

Case studies "gifts & hospitality"

Note: Examples are given for pedagogical purposes only and do not refer to real cases. A complete answer depends on knowing all the facts and circumstances in a given case.

KEY MESSAGE: *staff should not accept any gift or hospitality offered by third parties but it may be difficult at times to refuse for social, diplomatic or courtesy reasons.*

1. I have received a package for Christmas (a calendar, chocolate, an agenda). I think it has no great value. Can I accept this?

First of all, the estimation of the value of the gift has to be done in good faith. In case of a value of less than €50, you may keep the gift. Prior permission by the Appointing Authority is presumed to be granted for a gift worth up to €50. Just pay attention if there could be a particular situation which would require even not accepting this kind of gift (for example if you are in the process of selecting a company in the framework of a tender proceeding and the gift comes from a participating company).

2. A colleague has received a watch and would like to hand it over to the Commission (for charity). Could you tell me how he should proceed and where he should send it?

We recall that a gift with a value exceeding €150 cannot be accepted. The refused gifts should be returned to the source as far as possible or otherwise to OIB at the following address: OIB.OS.1 - DAV1 1/255. Gifts that cannot be returned to the source will be awarded to a charity organisation chosen by OIB.

This procedure also applies to unauthorized gifts (worth over €150). In addition, for reasons of transparency and politeness, you are requested to inform the source that the gift was not accepted and will be sent to charity – unless this is not advisable for courtesy reasons. It is also recommended that you inform your immediate superior for reasons of transparency.

3. I have received an iPad at the end of a conference (estimated value €500) from an IT company in Saudi Arabia, what shall I do?

It is probably appropriate that the gift was not refused on spot by the applicant when he received it in order not to cause any offence. However, the gift cannot be kept by the applicant as its value is more than €150 and it has to be sent to OIB. OIB will give it to a charity (see procedure explained in case No 2).

4. I have received a gift in Luxemburg and do not want to keep it. Do I have to send it to OIL or OIB?

Gifts received in Luxemburg also have to be sent to OIB.

5. I work at the Cabinet of Mr X and have received an invitation for the Eurovision Song Contest in Luxemburg which includes free tickets to the show and a backstage tour. I am not the only person; many other colleagues have also been invited. Can I accept this?

This type of invitation creates a potential conflict with the expected ethical behaviour of staff.

When deciding on such matters, the appointing authority takes into consideration the following factors:

- The motive behind offering the gift/hospitality;
- the possible consequences for the Institution's interests;
- the value of the gift, favour or donation;

In the particular case, the main factors to be considered are the possible (negative) consequences for the Commission's interest in having a large number of staff seen to have received a free entrance to this event "for a night of entertainment and fun".

The presence upon invitation of individual staff members at the event could hardly be justified.

It is strongly discouraged to participate at this kind of events.

6. During a conference I received a kit of stationery from the organizers. I cannot evaluate myself the overall value of the gift. Should I have refused it?

First of all, the estimation has to be made in good faith. Usually the value of this kind of gifts is limited and there is no risk of conflict of interest, damage to the reputation of the Institution or to your impartiality. It can however be important to establish if such gifts have been accorded to all participants or only to some of them/you (main speakers, authorities and so on). Also the circumstances of such gestures are relevant. If a gift has been donated to you in front of everybody, then you couldn't refuse it without being impolite toward your hosts. If, however, the value of the gift turns out to be valuable, you should start the procedure for request of authorisation as soon as possible (afterwards).

7. In case of a mission, do we have to declare in the mission cost declaration lunches, dinners, light meals, sandwiches or cakes.... offered by the organizers?

Reimbursements to staff are intended to cover all expenses incurred during the mission. If the "snack" corresponds de facto to a meal – so that the staff member does not spend any money for a "real" meal – this offered meal should be stated in the cost declaration. If this meal was so light or in case you were offered a free coffee / soft drink, you had to pay for a "real" meal, there is of course no reason to declare it.

8. Can private cards which earn points in airline fidelity programmes (air miles, frequent flyer...) be used for missions?

There is no rule prohibiting the earning of bonus miles during flights on missions. But the Commission travel agency is not linked to specific airlines, and has to choose tickets according to mission requirements and the cheapest price available. Therefore, missions are done with all kinds of airlines. You would therefore behave unethically if you chose a more expensive trip because you want to earn bonus miles.

9. I have been invited to give a weekend course at the University of Bologna on EU matters in which I am expert. They will pay the transport and hotel costs and offer me a fee of €500. What should I do?

First of all, it should be clearly established whether this concerns a mission (maybe even cost-free) or an external activity.

If it is an activity performed in the framework of your duties in the Commission, you may request a mission order. All charges which you have made must then be declared on your mission cost declaration. Any meals offered will be deducted from your mission reimbursement. As part of a mission, the Commission usually covers all costs incurred to avoid any perception of conflict of interest. Concerning the fee of €500, you may not accept it because the presentation is part of your work.

In exceptional circumstances, and if the "ordonnateur" considers it in the interest of the service and does not perceive a conflict of interest, you may also be sent on a "cost free mission".

If it is considered an outside activity, you should have asked permission from your appointing authority (see:

http://myintracomm.ec.europa.eu/hr_admin/en/ethics/obligations/conflicts_interest/Pages/external_activities.aspx).

There does not appear to be a conflict of interest so this will very likely be granted. Concerning the fee of €500, while you may accept it, it has to be declared in the application for authorisation to engage in an outside activity (Sysper2, ethics module).

10. Your unit has to deal on a regular basis with Organisation X. Now they are inviting you and your family for a Christmas dinner in a fancy restaurant as a token of appreciation for the good relationship. How should you react to this offer?

The hospitality offer (Article 11 Staff Regulations) should be refused because it constitutes a real conflict of interest (Article 11a SR) where authorisation is needed. Not only could the acceptance be seen as compensation for a special service, and not necessarily in the interest of the Commission, but it could also be detrimental to the image of the Commission if perceived as a personal favour.

11. An organisation, representing the interests of a major stakeholder of your DG, and active in your domain, sends several business lounge tickets for the final match of a Grand Slam tournament. You are a tennis fan and if you would send the tickets back, the post is likely to deliver these after the finals. What do you do?

You should refuse the tickets. This is an offer for entertainment which should not be accepted, whatever the costs are, as participation in the event constitutes an apparent conflict of interest and risks impairing the (perceived) independence of the official (Article 11a SR). Moreover, there is a high risk of damage for the image of the Commission in the eyes of other stakeholders as there is no reason for an official to be present officially at this event. Therefore you should inform the organisation immediately, politely decline and send back the tickets.

12. After a tender procedure, a contract has been concluded with a telecoms service provider for communication equipment and services. As you manage this file, you received the latest smart phone. You intend to use the gadget mainly professionally, but is it allowed?

This is not allowed. The SR require you to declare any gifts, payments received (Article 11), unless it is an item with relative low market value (a smart phone is not a gadget). In addition, the acceptance could be seen as compensation for a 'special treatment' or a bonus for being selected, which would constitute at least an apparent conflict of interest. This has to be clearly avoided. In line with the rules, it would have been much better not to accept this gift in the first place, rather than to declare it as a gift, which cannot be accepted. The question of the phone being mainly used professionally is irrelevant.

13. A family friend whom you know since university has in the meantime become an extremely successful businessman. You have always had close contacts and are the godmother of one of his kids, and he is godfather to one of your kids. You yourself have now become an important official at the Commission responsible for a policy area which is of great importance for your friend.

- **Every year, he invites your child (his godchild) to spend some time with his family on their yacht.** This appears to be clearly private and socially adequate, and no reasonable person could deduce that this has an impact on your impartiality.
- **Every year ever since he became rich, he invites you and all your family to spend some holidays with them on his yacht.** Even if this is quite a tradition and completely innocent, it may be perceived by the public as evidence of a too close relationship which could impact on your impartiality. Due to your new position you should consider if it were not prudent to not accept the invitation.
- **He invites you and your family to a sumptuous weekend party in his country home to celebrate the graduation of your godchild.** Here again this may in reality be completely innocent. Due to your new position, though, you should carefully consider the appearances. Maybe a "discreetish" option is not to stay at his home the whole time, or stay in a close-by hotel, and participate only in the "essential" events.

14. A person who has retired from the Commission has received an expensive pen linked to his former activities at the Commission. What should he do?

The same rules for gifts and hospitality apply to retired staff because the gift is linked to the activities of the former staff member during active service in the Commission.

As the value of this pen exceeds €150, it may not be accepted.

He should send it back to the source, or he can send it to OIB in which case it is given to charity. For reasons of politeness, he should also send a note to the source explaining his choice. It can be difficult for former staff members to contact different services of the Commission involved, therefore retired staff may also contact the ethics sector, unit HR.B.1.002.

15. I was recently on mission to the UK and my outbound flight was cancelled. I checked the passenger rights guide and requested compensation from the carrier. I expect to get €250 from them. Can I keep this compensation for having to wait 4 hours at Brussels airport for the next available flight?

This is not a gift but a compensation for the inconvenience suffered by any passenger due to delays above a certain duration which is prescribed by law. However PMO must be contacted. As a general rule, unless the flight's change has caused an increase of costs for the Commission, or if the staff member has received a larger daily allowance for the mission's length, you are entitled to keep the pecuniary compensation.

If possible please declare such compensation directly in MIPS before closing the mission expenses claim.

16. On the occasion of a mission where Mr X is going to give a speech to an association of lawyers, the organiser (a law firm) would like to invite Mr X and his wife (also working at the Commission) to the reception and a ball. Mr X never had anything to do with the law firm and does not think he will in the foreseeable future. How does Mr X have to proceed?

Mr X should declare all this in his mission order request and the authorising officer should verify and state that there is no conflict of interest. Concerning the wife, Mr X should ask the authorisation from the Appointing Authority for her to accept it, or at least ask his hierarchy in writing if he can accept it. Mr X's wife should also inform her hierarchy. However, it is more transparent if the wife pays for her participation. It would also be recommendable that she informs her hierarchy.

17. Our unit has won two awards in the framework of its activities, and an amount of €250 for two video clips that it produced. We wish to donate the money to charity. What is the procedure?

You should request the organizer of the competition to donate the prize money to a charity.

18. An official participates in a competition and wins a certain amount of money (prize). May he accept it?

If this is due to the participation in a private capacity such as, for example, filling in "mots croisés" and winning a travel, this has clearly nothing to do with your work and you may accept it and enjoy the holidays.

If you have participated in a professional capacity in the competition before joining the Commission and the prize is awarded for your earlier work, you may accept it but you should, for reasons of transparency, inform your hierarchy.

Finally, if you have participated in such a competition in the area of your work, this does not concern gifts, but external activities (see link:

http://myintracomm.ec.europa.eu/hr_admin/en/ethics/obligations/conflicts_inter est/Pages/external_activities.aspx).

The Commission Decision on external activities and assignments - article 10 "Prizes and awards" indicates the following: "*Officials given a prize or award for an assignment or outside activity are required to apply to the appointing authority for permission to accept it. Such permission shall be granted or*

withheld by the appointing authority depending on the circumstances of each case, regardless of the value of the prize or award. Permission shall only be refused if the acceptance of the prize or award is incompatible with the interests of the institution or could impair the independence of the official."

19. During a visit to a colleague from another DG, I was surprised to see the following gadgets on his desk: a notebook, pencils etc. with the header of a commercial company who replied to a tender procedure of the Commission; what do you think about it?

This certainly gives the impression of partiality and should be avoided.

20. As a Seconded National Expert, do I have to follow all the rules applicable to officials concerning gifts?

Seconded National Experts' rights and obligations are governed by Commission Decision C(2008) 6866 laying down rules on the secondment to the Commission of national experts and national experts in professional training.

On the other side, contract staff, temporary staff and special advisers are submitted by analogy to the same statutory obligations as officials (Articles 11, 54 and 124 of the CEOS).