

# **PRACTICAL GUIDE TO STAFF ETHICS AND CONDUCT**

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## 1. **INTRODUCTION**

The Commission has a threefold role within the institutional system of the European Union: as guardian of the Treaties, initiator of legislation and manager of policies and programmes. As a public body, the Commission is accountable to the other institutions, most notably the European Parliament, as well as to the Member State governments, and ultimately, to the citizens, for ensuring that it meets the highest standards in terms of independence, integrity, impartiality and objectivity.

The Staff Regulations establish the general framework of rights and obligations affecting EU officials. This is supplemented by the Commission's Code of Good Administrative Behaviour, which determines the type of service the public can expect from Commission staff.

This guide looks at how these standards should be applied on three levels – your relations with the public, your behaviour at work (with your hierarchy and colleagues), and your individual obligations. This reflects the importance and nature of the Commission's public service mission to serve the public interest.

The guide covers a variety of issues, ranging from behavioural tips, which you would be well advised to follow, to compliance with legal obligations under the Staff Regulations, violation of which could lead to disciplinary measures.

When it comes to the fulfilment of your individual obligations, it is worth keeping in mind that the details of each case vary and staff have, therefore, to exercise good judgement and common sense in weighing up their individual aspects.

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### Disclaimer

This Practical Guide to Staff Ethics and Conduct aims to make the standards and obligations concerned and the relevant procedures transparent and easy to understand, for information purposes only. The Guide has no legal value.

Only the legal texts are binding and must be referred to by either the Commission administration or by any Commission civil servant in any legal or administrative proceedings. While every effort has been made to give accurate guidance, the only authentic interpretation of the rules is to be found in the judgments of the Court of Justice and the Court of First Instance.

## 2. PRINCIPLES OF STAFF ETHICS AND CONDUCT

### ETHICAL PRINCIPLES

Only by aspiring to the highest standards of **integrity** can you ensure the Commission's independence and credibility. This means adhering consistently to a moral or ethical code and making sound decisions. For the Commission to fulfil its mission of meeting the common good and the public interest, your conduct and decision-making has to be guided by the following principles:

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

Putting these principles into practice requires:

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

Two documents are fundamental for guiding the conduct of staff:

- The **Staff Regulations** (and decisions implementing those Regulations), which lays down the basic principles governing relations between the Commission and its staff. Of particular importance with regard to staff ethics and conduct is Title II of the Staff Regulations (see Annex 1 for full text), which deals with rights and obligations of officials and to which this guide refers frequently.
- The **Code of Good Administrative Behaviour** (see Annex 2 for full text), which provides clear guidance on how Commission staff should serve the public. This code does not have the same legal status as the Staff Regulations, but it constitutes a set of internal rules by which the Commission has bound itself, and which staff are bound to follow as instructions to them.

Given the different legal status of these two documents, violations will have differing possible consequences.

## **GOLDEN RULES OF STAFF CONDUCT**

In order to adhere to the essential elements involved in staff ethical conduct:

- Serve the public interest, by acting with integrity and being objective and impartial in your work
- Be loyal to the Commission
- Provide citizens and others with the quality service you would expect yourself
- Remember that you are the human face of the Commission and that others will judge the Commission on the basis of what they see and experience
- Carry out the tasks assigned to you with responsibility and to the best of your ability
- Treat your colleagues with respect
- Make sure your conduct is beyond reproach, by not knowingly being a party to an activity that could bring the Commission into disrepute or could cause your impartiality to be questioned
- Ensure that you are aware of the relevant legal obligations, rules and procedures
- If you are unsure whether something you do or are asked to do is ethical, consult the relevant information – including this guide – and if in doubt, ASK your superior or your local human resources unit.

### **3. RELATIONS WITH THE PUBLIC**

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

In this respect, you should be aware that all staff members can have an impact on how the Commission, and, by extension, the EU, is seen – through your professional activities, as well as in your life outside work. How you act will influence the image people form of the Commission and its staff. In this respect, you should think of yourself as an 'ambassador' 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 nationality, gender, racial or ethnic origin, religion or beliefs, 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 Community interest and for the public good. They should act independently within the framework of the policy fixed by the Commission and their conduct should never be guided by personal or national interest or political pressure.

#### **The citizen's right to information**

Citizens are entitled to expect a speedy response when they address queries to the Commission. Furthermore, Article 255 of the EC Treaty grants citizens a right of access to European Parliament, Council and Commission documents.

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

The Commission undertakes to answer enquiries from citizens in the most appropriate and rapid manner possible.

As a general rule for **written correspondence**, a substantive answer should be provided within 15 working days. If this is not possible, a holding response should be given within this period. When replying in writing, the language of the citizen should be used, provided it is one of the EU official languages. Proper contact details should also be included.

When answering **telephone calls**, you should clearly identify yourself or your department and treat the caller at all times in a courteous and efficient manner. You should return telephone calls as promptly as possible. When dealing with enquiries within your field of responsibility, you should establish the caller's identity and check whether information has already been made public or is accessible to the public before giving it out. If this is not the case, you should explain why you cannot disclose the information. For subjects outside your field of competence, you should direct the caller to the appropriate service. When appropriate, you should request confirmation in writing of telephone enquiries.

Where correspondence can reasonably be considered as "repetitive, abusive and/or pointless", the Commission reserves the right to discontinue any such exchanges of correspondence. Each service is responsible for taking such a decision, but in the interests of ensuring a coordinated, coherent response on the part of Commission services, a copy of any letter informing a member of the public of the decision to discontinue correspondence should be sent to the Secretariat-General's Mail and Document Management Unit.

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

Basically, **e-mail messages** should be treated promptly following the guidelines on telephone calls (described above). However, where the e-mail message is, by nature, the equivalent of a letter, it should be handled according to the guidelines on written correspondence (described above) and should be subject to the same deadlines. To guarantee continuity of service, remember to use your 'out of office' function when you are not available and give the name and telephone number of a contact person.

#### More information

For general information on how to apply the Code of Good Administrative Behaviour in practice, as well as standard-form letters, see the Pers Admin website on IntraComm:

For more information on how to apply the Code and contact points, see the Manual of Procedures:

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

For inquiries outside your field of competence, it may be appropriate to redirect a citizen to the Commission's Europe Direct service:

[http://ec.europa.eu/europedirect/index\\_en.htm](http://ec.europa.eu/europedirect/index_en.htm)

## ***Requests for documents***

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

If the document has been published, you should direct the person making the request, as appropriate, to the relevant webpage on the Europa Internet site where the document is available, to the Publications Office's sales agents or to the nearest documentation or information centre providing free access to documents (Info-Points, European documentation centres, etc.).

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. The Secretariat-General can also be of assistance when dealing with access requests.

Specific rules for **access to documents** are laid down in Regulation (EC) 1049/2001.

### **More information**

For the rules on access to documents, and contact details, see, on the Secretariat-General's website on IntraComm, the Manual of Procedures:

and the "Access to Documents" Guide:

## **REQUESTS FROM THE MEDIA**

What should you do if contacted by a journalist? As a general rule, DG Communication and the Spokespersons' 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 Spokespersons' Service, giving him or her, if necessary, the contact details.

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 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 notify the spokesperson responsible, so that he or she can supplement the information given to the journalist, if necessary.

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 an "off the record" or "background" basis.

When participating at conferences or other external events, as part of your duties, the possibility of spontaneous requests from the media should be anticipated, in coordination with your DG's information and communication unit or media/public relations officer.

Please note that Directors-General and other high officials, as well as the heads of representations, delegations and missions of the Commission throughout the world, are called on to talk to the press on subjects falling under their responsibility. In this context, they need to coordinate their statements with the Commissioner concerned 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 Manual of Procedures:

For contact details of members of the Spokespersons' Service, see:  
[http://ec.europa.eu/dgs/communication/contact\\_en.htm](http://ec.europa.eu/dgs/communication/contact_en.htm)

#### RIGHTS OF INTERESTED PARTIES

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

- **Listen to all parties with a direct interest.** Where Community 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 general rule, full justification for decisions should be given. Where this may not be possible on an individual basis, provision is 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 Community law provides for it, when notifying an interested party of a measure, staff 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 Community legislation, the Commission is a natural target for interest representation with regard to a policy issue or a legislative initiative. Over 15,000 lobbyists operate in Brussels, representing practically every sector of commerce, trade, industry, services, consumer protection, regional policy, etc, and including non-governmental organisations (NGOs). Their mission is to influence the EU's legislative process, whereas the Commission has an obligation to listen to all parties with a direct interest.

On the one hand, the existence of lobbies is useful as they provide expert advice necessary to initiate and to draft legislation that takes full account of the specificities of the domain concerned.

On the other hand, lobbying represents a risk for an administration, as the staff involved in policy-making may – inadvertently - be exploited for the purposes of a specific interest group with detrimental effects for the public interest.

Similarly, such considerations may need to be taken into account 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 to keep these potentially conflicting aspects in mind in order to preserve your professional and personal independence.

### **More information**

See the Manual of Procedures:

On stakeholder consultation and contact details, see the Secretariat-General's website on IntraComm:

The text of the Commission's general principles and minimum standards for consultation of interested parties, which entered into force on 1<sup>st</sup> January 2003, is available on the Europa website:

[http://ec.europa.eu/civil\\_society/consultation\\_standards/index\\_en.htm](http://ec.europa.eu/civil_society/consultation_standards/index_en.htm)

## **PROTECTION OF PERSONAL DATA**

Protection of personal data is a fundamental right (Charter of Fundamental Rights, Article 8; EU Treaty, Article 286). In this respect, the Commission and its staff must respect the rules on the protection of personal privacy and personal data. The principles, the individual's legally enforceable rights and the obligations of the institution concerned with regard to the processing of personal data are laid down in Regulation (EC) No. 45/2001; these are in line with the Data Protection Directive 95/46/EC.

Processing operations cover a wide range of activities from collecting to transfer and storage of 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 or sex life. The data subject has the right to be informed of the processing operations (before the first occurrence) and has the right to access, rectify, and, where appropriate, block or erase data, to object to the processing and to receive compensation for any damage.

#### More information

See the Commission Data Protection Officer's website:

### **NON-DISCLOSURE OF INFORMATION / CONFIDENTIALITY**

While the Commission is committed to the principles of openness and transparency, as outlined in the Code of Good Administrative Behaviour, there are certain sectors of activity where non-disclosure of information and the confidentiality requirement may be applicable.

#### **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 treated with the utmost discretion. For example, this applies to commercially sensitive economic data in DG Competition or DG Trade, among others, or staff data in DG ADMIN (e.g. medical or personnel matters).

Such sensitive, but non-classified information (e.g. also proceedings of an open competition selection board, investigation reports from OLAF) must be protected. Professional secrecy is a fundamental obligation for all staff working in the departments responsible for administering the affairs of Commission staff.

#### ***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, particularly information relating to the content of tenders submitted for evaluation and selection (for example, details of a project applicant's financial situation or accounts).

You must constantly ensure that such information does not fall into unauthorised hands, if necessary by storing them 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. 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.

### ***Classified documents***

With four levels of classification (Commission and Council decided to use only the following terms in all language versions: "TRES SECRET UE/EU TOP SECRET", "SECRET UE", "CONFIDENTIEL UE" and "RESTREINT UE" as their equivalents of top secret, secret, confidential and restricted), the Commission's security provisions are aimed at protecting classified information produced or handled by the Commission from being compromised, disclosed without authorisation or from spying. These provisions are in line with the rules on public access to documents. If you have to deal with documents falling under the security provisions you are expected to know the rules. In general, this means considering what needs to be done in your immediate environment to protect the information with which you are dealing.

Staff who compromise EU classified information by letting it fall into the hands of unauthorised persons face disciplinary procedures and/or criminal prosecution.

#### More information

See the website of DG ADMIN's Security Directorate:

#### **4. BEHAVIOUR AT WORK**

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

Furthermore, staff must comply with Article 1d of the Staff Regulations which prohibits 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.

#### **RELATIONS WITH THE HIERARCHY**

As stipulated in the Staff Regulations (Article 21), whatever your rank, 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.

The responsibility of a subordinate does not release the official from his or her own responsibility.

As a general rule, 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.

In line with the Staff Regulations (Article 21a), 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. In the first instance, you should ask for confirmation from your immediate superior and then, if necessary, from his or her immediate superior. If the latter confirms the orders in writing, you should carry them out, unless they are manifestly illegal or breach safety standards.

In a case where your immediate superior considers that his or her orders must be executed as a matter of urgency, you should do so, unless they are manifestly illegal or breach safety standards. However, at your request, he or she is obliged to give such orders in writing. (See also section on 'Serious wrongdoing' in chapter 6.)

#### **RELATIONS AMONG STAFF**

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:

- **Teamwork** – working together to achieve common goals;
- **Polite and clear communication** – engaging colleagues by showing respect and encouraging efficiency through clarity of instructions;
- **Conflict resolution** – finding workable solutions through better mutual understanding.

## USE OF COMMISSION MEANS OF COMMUNICATIONS

Computer equipment, e-mail and Internet access, telephones, mobile phones and fax machines have been installed 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:

- for illegal or improper purposes
- in any way that might disrupt the functioning of the service itself, or
- in any manner contrary to the interests of the Communities.

For **telephones, fax machines and mobile phones**, occasional personal use is permitted **at your expense**. For telephones and faxes, 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. As such access codes are not yet generally available for mobile phones, you will have to indicate your private calls on the monthly statements, the cost of which will be deducted from your salary.

For **electronic mail**, incidental personal use of the e-mail system is permitted. However, regardless of the content (e.g. entertainment, charity, political campaigns or commercial ends, etc.), you should refrain from sending messages that are to a wide or even indiscriminate number of addressees and from asking others to send out such messages widely. This is fundamental to avoid spamming, to safeguard server capacity and maintain the proper functioning of the service.

With respect to the **use of the Internet**, attention is drawn to the fact that the Commission server 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.

Given that the Commission's servers can be used both directly from the office and via remote access from other places, 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 request DG ADMIN to open an investigation into your use of these services.

### More information

On requesting a personalised code, see DG DIGIT's website:

On the guidelines on use of Commission means of communications, see:

## **5. INDIVIDUAL OBLIGATIONS**

To maintain the Commission's independence and credibility, as a member of staff, you are subject to certain reasonable requirements which affect the exercise of your duties and 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, external activities, spouse's employment, or publications or speeches on EU-related matters). This must be done **on your own initiative**.

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.

In this chapter, frequent reference will be made to the concept of '**Appointing Authority**'. This abstract term actually 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 abstract expression "Appointing Authority".

In general terms, the situation is as follows. For the procedures concerning gifts, favours and payments, as well as external activities and publications and speeches on professional and EU matters, the Appointing Authority's powers are exercised by your Directorate-General. For the other obligations addressed in this chapter, these powers are exercised by DG ADMIN (its Director-General or a particular service).

Given specific arrangements concerning delegation of the Appointing Authority's powers, you should consult the webpages indicated in the relevant 'More information' box or ask for guidance from your DG's 'human resources' unit.

### **CONDUCT REFLECTING ON YOUR POSITION**

In general terms, you should refrain from any action or behaviour which 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.

It is also worth noting that if your acts or behaviour risk bringing the Commission into disrepute, you could be subject to disciplinary proceedings. This could be the case, for example, if you were to be convicted of a crime or a misdemeanour. Article 12 also applies to behaviour within the Institution.

Obviously, when assessing any act or expression of opinion, account will be taken of its impact, especially if it appears to be harmful to the Commission's reputation.

### **AVOIDANCE OF CONFLICTS OF INTEREST (EXTERNAL ACTIVITIES)**

The overriding idea behind avoiding any 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 steps to avoiding such situations have to do with:

- not accepting gifts or favours,
- declaring your spouse's or partner's professional activities,
- providing immediate notification, 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,
- seeking prior authorisation for any external activities (work – paid or unpaid) you may wish to undertake, even after leaving service,
- notifying beforehand your intention to stand for public office.

## **Gifts, favours, payments, honours and decorations**

### ***Gifts, favours and payments***

As stipulated in the Staff Regulations (Article 11), 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 general rule of thumb, it is recommended that you decline all such offers that have more than merely symbolic value (such as diaries, calendars, small desk items, etc.).

In any case, if you are offered any gifts, favours or donations with a combined value of more than € 50 given by the same source in any given year and you want to accept them, you must apply for permission, giving a justification.

When deciding on such matters, the Appointing Authority takes into consideration the following factors:

- the motive behind offering the gift, favour or donation
- the possible consequences for the Institution's interests
- the value of the gift, favour or donation
- the number of gifts, favours or donations given by the same source, or the total number you receive during the course of a year.

Only if it can be clearly demonstrated to be in the interests of the Commission will approval be given to accept gifts in kind, particularly trips or excursions organised by third parties.

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

#### **More information**

For the form and procedure to follow, as well as contact details, see the Pers Admin website on IntraComm:

### ***Honours and decorations (medals)***

Similarly, except for services rendered before your appointment or during special leave for military or other national service and in respect of such service, you should not accept from any government or other source an honour or decoration without prior permission from the Appointing Authority, since it might otherwise reasonably be considered that the honour has been granted for services rendered to a national government while nevertheless working for the Commission, which could give rise to doubts about the impartiality of the Commission itself.

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, etc.) or recognised by an official authority (Prix Charlemagne, Carnegie Hero Fund, etc.) are subject to the restrictions outlined in Article 11 of the Staff Regulations.

In deciding, the Appointing Authority will take into consideration the following factors:

- the motive behind giving the decoration;
- 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.

#### **More information**

For the form and the procedure to follow, as well as contact details, see the Pers Admin webpage on IntraComm:

### **Declaring the professional activities of your spouse or partner**

In line with Article 13 of the Staff Regulations, you have an obligation to inform the Appointing Authority if your spouse is "in gainful employment", i.e. is doing paid work. This is in order to prevent any appearance of a conflict of interest, which could arise because of your respective professional activities.

In this respect, unmarried, 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, you are obliged to declare this in writing to the Paymaster's Office (PMO).

In order to avoid any possible conflict of interest, the Appointing Authority can decide, after consulting the Joint Committee, to transfer you to another post, 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.



### More information

For the form, as well as the identity of the Appointing Authority, contact details and relevant legislation, see the Pers Admin site on IntraComm:

### **Declaring a potential conflict of interest**

As stipulated in the Staff Regulations (Article 11a), you are prohibited, during the performance of your duties, from dealing with any matter in which you have a direct or indirect personal interest that has the potential to compromise your independence and, by extension, the Commission's interests.

Such situations can arise when:

- there is some link between your work and your private interests, or those of your family or partner;
- 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 notify the Appointing Authority immediately by filling in the appropriate declaration form. It is also advisable to inform your own hierarchy.

Conflicts of interest that may arise within the framework of a budgetary action are addressed by the Financial Regulation (Article 52). Under Article 34 of the implementing measures for the Financial Regulation, the competent authority that you must inform of any potential conflict of interest is your hierarchical superior.

### More information

For the declaration form and the procedure to follow, along with contact details and relevant legislation, see the Pers Admin site on IntraComm:

### **Requesting prior permission for external activities**

There are some fundamental reasons behind the need to ensure that all officials ask prior authorisation to take on external professional activities, paid or unpaid, in order to ensure your, and thereby the Institution's, independence and integrity. At a practical level, such an external activity should **not**:

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

Furthermore, the amount of remuneration should be modest. However, the question whether the external activity is of use to the Commission may be taken into account.

The Staff Regulations (Article 12b) stipulate that if you want to engage in any type of activity outside the Commission, whether paid or unpaid, you must obtain prior permission from your Appointing Authority.

In assessing such requests, account is taken of the aspects mentioned above. In practice, while respecting these conditions, you are, for example, likely to be authorised to carry out voluntary work, charity work, or limited teaching activities.

You are not allowed, however, to carry out any of the following types of work, for example:

- outside work, whether paid or unpaid, in a "profession" (such as architect, lawyer, economist, accountant, IT professional, engineer, interpreter, doctor, translator, etc);
- work in private companies, even if it is unpaid and the role is merely nominal (such as non-executive director, unpaid adviser, etc.);
- teaching or other pedagogical work, whether paid or not, for more than 100 hours per academic year, unless your Appointing Authority, after consulting the Director-General for Personnel and Administration, deems such work beneficial to the Commission.

Please note that as a rule, any request should be submitted two months before you plan to start the work in question, to allow sufficient time for the processing of your request.

Before making its decision, the Commission reserves the right to assess each case on its own merits with regard to the type of work proposed.

You should note that as a holder of a special identity card, you do not have the necessary authorisation to perform any work other than that for which you were recruited by the EU. If the Commission grants permission to undertake external activities, you need to keep in mind that you will be subject to the relevant national income tax rules and social legislation.

In addition, the maximum net annual remuneration you may receive for any authorised external activities you undertake outside the EU institutions is € 4500 (after taxes). Anything over this amount must be turned over to the Commission.

No outside work may be performed either on the premises of the Institutions or during normal working hours.

Permission granted under Article 12b is valid for a maximum of one year from the date of the decision, or a lesser period, which will be stated in the decision. If you wish to extend or renew your permission, you must submit a fresh application.

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

#### More information

For the forms, the identity of the Appointing Authority, contact details and background documents (Commission Decision on outside activities and offices), see the Pers Admin website on IntraComm:

### **Standing for public office**

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

- must make a request for leave on personal grounds (CCP);
- must take annual leave;
- can be authorised to work part-time; or
- can continue to work with no change to your hours.

### ***Being elected or appointed***

If elected or appointed to a position, you must notify the Appointing Authority without delay.

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 (CCP);
- 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) or the European Parliament to take special leave (CCP) for the whole term of office.

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

#### More information

For the forms for declaring your intention to stand for office and for declaring election or appointment, as well as contact details and more information, see the Pers Admin website on IntraComm:

## **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, which covers 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 to do with your work, you must request prior authorisation from the Appointing Authority, in line with the Staff Regulations (Article 19). This obligation continues to apply even after leaving the Commission. Note that even if the interests of the Communities would normally justify refusal of the authorisation, the Commission will nevertheless grant it, if refusal could result in your prosecution.

These provisions do not, however, apply to a member of staff or former member of staff called on to give evidence before the Court of Justice of the European Communities (including the Court of First Instance or the Civil Service Tribunal) 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 ADMIN'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.

The Appointing Authority takes a decision after checking the applicable rules and consulting the Legal Service and the decision is sent to the person who requested authorisation.

However, such requests may also be made by a national judicial or police authority without you being informed. In such circumstances, if the Commission is asked to maintain the secrecy of the procedure, you would be informed of the lifting of your immunity only when summoned to a hearing by the national authorities.

#### **More information**

For the procedure to follow and contact details, see the Pers Admin website on IntraComm:

### **Immunity from legal proceedings**

Article 12(a) of the Protocol on the Privileges and Immunities of the European Communities (PPI) stipulates that officials and other servants of the Communities 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."

Immunity from legal proceedings is to be accorded solely in the interests of the Communities (Article 18 of the PPI). The protection granted against proceedings before national courts

(civil or criminal) covers only acts relating to professional life. In practice, when national judicial authorities request it, such immunity is systematically lifted.

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 – as has been confirmed by the 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."

Requests for immunity from legal proceedings to be lifted are often combined with a request to lift the confidentiality requirement (see above section on "Giving evidence in legal proceedings").

Requests made to the Commission by national judicial authorities are dealt with by DG ADMIN's Investigation and Disciplinary Office (IDOC). A decision to lift immunity is adopted by the Commission (in principle by written procedure) on the basis of a proposal from the Commissioner responsible for personnel matters. 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 Personnel and Administration) immediately if immunity is in dispute.

#### More information

See the Pers Admin website on IntraComm:

### **RIGHT OF FREEDOM OF EXPRESSION (PUBLICATIONS AND SPEECHES)**

The Staff Regulations (Article 17a(1)) grant you the right to freedom of expression "with due respect to the principles of loyalty and impartiality." Obviously, these principles are primarily of relevance when you express yourself on professional or EU matters, especially with regard to publications or speeches.

#### **Publications and speeches and compensation for them**

##### ***Publications and speeches on professional and 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 your work or EU matters, you must inform your Appointing Authority in advance, as stipulated in the Staff Regulations (Article 17a(2)).

You must provide the Appointing Authority with any 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 Communities, 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, it is considered to have had no objections. However, it should be noted that the lack of a reaction does not prejudice the possible application of such a provision as Article 12 of the Staff Regulations, if the publication turns out to contain material which is, for example, defamatory or insulting, nor the possible application of Article 24 of the Staff Regulations, if other officials request assistance against what they may see as defamatory statements in the work. The author remains personally responsible for the published material.

These rules and procedures also apply to speeches and any form of public or private communication outside the scope of your duties, where they relate to EU matters and are or may be published.

### 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 differing opinions, in particular when the latter are closely linked to the subject and nature of your duties in the two preceding years;
- such opinions or any others regarding Community policies must be expressed with moderation and under your sole responsibility (i.e. with a disclaimer).

You are also subject to the rules concerning non-disclosure of information and the confidentiality requirement (discussed in the chapter on 'Relations with the public').

### Remuneration

If the publication (including its writing/preparation) or speech would entitle you to any financial payment, you must ask your Appointing Authority for prior authorisation to accept it (see also section above on "Requesting prior permission for external activities").

Royalties received for publications, to which the Appointing Authority raised no objections, are not subject to the net annual ceiling of € 4500 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 (*demande de mission*) or at least in your subsequent expenses claim (*décompte de frais de mission*). 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

For the forms, contact details and relevant legislation, see the Pers Admin website on IntraComm:

#### ***Publications and speeches on other (non-EU) matters***

For publications or speeches on non-EU matters, freedom of expression applies and you do not require any authorisation to publish. However, if the publication (including its writing/preparation) or speech could be considered an external activity, notably, if under contract, and/or would entitle you to any financial payment, you must ask your Appointing Authority for prior authorisation to accept it (see also section above on "Requesting prior permission for external activities"). Royalties received for publications are not subject to the annual ceiling of € 4500 that applies to work you undertake outside the Commission.

#### **OBLIGATIONS AFTER LEAVING THE SERVICE**

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 the Staff Regulations (Article 16).

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 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. 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.

If in doubt, and the information on the website is insufficient, please contact DG ADMIN and you will be told what details are needed to assess your case.

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

It should also be noted that former officials and staff must « *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 the Staff Regulations (Article 17).

Under the Staff Regulations (Article 19), 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

**For the form (duties after leaving service), further information and contact details, see the Pers Admin website on IntraComm:**

**Regarding occupational activities, see also the relevant Commission Decision:**



## 6. PREVENTION AND REMEDIES

What if something goes wrong? Notwithstanding the rules in place, it may happen. The Commission has a series of means of resolving these problems, ranging from prevention to disciplinary procedures.

This section of the guide seeks to offer you some general advice 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, the following reasoning process is suggested:

- **Analyse the situation** by looking at the facts, circumstances and relevant rules, in order to identify possible options;
- **Consider the consequences** of the different options, as well as the consequences of not acting;
- **Check** whether other persons involved (hierarchy, colleagues) agree with the options you identify or see alternatives;
- **Take action** based on the best option identified;
- **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

While it is not the focus of this guide, depending on your duties, you may also have financial responsibilities. In this respect, it is important to recall that, as laid down in the Staff Regulations (Article 22), as a member of staff, you could be required to make good, in whole or in part, any damage suffered by the Communities as a result of serious misconduct in connection with the performance of your duties. Obviously, this does not concern a simple error or a slight mistake causing financial damage. However, financial liability could be invoked if you have breached a legal obligation, have caused financial damage and are guilty of deliberate misconduct 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 adopted by the Commission (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 turn first to the DG Budgets' 'BudgWeb' website on IntraComm:

The Central Financial Service's Help Desk can be contacted, according to the procedures established by the DG or service, by sending an e-mail to:

For more information on **internal audit** activities, see the Internal Audit Service's website on Europa: [http://ec.europa.eu/dgs/internal\\_audit/index.htm](http://ec.europa.eu/dgs/internal_audit/index.htm)

For more information on the **anti-fraud** activities, see OLAF's website on Europa: [http://ec.europa.eu/anti\\_fraud/index\\_en.html](http://ec.europa.eu/anti_fraud/index_en.html)

### **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 thereby breaks the wall of silence. The Staff Regulations seek to address the problem through requiring staff to report any possible serious wrongdoing (Article 22a) and by providing adequate protection for staff reporting 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, depending on who is involved, you should report it in writing and without delay to either your Head of Unit, 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 without delay to OLAF.

When such information is received from a whistleblower, OLAF or the Commission must:

- inform the whistleblower within 60 days of how much time is needed to take appropriate action; and
- 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 Council, the European Parliament or the Court of Auditors, or the 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. If such an external disclosure is necessary, it is advisable to let the facts speak for themselves. The duties of discretion and loyalty imply that reporting serious wrongdoing beyond these other EU institutions (for example, to the press) is not permitted.

Any whistleblower who complies with these conditions will be protected from adverse consequences. This covers the identity of the whistleblower, 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 him/herself to the Institution, and to observe the whistleblowing procedure.

#### More information

For the legislation and contact details, see the Pers Admin website on IntraComm:

### **HARASSMENT**

The Commission does not countenance harassment, in line with the Staff Regulations (Article 12a). 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/déf).

#### **Psychological harassment**

Psychological harassment covers all forms of **sustained, intentional, abusive behaviour, whether this be repetitive or systematic** conduct, words, acts, gestures or writing which may **undermine the personality, dignity or physical or psychological well being of a person**. It comes in many different guises: bullying, antagonism, pressure, offensive behaviour, even refusal to communicate - all examples of unacceptable behaviour which may, in isolation, appear of little consequence. When occurring on a regular basis, however, these kinds of behaviour can cause serious harm to the person towards whom they are directed.

#### **Sexual harassment**

Sexual harassment means unwanted conduct of a sexual nature, or other conduct based on sex, affecting the dignity of men and women at work. This can include any unwelcome verbal, non-verbal or physical behaviour. The essential characteristic is that it is **unwanted by the recipient**.

#### **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. The informal procedure aims at finding an amicable solution and providing support, help and advice to staff; it also allows for practical administrative solutions when appropriate. This procedure does not aim at investigating the facts or applying sanctions. In contrast, the formal procedure aims at determining if the allegations of harassment can be proven, assessing the facts and, when appropriate, applying sanctions in the framework of the disciplinary procedure. These two procedures are detailed in the Decision adopted by the Commission.

#### More information

The Anti-Harassment Team and Confidential Counsellors are available to help. Information (including tips on what you can do to combat such harassment), help contact points and the relevant legislation are available on the Pers Admin website on IntraComm:

#### **ADMINISTRATIVE INQUIRIES AND DISCIPLINARY PROCEDURES**

The disciplinary system, which essentially involves administrative inquiries and disciplinary procedures, applies 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, such as offences under national criminal law.

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

- The impartial and independent conduct of administrative inquiries, the aim of which is to collect 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 may have been breached.

There is a clear procedural and operational separation between, on the one hand, administrative inquiries and, on the other hand, disciplinary procedures. The first phase is necessary only if the facts have not been established beforehand.

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.

#### More information

For information on administrative inquiries, disciplinary procedures and disciplinary sanctions, see IDOC's site on the Pers Admin website on IntraComm:

## ANNEX 1

### STAFF REGULATIONS

#### **Title II: Rights and obligations of officials**

##### ***Article 11***

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.

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.

##### ***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 Communities, 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 14***

Repealed

#### ***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. 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 institution 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.

### ***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 Communities 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 Communities, 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 Community to whose activities such writings or work relate. The Communities 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 Communities. The institution may, at its

own expense and on behalf of the Communities, apply for and obtain patents therefore in all countries. Any invention relating to the work of the Communities 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 Communities 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 preceding paragraph shall not apply to an official or former official giving evidence before the Court of Justice of the European Communities or before the Disciplinary Board of an institution on a matter concerning a servant or former servant of one of the three European Communities.

#### *Article 20*

An official shall reside either in the place where he is employed or at no greater distance therefrom as is compatible with the proper performance of his duties.

#### *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 responsibility.

#### *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.

### ***Article 22***

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.

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 Communities 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 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.

### ***Article 23***

The privileges and immunities enjoyed by officials are accorded solely in the interests of the Communities. 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 officials in grades grade AD 12 to AD 16 and equivalent grades. Where the interests of the service so require, this laissez-passer may be issued, by special decision of the appointing authority, to officials in other grades whose place of employment lies outside the territory of the Member States.

### ***Article 24***

The Communities 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.

They 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 the damage and has been unable to obtain compensation from the person who did cause it.

### ***Article 24a***

The Communities 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 precedent 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 Communities 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 institutions.

## ANNEX 2

### **CODE OF GOOD ADMINISTRATIVE BEHAVIOUR FOR STAFF OF THE EUROPEAN COMMISSION IN THEIR RELATIONS WITH THE PUBLIC**

#### **Quality service**

The Commission and its staff have a duty to serve the Community interest and, in so doing, the public interest.

The public legitimately expects quality service and an administration that is open, accessible and properly run.

Quality service calls for the Commission and its staff to be courteous, objective and impartial.

#### **Purpose**

In order to enable the Commission to meet its obligations of good administrative behaviour and in particular in the dealings that the Commission has with the public, the Commission undertakes to observe the standards of good administrative behaviour set out in this Code and to be guided by these in its daily work.

#### **Scope**

The Code is binding on all staff covered by the Staff Regulations and the other legal provisions on relations between the Commission and its staff that are applicable to officials and other servants of the European Communities. However, persons employed under private law contracts, experts on secondment from national civil services and trainees, etc. working for the Commission should also be guided by it in their daily work.

Relations between the Commission and its staff are governed exclusively by the Staff Regulations and the Rules applicable to other servants of the European Communities.

### **1. GENERAL PRINCIPLES OF GOOD ADMINISTRATION**

The Commission respects the following general principles in its relations with the public.

#### **- Lawfulness -**

The Commission acts in accordance with the law and applies the rules and procedures laid down in Community legislation.

#### **- Non-discrimination and equal treatment—**

The Commission respects the principle of non-discrimination and in particular, guarantees equal treatment for members of the public irrespective of nationality, gender, racial or ethnic origin, religion or beliefs, disability, age or sexual orientation. Thus, differences in treatment of similar cases must be specifically warranted by the relevant features of the particular case in hand.

### **- Proportionality –**

The Commission ensures that the measures taken are proportional to the aim pursued.

In particular, the Commission will ensure that the application of this Code never leads to the imposition of administrative or budgetary burdens out of proportion to the benefit expected.

### **-Consistency –**

The Commission shall be consistent in its administrative behaviour and shall follow its normal practice. Any exceptions to this principle must be duly justified.

## **2 GUIDELINES FOR GOOD ADMINISTRATIVE BEHAVIOUR**

### **- Objectivity and impartiality –**

Staff shall always act objectively and impartially, in the Community interest and for the public good. They shall act independently within the framework of the policy fixed by the Commission and their conduct shall never be guided by personal or national interest or political pressure.

### **- Information on administrative procedures –**

Where a member of the public requires information relating to a Commission administrative procedure, staff shall ensure that this information is provided within the deadline fixed for the procedure in question.

## **3 INFORMATION ON THE RIGHTS OF INTERESTED PARTIES**

### **- Listening to all parties with a direct interest –**

Where Community law provides that interested parties should be heard, staff shall ensure that an opportunity is given to them to make their views known.

### **- Duty to justify decisions –**

A Commission decision should clearly state the reasons on which it is based and should be communicated to the persons and parties concerned.

As a general rule full justification for decisions should be given. However, where it may not be possible, for example because of the large number of persons concerned by similar decisions, to communicate in detail the grounds of individual decisions, standard replies may be given. These standard replies should include the principal reasons justifying the decision taken. Furthermore, an interested party who expressly requests a detailed justification shall be provided with it.

### **- Duty to state arrangements for appeals –**

Where Community law so provides, measures notified to an interested party should clearly state that an appeal is possible 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 lodging it).

Where appropriate, decisions should refer to the possibility of starting judicial proceedings and/or of lodging a complaint with the European Ombudsman in accordance with Article 230 or 195 of the Treaty establishing the European Community.

#### **4 DEALING WITH ENQUIRIES**

The Commission is committed to answering enquiries in the most appropriate manner and as quickly as possible.

##### **- Requests for documents –**

If a document has already been published, the person making the enquiry will be directed to the Publications Office's (OPOCE) sales agents or to the documentation or information centres which provide free access to documents such as Info-points, European documentation centres, etc. Many documents are also easily accessible in electronic form.

The rules on access to documents are laid down in a specific measure.

##### **- Correspondence –**

In accordance with Article 21 of the Treaty establishing the European Community, members of the public who write to the Commission shall receive a reply in the language of their initial letter, provided that it was written in one of the official languages of the European Union.

A reply to a letter addressed to the Commission shall be sent within fifteen working days from the date of receipt of the letter by the responsible Commission department. The reply should identify the person responsible for the matter and state how he or she may be contacted.

If a reply cannot be sent within the deadline mentioned above, and in all cases where the reply requires other work on it, such as interdepartmental consultation or translation, the member of staff responsible should send a holding reply, indicating a date by which the addressee may expect to be sent a reply in the light of this additional work, taking into account the relative urgency and complexity of the matter.

If the reply is to be drawn up by a department other than the one to which the initial correspondence is addressed, the person making the enquiry should be informed of the name and address of the person to whom the letter has been passed.

These rules do not apply to correspondence which can reasonably be regarded as improper, for example, because it is repetitive, abusive and/or pointless. Then the Commission reserves the right to discontinue any such exchanges of correspondence.

##### **- Telephone communication –**

When answering the telephone, staff shall identify themselves or their department. They shall return telephone calls as promptly as possible.

Staff replying to enquiries shall provide information on subjects for which they have direct responsibility and should direct the caller to the specific appropriate source in other cases. If necessary, they should refer callers to their superior or consult him or her before giving the information.

Where enquiries concern areas for which staff are directly responsible, they shall establish the identity of the caller and check whether the information has already been made public before giving it out. If this is not the case, the member of staff may consider that it is not in the Community interest for the information to be disclosed. In this case he or she should explain why they are unable to disclose it and refer in appropriate cases to the obligation to exercise discretion as laid down in Article 17 of the Staff Regulations.

When appropriate, staff should request confirmation in writing of the enquiries made by telephone.

#### **- Electronic mail –**

Staff shall reply to e-mail messages promptly following the guidelines described in the section on telephone communication.

However, where the e-mail message is, by its nature, the equivalent of a letter, it shall be handled according to the guidelines for handling correspondence and shall be subject to the same deadlines.

#### **- Requests from the media –**

The Press and Communication Service, is responsible for contacts with the media. However, when requests for information concern technical subjects falling within their specific areas of responsibility, staff may answer them.

## **5 PROTECTION OF PERSONAL DATA AND CONFIDENTIAL INFORMATION**

The Commission and its staff shall respect, in particular:

- the rules on the protection of personal privacy and personal data;
- the obligations set out in Article 287 of the Treaty and in particular those which relate to the protection of professional secrecy;
- the rules on the protection of secrecy of criminal investigations;
- the confidentiality of matters falling within the ambit of the various committees provided for in Article 9 and Annexes II and III of the Staff Regulations.



## 6 COMPLAINTS

### - The European Commission –

Members of the public may lodge complaints concerning a possible breach of the principles set out in this Code directly with the Secretariat-General<sup>1</sup> of the European Commission, which will forward it to the relevant department.

The Director-General or Head of Department will reply to the complainant in writing, within two months. The complainant then has one month in which to apply to the Secretary-General of the Commission to review the outcome of the complaint. The Secretary-General will reply to the request for a review within one month.

### - The European Ombudsman<sup>2</sup> –

Members of the public are also entitled to lodge complaints with the European Ombudsman in accordance with Article 195 of the Treaty establishing the European Community and the Statute of the European Ombudsman<sup>3</sup>.

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<sup>1</sup> Complaint forms can be downloaded at: [http://europa.eu.int/comm/secretariat\\_general/code/index\\_en.htm](http://europa.eu.int/comm/secretariat_general/code/index_en.htm) or obtained on request from the following addresses:

by post: Secretariat-General of the European Commission,  
Unit SG/B/2 "Openness, access to documents, relations with civil society",  
rue de la Loi 200, B-1049 Brussels

by e-mail: [SG-Code-de-bonne-conduite@cec.eu.int](mailto:SG-Code-de-bonne-conduite@cec.eu.int)

<sup>2</sup> Website: <http://www.euro-ombudsman.eu.int>

<sup>3</sup> By mail: The European Ombudsman  
1 avenue du Président Robert Schuman  
B.P. 403  
F-67001 Strasbourg Cedex

