinking of using your personal social media account to **communicate on EU matters**, but not sure about the rules and best practice for this?

Social media can be an excellent communication tool and help amplify messages and facilitate connections to new audiences. As an institution, we would like to **encourage and empower you** to use these channels to speak about the EU and its policies with the general public.

The EU needs the advocacy of committed Europeans, and Commission staff have an important role to play. We hope that many of you will act as **ambassadors of our European policies and values**, including in your use of social media.

However, there are certain considerations you need to bear in mind. This is because the very nature of social media often makes it difficult to draw lines between public/professional and personal use.

In addition, even when you use social media in your personal capacity, you remain a member of Commission staff and are bound by certain obligations resulting from the Staff Regulations (in particular Articles 11, 11a, 12, 17, 17a), as set out below.

To help you respect these statutory obligations, these Guidelines provide you with advice on how to use social media to communicate on EU matters, in a way that is **appropriate and safe**.

Although the present Guidelines do not cover your personal use of social media when it is not related to EU matters, some of the rules and practical recommendations also apply (see Part 4).

SCOPE

These Guidelines cover the **personal use of social media when communicating on EU matters**.

They apply to **all Commission staff**, which means:

- **statutory staff** (officials, temporary agents and contract agents)
- **seconded national experts** (for their obligations, see Article 7 of Commission Decision C (2008) 6866)
- **contractors** or other **service providers** (who should also use these guidelines as a point of reference when using social media in their personal capacity).

These Guidelines do not cover cases where staff have been mandated to speak on behalf of the Commission, to act on behalf of the Commission in the Commission's administrative relations with the public, or to relay institutional messages as part of their duties (e.g. Commissioners, spokespersons, Heads of Representation, press officers in Representations, or when staff post on the social media profiles of an official EC presence, such as EC corporate accounts, DGs, Representations or EU programmes).

“Publications” – special rules

Some social media content (e.g. blogs) may amount to a “publication”, as defined in the **Staff Regulations**. If so, the respective Staff Regulations rules apply – especially the requirement to get **prior approval** from your institution (**Article 17a**).

What makes something a publication?

The main criteria to consider are the length, the text itself and the audience.

| Publication | Not a publication |
|---|---|
| Opinions which go beyond a short appreciation and amount to a structured stand-alone text | <ul style="list-style-type: none"> – Short messages that consist merely of sharing pre-existing content. – Opinions which consist of simply expressing a short appreciation (thoughts, beliefs, or feelings) of a pre-existing content. |

[More details on MyIntraComm: Staff Matters -> Ethics -> Individual Obligations -> Right of Freedom of Expression](#). If in doubt, contact the Central Ethics Service HRE.3.

RULES & PRACTICAL RECOMMENDATIONS

1. Principle of freedom of expression

As a Commission staff member, **you can use social media, in your own personal capacity, including to share or comment on EU-related content and topics.**

We encourage you to make full use of the opportunities offered by social media for this purpose, in accordance with the principles in these Guidelines.

We recommend that you use official sources to share content related to EU matters. One convenient option is the staff advocacy tool Smarp, which contains dozens of interesting, ready-to-share stories.

Signing up is quick and easy at <https://ec.smarpshare.com/>

If you have questions, contact xxxxxxxx@xx.xxxxxx.xx

You must ensure that your use of social media does not mistakenly give the impression that you are speaking on behalf of the Commission. Where appropriate, you should use a disclaimer (e.g. in the profile of your account) stating that you are responsible for the content and that it does not necessarily reflect the views of the European Commission.

While everyone is free to open a personal social media account, the creation of dedicated Commission accounts, e.g. to communicate around projects, needs to be agreed with your social media team and DG COMM. Using the latter accounts falls under the [mandated](#) use of social media, which is not covered by these Guidelines.

2. Your duties resulting from the Staff Regulations

Whether you choose to state where you work or not on social media, be aware that you are at all times:

- bound by the Staff Regulations (especially Articles 11, 11a, 12, 17, 17a)
- accountable for your actions.

At any time, even if you use social media to communicate on EU matters in your personal capacity, you remain a member of the Commission staff and your activity might be traced back to you and the Institution.

Failure to comply with the Staff Regulations in the context of the application of these Guidelines may lead to disciplinary follow-up.

The core principles that apply are summarised below. If in doubt, contact your manager and/or your communication unit/team. If the question relates specifically to the application of Ethics rules, contact the Central Ethics Service HRE.3.

a. Circumspection

Exercise caution, carefulness, moderation and a due sense of proportion and propriety (see also section “c” below).

In practice:

- Think about your contributions to social media in the same way as you would do if you communicate with other media or speak at meetings and conferences;
- Remain respectful at all times (never use offensive language or content);
- Ignore provocation and be aware of the potential escalation of the online conversation;
- Be aware that any online message (even if initially posted in a private forum) can become public and, once posted, it is difficult to remove it;
- Be aware that third persons may also perceive you as a Commission official and a representative of the European institutions even if you have made a disclaimer.

b. Confidentiality

As a member of Commission staff, you have an obligation not to disclose, without authorisation, information received in the line of duty, unless that information has already been made public or is accessible to the public (see however section “c” below).

Unauthorised disclosure of information, intentionally or through negligence, notably to somebody outside the Institution who should not know about this information (at least before a certain “release date”), constitutes a leak and can be highly damaging to the interests of the Commission.

In practice:

- Internal documents such as drafts, data, notes, emails etc. (and in particular, classified or sensitive information) can never be shared or referred to on social media;
- Do not disclose any information about the exact nature of your work that is not yet publicly available; in particular, do not mention any reference to specific sensitive files you may be working on.

c. Objectivity, impartiality and loyalty to your institution

While you are entitled to freedom of expression, you need to pay due respect to the limits resulting from the Staff Regulations and notably from the principles of objectivity, loyalty and impartiality.

Be careful to avoid any act or behaviour which might reflect adversely upon your position and the Commission (cf. Article 12 of the Staff Regulations), e.g. sharing content which could have a negative impact on the Commission’s reputation and/or could pose a security risk on the Commission’s assets, particularly when you identify yourself as a staff member of the European Commission or when the context might lead to that conclusion.

When sharing content, always take into account your position and your field of expertise. If public content relates to your precise area of work, it could have a greater impact on the audience you decide to share it with.

Before sharing such content, you should pay extra attention to the sensitivity of the file (unless an official Commission account has already promoted the same content in social media previously). If in doubt, consult your communication team and/or your line manager in advance before taking any action.

In some instances, even commenting on public information or targeting a specific audience when sharing content could be seen a breach of impartiality by your institution (especially if related to investigations or calls for tender).

In practice:

- Only share correct information; be aware of fake news and an evolving media landscape where everyone can post information;
- Never post content on social media which could have a negative impact on the Commission’s reputation and/or could pose a security risk on the Commission’s assets;
- Fully anonymous use of social media (i.e. with “dummy” untraceable accounts) is not recommended;
- Do not express opinions that could impair your ability to be seen as performing your duties in an objective or impartial manner.
- Pay particular attention not to be seen as speaking on behalf of the Commission when the content relates to your area of work.

3. Personal use of Commission ICT services

When using the Commission's ICT (information and communication technology) services to post on social media in your personal capacity, follow the:

- [guidelines on using ICT services](#) (Administrative Notice No 24-2016)
- rules on [personal use of ICT services](#)

Personal use of social media while using the Commission ICT equipment is permitted, if it is limited and reasonable (similar to, for example, personal use of professional e-mail or telephone in the office).

4. General advice when using social media

a. Be aware of privacy settings

Content on a social media platform can be shared and made available to different audiences, depending on the platform and/or the settings chosen by the user (e.g. to the public or only to friends or friends of friends). You may also be able to control whether content you post can be re-shared by others.

Make sure you carefully read the privacy policies and learn to manage the privacy and data protection settings of different platforms on which you are active.

In practice:

- Be aware of the risks linked to content you have previously published or threads where you intervened but which you do not control because they can be publically shared;
- Always be aware that any detail of your personal life you disclose could be misused by third parties, e.g. to harm you or the Commission and other European Union institutions;
- We recommend you minimise the availability of key personal data such as your date and place of birth.

b. Respect copyright

If you want to use content such as texts, pictures, videos or music that belongs to third parties in social media, you must be aware that this content may be protected by copyright.

You can use someone else's photo (or any other copyrighted material) when the copyright owner gives you written permission specifically to use the content in social media (a generic permission to use the content on the web is not sufficient).

In practice:

- Unless explicitly stated, any picture you find on the internet could be copyrighted;
- Check the licence of every image before using it on social media. If you are not sure about the rights/ownership, do not use that picture. Please note that widely used licences (for instance, Creative Commons) are often not compatible with most social media's terms of use;
- Also, respect the privacy of people depicted in photos and videos, and don't post a person's image without their consent;
- You may at any time ask the Commission's communication units to provide you with material that you can use on social media.

c. Maintain strong security for your accounts

In practice:

- If you use social media mostly for personal use, use your private e-mail address rather than your European Commission e-mail;
- Be aware that fake social media messages or profiles are often used to perform phishing and ultimately hack your account;
- Choose strong passwords, different from your passwords at work, and change them regularly;
- Use any additional security options, such as stronger authentication methods;
- If you suspect your account has been hacked, reset your password immediately, make sure the e-mail address connected to the account is secure, revoke connections to third party applications and update the passwords in your trusted third-party applications.

d. If you have made a mistake, correct it as soon as possible

In practice:

- On Twitter, post a new tweet stating it is a correction of a previous one and delete the one with the error;
- On other platforms, edit the post in question (if possible);
- If your attention is brought to the problem by someone else, thank them for letting you know and inform them you have made the correction.

If there is a security-related incident and it may harm the Commission or yourself, report it immediately to the HR Security Directorate.

REVISION

The effectiveness of these guidelines will be evaluated **three years** after they are adopted, or earlier if necessary, and may be revised.

These guidelines replace the information contained in Administrative Notice N° 34-2011 of 19 August 2011 on Social Media Guidelines for all staff.

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