



DECISION OF THE GOVERNING BOARD OF SMART NETWORKS AND SERVICES JOINT UNDERTAKING No 15/2023

of 17/07/2023

Setting-out rules on the prevention and management of conflicts of interest of the staff members

THE GOVERNING BOARD,

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

Having regard to the Staff Regulations of Officials ('Staff Regulations') and the Conditions of Employment of Other Servants of the European Union ('CEOS'), laid down by Council Regulation (EEC, Euratom, ECSC) No 259/68¹, and in particular Title II of the Staff Regulations and Articles 11 and 81 of the CEOS²,

Having regard to Council Regulation (EU) 2021/2085 of 19 November 2021 establishing the Joint Undertakings under Horizon Europe (hereinafter 'Founding Regulation')³, and notably the Smart Networks and Services Joint Undertaking (hereinafter 'The SNS JU'), and in particular Article 42 thereof,

Having regard to the Guidelines on the prevention and management of conflicts of interest in EU decentralised agencies dated 10 December 2013,

Having regard to the agreement of the European Commission pursuant to Article 110(2) of the Staff Regulations⁴,

¹ OJ L 56, 4.3.1968, p. 1.

² Articles 11 to 26a of the Staff Regulations are applicable by analogy to temporary agents and contract agents, pursuant to Articles 11 and 81 of the CEOS, respectively. Any reference in this Decision to those Articles of the Staff Regulations shall be understood as applicable by analogy to temporary and contract staff by virtue of Articles 11 and 81 of the CEOS.

³ Council Regulation (EU) 2021/2085 of 19 November 2021 establishing the Joint Undertakings under Horizon Europe and repealing Regulations (EC) No 219/2007, (EU) No 557/2014, (EU) No 558/2014, (EU) No 559/2014, (EU) No 560/2014, (EU) No 561/2014 and (EU) No 642/2014 (OJ L 427, 30.11.2021, p. 17). This Regulation is also referred to as the 'Single Basic Act (SBA)' in SNS JU documents.

⁴ Commission Decision C(2023) 4805 of 11 July 2023.

Having regard to the fact that the Staff Committee of the SNS JU, which is to be consulted pursuant to Article 110(2) of the Staff Regulations, has not yet been constituted because the SNS JU does not have sufficient staff yet, it is impossible at the present to comply with the requirements of that provision. The Staff Committee will be invited to give its opinion on the relevant implementing rules when it has been constituted and due consideration will be given to its opinion. To ensure the proper functioning of the SNS JU, the Governing Board is entitled in such circumstances to approve the rules forthwith,

WHEREAS:

- (1) All staff members are to carry out their duties and conduct themselves solely with the interests of the SNS JU in mind, notably they are to carry out the assigned duties objectively, impartially and in keeping with their duty of loyalty to the SNS JU;
- (2) Provisions on conflicts of interest are already included in various documents, such as the Staff Regulations, the CEOS, the Financial Rules and the Rules of Procedure of the SNS JU Governing Board⁵;
- (3) In accordance with Article 42(2) of the Founding Regulation, the SNS JU is to have in place rules regarding the prevention, avoidance and management of conflicts of interest in respect of its staff, the members and other persons serving the governing board and in the other bodies or groups of the joint undertaking;
- (4) It is therefore necessary to adopt at Governing Board level in accordance with Article 42(2) of the Founding Regulation the present decision applying to the staff of the SNS JU, including the Executive Director, without prejudice to the existing rights and obligations related to conflicts of interest provided in other applicable documents mentioned under recital 2. By implementing the Staff Regulations and the CEOS, this decision aims to complement the existing rules and to serve as a reference for the staff members of the SNS JU and ensures a comprehensive and coherent approach to conflicts of interest and the highest standards of administration, professional ethics, integrity and independence.

HAS ADOPTED THE FOLLOWING DECISION:

CHAPTER I- SCOPE, GENERAL OBLIGATIONS AND DEFINITION

Article 1
Subject

The present Decision lays down rules for the prevention and management of conflicts of interest of the SNS JU staff members in order to ensure the handling in a transparent and consistent manner of situations where conflicts of interest may arise.

⁵ Governing Board decision of the SNS JU No 01/2021 establishing the Governing Board Rules of Procedure and Governing Board decision of the SNS JU No 02/2021 approving the Financial Rules of the Smart Networks and Services Joint Undertaking

Article 2
Scope and persons concerned

- (1) This Decision shall apply to the following categories of actors involved in the work and activities of the SNS JU:
 - a) contract staff,
 - b) temporary staff⁶for the purposes of this decision collectively referred as "staff members". The rules apply by analogy to seconded national experts (SNEs), as stipulated in Article 12(2) of this Decision.
- (2) All staff members of the SNS JU shall carry out their duties and conduct themselves solely with the interests of the SNS JU in mind. All staff members shall carry out their duties objectively and impartially and in keeping their duty of loyalty to the SNS JU. All staff members shall abstain from any action adversely affecting the reputation of the SNS JU.

Article 3
General principles on conflict of interest and personal interest

- (1) Staff members should not, in the performance of their duties, deal with a matter in which, directly or indirectly, they may have any personal interests such as to impair their independence as this would compromise or reasonably be perceived to compromise the impartiality and objectivity of a decision, opinion or recommendation of the SNS JU.
- (2) Relevant personal interest may notably be of a financial or non-financial nature and it may also concern a personal or family relationship, any representation of any other interests of third parties or a community of interests with any third parties, any professional or economic affiliation, as well as any other outside activities leading to the situation described in paragraph 1.
- (3) The appearance of a conflict of interest can constitute a reputational risk to the SNS JU, even if turns out to be unsubstantiated. Therefore, taking due consideration of proportionality, specific backgrounds, all relevant facts and mitigating circumstances, a risk of perceived conflict of interest should be treated as if it were an actual conflict of interest.
- (4) It is the responsibility of all staff members to ensure that their conduct is in line with the rules regarding the conflict of interest in both letter and spirit. Each staff member of the SNS JU shall assume an individual responsibility by declaring in good faith his/her interests and information to the SNS JU in compliance with the provisions of this decision and of the Staff Regulations.

Article 11a of the Staff Regulations applies to any staff member. Any staff member, who becomes aware of a potential conflict of interest, must immediately inform in

⁶ According to Article 18(3) of the Founding Regulation, this category shall also include the Executive Director of the SNS JU.

writing the relevant competent authority.

The SNS JU shall raise awareness about conflicts of interest among staff members through trainings, sessions addressed to the newcomers, and information published on the SNS JU intranet.

Article 3a

Specific provisions regarding the Executive Director

- (1) The Executive Director shall act impartially, avoiding any situation liable to give rise to potential conflicts of interest. Taking into account the public character of his/her function when acting under the tasks and roles laid down in the Founding Regulation, the Executive Director shall perform his/her tasks objectively, impartially and with independence in line with his/her duty of loyalty to the SNS JU.
- (2) When questions which are not explicitly covered by these rules arise, adherence to the generally accepted principles of probity shall determine the behaviour of the Executive Director. The Executive Director shall:
 - a) Act independently in the general interest of the SNS JU and in the interest of its sound management and objectives without allowing himself/herself to be influenced by personal interests or relationships;
 - b) Guarantee that under his/her role of authorising officer, the SNS JU operates within the limits of its statutory remit and rules;
 - c) When communicating on a matter on which the SNS JU has taken a view, the Executive Director shall represent the views of the SNS JU; when communicating on a matter that falls within the remit of the SNS JU but on which the SNS JU has not taken a view so far, the Executive Director may give his/her own personal view, but should make it clear that this does not necessarily represent the official opinion of the SNS JU. The Executive Director should always refrain from any unauthorised disclosure of information or documents received in the line of duty that have not already been made public or are accessible to the public;
 - d) Not exploit his/her position in order to influence the expected impartiality of the SNS JU staff members, external experts, reviewers, consultants and any third parties participating at any title in the bodies or activities of the SNS JU.

CHAPTER II – PROVISIONS APPLICABLE TO STAFF MEMBERS⁷

Article 4

Obligation to make declarations on conflicts of interest

- (1) Before recruitment or taking up duties in the SNS JU or returning from unpaid leave, the Authority authorised to conclude contracts of employment (AACC)⁸ shall examine whether the candidate/staff member has any personal interest such as to impair his/her independence.

⁷ Without prejudice to the Article 3a of this Decision, these provisions are also applicable to the Executive Director.

⁸ In the case of SNEs, any reference to the Authority authorised to conclude contracts of employment under this decision shall be understood as the Executive Director or the *ad interim* Executive Director, without prejudice to any delegation.

To that end, the candidate or staff member, shall submit the declaration on conflict of interest using the relevant form.

As regards the recruitments, the members of a Selection Board shall submit before taking up their duties the declaration on conflict of interest and confidentiality using a relevant form.

In cases where the declaration shows a potential or apparent conflict of interest, it must be managed and solved before the staff member takes up or resumes his/her duties.

- (2) Staff members must promptly disclose all relevant information about a personal interest when circumstances change following their initial disclosure or when new situations arise. If at any time in the course of his/her duties a staff member becomes aware of any potential conflict of interest or any appearance of a conflict of interest, the staff member is obliged to inform the relevant authority in the SNS JU by spontaneously submitting the ad-hoc declaration on conflict of interest, using the relevant form.

*Article 5
Obligation of confidentiality*

- (1) Staff members 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) All staff members shall continue to be bound by this obligation after leaving the SNS JU.

*Article 6
Obligations related to honours, decorations, favours, and gifts*

- (1) Staff members shall not accept, directly or indirectly, without the prior permission of the AACC, any honour, decoration, favour, gift or payment of any kind whatsoever from any source outside the SNS JU.

Criteria to be considered in this context are, in particular, if the acceptance of the gift or hospitality is counter to the interests of the service or presents a real or perceived conflict of interest for the staff member concerned, or if such acceptance would be in accordance with diplomatic and courtesy usage.

Gifts and hospitality motivated solely by a family relationship or personal friendship, or in a context not related in any way to the staff member's duties do not, in principle, fall under these provisions. However, even here situations may arise when acceptance can be perceived as compromising the staff member's independence.

- (2) A gift is understood to mean:
 - a) a sum of money or any physical object, or
 - b) the possibility to participate for free in events which are either open to the public

or private in nature, only accessible in return for payment and represent a certain value (such as complimentary tickets for sports events, concerts, theatre, conferences, etc.), or

- c) any other advantage with a pecuniary value such as transport costs.
- (3) Hospitality offers are considered to be one particular type of favour. Hospitality is defined as an offer of food, drink, accommodation and/or entertainment from any source outside the SNS JU.
 - (4) Acceptance of gifts or hospitality may exceptionally be authorised (within the limits indicated in paragraphs 5 and paragraph 7) when it is clear that this will not compromise or reasonably be perceived to compromise the staff member's objectivity and independence and will not damage the SNS JU's public image.
 - (5) Subject to the general principles set out herein, the following apply:
 - a) Prior permission by the AACC is presumed to be granted for accepting a gift worth up to EUR 50;
 - b) Explicit prior permission by the AACC is required for accepting a gift worth between EUR 50 and EUR 150, by submitting a declaration using the relevant form.
 - c) Authorisation to accept gifts with a value higher than EUR 150 or any sum of money will be refused by the AACC.
 - (6) If the AACC refuses to authorise the acceptance or if a gift is unwanted, it can be returned to the source, if this is feasible. Alternatively, the gift can be donated by the SNS JU to an appropriate charitable organisation.

As a courtesy, the staff member shall inform the sender of the gift that the gift cannot be accepted and will be transmitted to charity, unless this would be diplomatically inappropriate.

- (7) As a general rule the staff member should not accept any hospitality and should make use of sound judgement in order to assess, in the given circumstances, if acceptance could be envisaged.

Subject to the general principles set out herein, the following apply:

- a) Prior permission by the AACC is presumed to be granted for:
 - hospitality in the form of lunches or dinners strictly linked to the function of the staff member and as such not prejudicial to the interests and public image of the SNS JU, and in which the staff member participates in agreement with his/her hierarchy and in the interest of the service;
 - occasional offers of simple meals, refreshments, snacks.
 - b) Explicit prior permission by the AACC is required in cases not covered by subparagraph (1), by submitting a declaration, using the relevant form.
- (8) As for the hospitality offered during missions, the mission order will as a rule cover all predictable offers of hospitality, based on the mission programme – notably meals, accommodation and transport (provided there is no conflict of interest). These will not be considered as hospitality offers if the programme of the mission and the

participation of the staff member has been authorised – as they form part of the performance of his/her duties in the interest of the SNS JU. The acceptance of these offers will then be declared in the mission expense statement. Particular prudence is necessary in sensitive situations. For instance, staff members participating in inspections and similar missions should whenever possible inform their immediate superior or team leader on an ad hoc basis, and in accordance with any other specific provisions, when hospitality is offered in the course of such missions. If this is impossible, they should exercise their individual judgement and act according to the principles set out in these guidelines. Any hospitality thus accepted should be declared in the mission expense statement.

- (9) Accumulation of gifts and hospitality for which prior permission of the AACC is presumed may be seen to compromise the staff's objectivity and independence, or may damage the SNS JU's public image. Therefore, it requires the prior permission by the AACC.

Article 7

Obligations related to outside activities

Commission Decision C(2018)4048 of 29.6.2018 on outside activities and assignments and on occupational activities after leaving the Service applies by analogy.

Article 8

Obligations related to publications and speeches

- (1) Staff members who intend to publish or cause to be published, either on their own or with other parties, a document, such as an article or a book, on anything dealing with their work for the SNS JU or EU matters generally, shall inform the AACC in advance.

The staff member above shall submit the declarations using relevant forms, as the case may be, and provide the AACC with any information, in particular a copy, in electronic form, of the document he/she intends to publish. This must be accompanied by a summary of the document to be published, in electronic form, in one of the SNS JU's working languages.

Pursuant to Article 17a of the Staff Regulations⁹, where the AACC is able to demonstrate that the matter is liable seriously to prejudice the legitimate interests of the Union, the AACC shall inform the staff member 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 AACC shall be deemed to have had no objections.

- (2) Without prejudice to Article 17a of the Staff Regulations, the above-mentioned staff member, when publishing on any matter related to their work for the SNS JU or any EU matter, shall indicate in the document he/she wants to publish that he/she is writing under

⁹ Applicable by analogy to temporary and contracts agents pursuant to Article 11 of the CEOS and Article 81 of the CEOS.

his/her own name, engaging himself/herself and not the responsibility of the any EU institution or body. The staff member is obliged to observe the rules concerning non-disclosure of information and the confidentiality requirement on EU matters or related to his/her work in the SNS JU.

Article 9

Obligations related to election or appointment for public office

- (1) Pursuant to Article 15(1) of Staff Regulations¹⁰, staff members who intend to stand for public office shall notify the AACC by submitting a declaration using the relevant form.
- (2) Pursuant to Article 15(2) of Staff Regulations, staff members who are elected or appointed to public office must immediately inform the AACC by submitting a declaration in the relevant form.

Article 10

Obligation to declare the professional activities of the spouse or partner

- (1) Pursuant to Article 13 of Staff Regulations¹¹, staff members have the obligation to inform the AACC if their spouse/partner is in gainful employment, i.e. doing paid work. In this respect, spouses and partners in accordance with Article 1(2) (c) of Annex VII to Staff Regulations are regarded in the same way.
- (2) The staff members shall submit a declaration using the relevant form. If there is any change in the spouse's situation, the staff member is obliged to submit a new declaration.

Article 11

Procedures to manage a conflict of interest

- (1) With regard to the staff members, the AACC is responsible for adopting formal decisions to prevent and manage conflicts of interest, when informed of a situation which may be detrimental to the SNS JU.

The AACC shall carry out an internal assessment involving the legal department, the human resources department, the line manager of the staff member concerned or any other persons, including the staff member concerned, as deemed necessary. Based on the findings of the assessment, the AACC shall decide in writing the necessary measures in accordance with the applicable rules.

¹⁰ Applicable by analogy to temporary and contracts agents pursuant to Article 11 of the CEOS and Article 81 of the CEOS.

¹¹ Applicable by analogy to temporary and contracts agents pursuant to Article 11 of the CEOS and Article 81 of the CEOS.

Article 12
Ex-post treatment of situations of non-compliance
with the obligations under the present rules

- (1) In accordance with Article 86(1) of the Staff Regulations¹², any failure by staff members of the SNS JU to comply with his/her obligations under the rules of conflicts of interest, whether intentionally or through negligence on his/her part, shall make him/her liable to disciplinary measures, in accordance with the provisions of the Staff Regulations and the CEOS with the respect of the procedural safeguards laid down therein.
- (2) Seconded national experts shall comply with the relevant obligations imposed by the present Decision on conflicts of interest. Failure to observe the obligations provided herein entitles the SNS JU to terminate the collaboration, subject to respecting the procedural safeguards of the seconded national expert concerned, notably including the right to be informed in advance of the reasons underlying the AACC's intention to terminate the collaboration and giving him the opportunity to be heard.
- (3) If the concerned person was involved in a decision-making procedure without having declared an interest, the AACC or the respective body or group may undertake remedial actions, in particular to review or cancel the decision if seriously affected by the conflict of interest, without prejudice to the acquired rights of the third parties to the SNS JU. This implies carrying out an ex-post review of the person's activities and contributions to the SNS JU's output.

CHAPTER III – GENERAL AND FINAL PROVISIONS

Article 13
Register

- (1) All the declarations made by staff members shall be clearly recorded in a register by the SNS JU. This will enable the SNS JU to demonstrate, if necessary, that a specific conflict of interest has been appropriately identified and managed.¹³
- (2) The register referred to in Article 3, paragraph 1 shall be maintained in compliance with the applicable provisions of Regulation (EU) 2018/1725 of the European Parliament and of the Council of 23 October 2018 on the protection of natural persons with regard to the processing of personal data by the Union institutions, bodies, offices and agencies and on the free movement of such data, and repealing Regulation (EC) No 45/2001 and Decision No 1247/2002/EC.

¹² Applicable by analogy to temporary and contract agents pursuant to Articles 50a and 119 of the CEOS, respectively.

¹³ Measures adopted to manage the conflicts of interest are filed in the personal file of each staff member.

Article 14
Transparency

- (1) The SNS JU shall publish on its website the policies and rules for the prevention of conflict of interest in a clear and easily identifiable manner.
- (2) The declarations of interest submitted by the Executive Director shall be available for public scrutiny with due respect to the applicable EU rules on protection of personal data and access to documents. Where deemed relevant, the Governing Board may decide that the CV (or a summary of their professional experience) of the person concerned shall also be made available.

Article 15
Final provisions

- (1) The Executive Director of the SNS JU may adopt guidelines to facilitate the implementation of the present Decision.
- (2) Any permission granted by the AACC pursuant to a declaration submitted by staff members shall be limited to the specific situation described in the declaration and cannot be extended to other instances of conflict of interest.

Any change of the initial situation described in the declaration and approved by the AACC shall be considered as a new situation and must be brought to the attention of the AACC.

- (3) These rules shall take effect on the date of their adoption by the Governing Board and shall be published on the website of the SNS JU.

Done at Brussels, on 17/07/2023,

For the Governing Board
(signed)

Colin Willcock
Chairperson of the Governing Board