



**Decision No 19/2022  
of 24 November 2022  
of the Management Board  
on the European Labour Authority's Conflict of Interest Policy**

THE MANAGEMENT BOARD OF THE EUROPEAN LABOUR AUTHORITY,

Having regards to:

Regulation (EU) 2019/1149 of the European Parliament and of the Council of 20 June 2019 establishing a European Labour Authority, amending Regulations (EC) No 883/2004, (EU) No 492/2011, and (EU) 2016/589 and repealing Decision (EU) 2016/344 (hereafter "the founding Regulation" and "the Authority" or "ELA"), and Article 17(3) and (4) and Article 18(1)(f) thereof,

Management Board Decision No 1/2019 of 17 October 2019 on the Rules of Procedure of the Management Board of ELA,

Management Board Decision No 21/2020 of 15 December 2020 of the Management Board on ELA's Financial Rules (hereafter "ELA's Financial Rules"),

Management Board Decision No 7/2019 of 3 December 2019 setting up the ELA Working Group on Information,

Management Board Decision No 8/2019 of 3 December 2019 setting up the ELA Working Group on Inspections,

Management Board Decision No 2/2021 of 9 March 2021 setting up the Working Group "European Platform to enhance cooperation in tackling undeclared work",

Management Board Decision No 11/2020 of 3 August 2020 establishing the Rules of Procedure of the Stakeholder Group,

Management Board Decision No 3/2021 of 7 May 2021 on the European Labour Authority's Anti-Fraud Strategy 2021-2023,

Management Board Decision No 6/2021 of 25 May 2021 adopting the rules of procedure of the Working Group "European Platform to enhance cooperation in tackling undeclared work",

Management Board Decision No 19/2021 of 10 November 2021 laying down rules on the secondment to the European Labour Authority of national experts, including national liaison officers and national experts in professional training (hereafter "SNE rules"),

Whereas:

- (1) Article 18(1)(f) of the founding Regulation provides that the Management Board shall adopt rules for the prevention and management of conflicts of interest in respect of its members and independent experts, as well as the members of the Stakeholder Group and of the Working Groups and Panels as well as of seconded national experts and other staff not employed by the Authority and shall publish annually on its website the declarations of interests of the Management Board members,
- (2) The Authority's Anti-Fraud Strategy for 2021-2023 requires ELA in its Action Plan to adopt such rules on conflict of interest by 2022,
- (3) Conflict of interest obligations for statutory ELA staff members (temporary agents and contract agents) as regulated by the Staff Regulations<sup>1</sup> and ELA's Financial Rules<sup>2</sup> are and remain fully applicable and are not within the scope of this policy.

HAS ADOPTED THIS DECISION:

#### Article 1

##### **Objective**

Conflict of interest situations can occur almost at any workplace at any time. If they are not handled correctly, they can negatively affect the decision-making process, give rise to scandals, cause reputational damage, and impact the operational effectiveness of an organisation. They can also lead to wrongdoings and compromise the legality and regularity of operations. When public bodies are concerned, conflict of interest situations can also lead to a loss of faith in their ability to operate impartially and in the best interest of society.

The management of (potential) conflict of interest situations is therefore a key element of good governance and management of EU institutions, agencies and bodies and it is crucial for maintaining the trust of stakeholders and citizens in their work and to preserve the integrity of all ELA activities by ensuring its independence and transparency.

The present decision aims to prevent and manage (potential) conflict of interest situations.

#### Article 2

##### **Scope**

This decision applies to:

- Members, alternates, and observers of the ELA Management Board, including the independent expert appointed by the European Parliament and the four members representing social partner organisations at Union level,
- Members and alternates of the Stakeholder Group,

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<sup>1</sup> Staff Regulations of Officials of the European Union ('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.

<sup>2</sup> Management Board Decision No 21/2020 of 15 December 2020 of the Management Board on ELA's Financial Rules.

- Members and alternates of ELA's Working Groups and Panels,
- Members, alternates, and observers of the European Platform to enhance cooperation in tackling undeclared work,
- External experts, excluding external experts participating in ELA meetings on a one off or ad hoc basis,
- Seconded National Experts, including National Liaison Officers,
- Other staff not employed by ELA as referred to in Article 33 of the founding Regulation, such as trainees.

### Article 3

#### **Definitions**

For the purpose of this decision, the following definitions shall apply:

- a) An '*interest*' may be of financial or non-financial nature. It may concern a personal or a family relationship (to be understood as close personal/family circle: parents, stable partner, children) or a professional affiliation. It should be noted that having an interest does not necessarily mean having a conflict of interest.
- b) '*Direct*' interests may be financial benefits arising from, for example, employment contracted work investments, fees etc.
- c) '*Indirect*' financial interests may be e.g., grants, sponsorships, or any other kind of benefit;
- d) '*Legitimate interests*' are interests of a particular individual in his/her capacity as representative of an organisation or group within the Management Board, the Stakeholder Group or the Working Groups and Panels of the Agency. There is no expectation that legitimate interests should lead to a conflict of interest.
- e) A '*potential conflict of interest*' exists where a person falling under the scope of these rules has interests in his/her private capacity which could cause a conflict of interest to arise if that person were to become involved in relevant (i.e., conflicting) official responsibilities in the future.
- f) A '*conflict of interest*' is a situation where the impartiality or objectivity of a decision, opinion or recommendation is or might be perceived as being compromised by an interest held by an individual. A conflict of interest might be actual or perceived. The perception of a conflict of interest can constitute a reputational risk for the Agency.

### Article 4

#### **Roles and responsibilities**

All persons falling under the scope of this decision shall not deal with any matter, directly or indirectly, in which they have any interests that could impair their independence and impartiality in the performance of their duties. They have a responsibility to provide, without undue delay, information regarding the existence of such interests and any actual or potential conflicts of interest. '*Legitimate interests*' as defined in Article 3 of this decision are excluded from this requirement.

ELA shall respond appropriately to ensure that all persons falling under the scope of these rules are aware of their obligations.

As legal representative of ELA and responsible for the daily management of the Authority, the Executive Director shall ensure proper implementation of these rules.

Article 5

**Criteria and principles**

The following criteria shall be used to assess an actual or potential conflict of interest:

- The likelihood that decisions, opinions, and recommendations would be unduly influenced by an interest that goes beyond the legitimate interests of the individual.
- The seriousness of the potential harm or wrong that could result from such influence.
- The availability of mitigating measures that can reduce the likelihood or limit the harm.

Article 6

**Procedure for Management Board**

(1) Submission of a declaration of an absence of a conflict of interest

Each member, alternate and observer of the Management Board shall sign a written statement at the time of taking office declaring that he or she is not in a situation of conflict of interest ("*declaration of absence of conflict of interest*"). Each member, alternate and observer shall update his or her statement in the case of a change of circumstances regarding any conflict of interest.

As soon as any situation of actual or potential conflict of interest arises, the member, alternate or observer of the Management Board shall submit, without undue delay, a written statement describing the particular situation to the Executive Director, who will inform the Chairperson and the Deputy Chairperson of the Management Board.

The Authority shall publish the statements and any updates on its website.

In addition, at each meeting, members with voting rights shall declare any interest which could be considered prejudicial to their independence with respect to any point on the agenda. Anyone declaring such interests shall not participate in any voting on the relevant point. Such conflict of interest shall be recorded in writing in the minutes of the Management Board's meetings.

(2) Assessment of declarations of interests

If a member, alternate or observer of the Management Board declares an actual or potential conflict of interest, the Chairperson of the Management Board, in consultation with the Deputy Chairperson and the Executive Director, shall assess on whether there is an actual or potential conflict of interest, and, accordingly, if the person in question continues to meet the obligation of independence and impartiality.

To determine the significance of the potential or actual conflicts of interest, the Chairperson, in consultation with the Deputy Chairperson and the Executive Director, shall take into consideration the nature of the presumed interest and carry out an assessment on the basis of the criteria and principles mentioned under Article 5.

Should the Chairperson find him- or herself in a situation of (potential) conflict of interest, the Management Board shall decide to designate another member to assess the existence of an actual or potential conflict of interest.

(3) Actions

If the Chairperson of the Management Board concludes that a conflict of interest exists, he or she shall inform the Management Board and recommend appropriate measures to manage the conflict of interest.

This could include the request to the respective member, alternate or observer to abstain from taking part in discussions where the input may be perceived as biased in light of the conflict or to limit access to related information, as necessary.

The respective member or alternate could also be requested to abstain from decisions where the vote may be perceived as biased in light of the conflict, or that the respective member is to be replaced by his/her alternate.

The Management Board shall decide on the appropriate measures.

Article 7

**Procedure for Stakeholder Group**

(1) Submission of a declaration of an absence of a conflict of interest

Each member and alternate shall sign a written statement at the time of their appointment by the Management Board that he or she is not in a situation of conflict of interest ("*declaration of absence of conflict of interest*"). Each member and alternate shall update his or her statement in the case of a change of circumstances regarding any conflict of interest.

As soon as any situation of actual or potential conflict of interest arises, the member or alternate of the Stakeholder Group shall submit, without undue delay, a written statement describing the particular situation to the Executive Director.

In addition, at each meeting, members and alternates shall declare any interest, which could be considered prejudicial to their independence with respect to any point on the agenda. Such conflict of interest shall be reflected in writing in the minutes of the meeting.

It should be noted that having an interest does not necessarily mean having a conflict of interest.

There is no expectation that legitimate interest as defined in Article 3 should lead to a conflict of interest.

(2) Assessment of declarations of interests

If a member or alternate of the Stakeholder Group declares an actual or potential conflict of interest, the Executive Director shall assess whether there is an actual or potential conflict of interest.

To determine the significance of the potential or actual conflicts of interest, the Executive Director shall take into consideration the nature of the presumed interest and carry out an assessment on the basis of the criteria and principles mentioned under Article 5.

(3) Actions

If the Executive Director concludes that a conflict of interest exists, he or she shall decide on the appropriate measures to manage the conflict of interest. This could include the request to abstain from taking part in discussions where the input of the respective member or alternate may be perceived as biased in light of the conflict, to limit access to related information as necessary, or the respective member could be requested to be replaced by his/her alternate.

Article 8

**Procedure for ELA Working Groups and Panels**

(1) Submission of a declaration of an absence of a conflict of interest

All members of ELA Working Groups and Panels shall sign a written statement at the time of their appointment that he or she is not in a situation of conflict of interest (“*declaration of absence of conflict of interest*”). Each member shall update his or her statement in the event of a change of circumstances regarding any conflict of interest.

For the “European Platform to enhance cooperation in tackling undeclared work,” this obligation shall also apply to observers.

As soon as any situation of actual or potential conflict of interest arises, the member of the Working Group or Panel shall submit, without undue delay, a written statement describing the particular situation to the chair of the Working Group or Panel.

In addition, at each meeting, members shall declare any interest which could be considered prejudicial to their independence with respect to any point on the agenda. Such conflict of interest shall be reflected in writing in the minutes of the meeting.

(2) Assessment of declarations of interests

If a member of a Working Group or Panel declares an actual or potential conflict of interest, the chair of the Working Group or Panel shall assess whether there is an actual or potential conflict of interest.

To determine the significance of the potential or actual conflicts of interest, the chair shall take into consideration the nature of the presumed interest and carry out an assessment on the basis of the criteria and principles mentioned under Article 5.

(3) Actions

If the chair of the Working Group or Panel concludes that a conflict of interest exists, he or she shall decide on the appropriate measures to manage the conflict of interest to ensure the independence and impartiality of the deliberations of the Working Group or the Panel.

This could include the request to abstain from taking part in discussions or decisions where the input of the respective member may be perceived as biased in light of the conflict, or to limit access to related information as necessary, or the respective member could be requested to be replaced by his/her alternate.

Article 9

**Procedure for SNEs and NLOs and any other staff not employed by the Authority**

For Seconded National Experts, including National Liaison Officers, the conflict of interest provisions regulated in the SNE rules<sup>3</sup> shall apply.

For ELA trainees, the conflict of interest provisions regulated in the traineeship rules<sup>4</sup> shall apply.

## Article 10

### **Procedure for external experts**

#### (1) Submission of a declaration of an absence of a conflict of interest

External experts<sup>5</sup> shall sign a written statement at the time of their commencement of activities for ELA that he or she is not in a situation of conflict of interest ("*declaration of absence of conflict of interest*"). Each expert shall update his or her statement in the case of a change of circumstances regarding any conflict of interest.

As soon as any situation of actual or potential conflict of interest arises, the expert shall submit, without undue delay, a written statement describing the particular situation to the Executive Director.

This general obligation for external experts to declare any conflict of interest is without prejudice to any more detailed requirements under contractual obligations.

#### (2) Assessment of declarations of interests

If an expert declares an actual or potential conflict of interest, the Executive Director shall assess whether there is an actual or potential conflict of interest.

To determine the significance of the potential or actual conflicts of interest, the Executive Director, shall take into consideration the nature of the presumed interest and carry out an assessment on the basis of the criteria and principles mentioned under Article 5.

#### (3) Actions

If the Executive Director concludes that a conflict of interest exists, he or she shall decide on the appropriate measures. This could include removing the external expert from any involvement in relevant (i.e., conflicting) activities or discussions or the suspension or termination of the external expert's duties for ELA.

## Article 11

### **Raising awareness**

All persons under the scope of this decision shall receive a copy of these rules upon their appointment or commencement of duties within ELA or upon adoption of these rules, as applicable.

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<sup>3</sup> Management Board Decision No 19/2021 of 10 November 2021 laying down rules on the secondment to the European Labour Authority of national experts, including national liaison officers and national experts in professional training

<sup>4</sup> ED Decision No 6/2022 on Rules governing the Traineeship Programme at ELA.

<sup>5</sup> See Article 2: The scope of this policy excludes external experts participating in ELA meetings on a one off or ad hoc basis. For experts participating in the ELA mediation proceedings, Management Board Decision No 17/2021 of 10 November 2021 on the Rules of Procedure for mediation applies.

Article 12

**Personal data protection**

Declarations of interests shall be processed in accordance with Regulation (EU) 2018/1725 of the European Parliament and of the Council of 23 October 2018 on the protection of natural persons regarding the processing of personal data by the Union institutions, bodies, offices, and agencies and on the free movement of such data.

The Executive Director is the data controller for handling the declarations of interest of data subjects under this decision.

Data subjects also are entitled to have recourse at any time to the European Data Protection Supervisor.

Article 13

**Entry into force**

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

Done in Bratislava, on 24 November 2022.

For the Management Board

Tom BEVERS

Chair of the Management Board