

Decision No 26 of the Management Board of the European Foundation for the improvement of living and working conditions (Eurofound) adopting rules on the prevention and management of conflicts of interests in respect of Management Board members and external experts

THE MANAGEMENT BOARD OF THE EUROPEAN FOUNDATION FOR THE IMPROVEMENT OF LIVING AND WORKING CONDITIONS (hereinafter referred to as ‘Eurofound’ or ‘the Agency’),

Having regard to Regulation (EU) 2019/127 of 16 January 2019 establishing a European Foundation for the improvement of living and working conditions (Eurofound) and repealing Council Regulation (EEC) No 1365/75¹ (hereinafter referred to as ‘Eurofound’s Founding Regulation’), and in particular Article 5(1) point (g) and 4(4),

Having regard to Decision No 12 of the Management Board of Eurofound of 30 August 2019 adopting the Financial Regulation of Eurofound, and in particular Article 42 of the Financial Regulation (Annex),

Having regard to Decision No 6 of the Management Board of Eurofound of 28 June 2019 establishing the Rules of Procedure of the Management Board and Executive Board, and in particular Article 2,

Having regard to the Decision of the Governing Board of Eurofound adopting the Internal Control Framework of Eurofound, and in particular Internal Control Principle No. 1 (Annex),

Whereas:

- (1) Ensuring the independence of and establishing high standards of ethics and professional conduct to be demonstrated by all those who are involved in the activities of the Agency, and in particular by the Management Board members, is an absolute prerequisite for establishing and maintaining the trust of stakeholders and citizens in the Agency’s integrity, reputation and efficiency;
- (2) By virtue of their role, members of the Management Board of Eurofound participate in setting the strategic directions for the Agency. In the planning, design and implementation of its activities, Eurofound may also resort to expert advice. It is crucial to ensure reliability of the scientific advice sought and to preserve the integrity of the Agency’s outputs. External experts (including members of the Advisory Committees who are not members of the Management Board) of Eurofound may exercise influence over strategic decisions by providing scientific advice on specific activities of Eurofound.
- (3) Members of the Management Board of Eurofound (and their alternates) are designated and appointed by the Council of the European Union (representing either the governments, the employers’ organisations or the employees’ organisations) per Member State and the European Commission, on the basis of their knowledge in the field of social and work-related policies, taking into account their relevant skills such as managerial, administrative and budgetary skills and expertise in the area of Eurofound’s core tasks.
- (4) The scope of the term ‘Management Board members’ must be sufficiently broad to cover also other participants in meetings of the Management Board who are not appointed members of the Management

¹ . OJ L 30, 31.1.2019, p. 74–89.

Board but take part in the relevant discussions such as Group Coordinators (not appointed members of the Management Board) and EEA/EFTA observers.

(5) External experts are experts selected by Eurofound following a call for expressions of interest. The same applies to the members of the Advisory Committees who are not appointed members of the Management Board. Seconded National Experts (SNEs) and other staff not employed by Eurofound must also be treated as external experts for the purposes of these rules.

(6) Due account must be taken of the different nomination procedures and the different roles and responsibilities of the members of the Management Board compared not only to the rest of the administrative and managerial structure of the Agency, including the Executive Director and other Agency staff, but also to the external experts, and to differentiate the rules on the prevention and management of conflicts of interest in respect of each category accordingly;

(7) The fact that the members of the Management Board represent their organisations in the respective Member States and that, consequently, their votes and positions in the Board should be in line with instructions received from these organisations, does not, in itself, constitute a conflict of interest; it is rather a legitimate interest embedded in the performance by the person concerned of his or her role as member of the Management Board of Eurofound.

(8) Given the specificity of the Agency, the fact that a person falling under the scope of these rules may have a function in an entity which creates the perception of a conflict of interests is a situation which might require mitigation;

(9) Declarations of interests do not automatically entail limitation of participation of the declarant in the corresponding activities of the (Management Board of) the Agency.

(10) Perceived impartiality and objectivity is as important as actual impartiality and objectivity in a decision-making process.

(11) Members of the Management Board and external experts shall be required to submit a declaration of interests and curriculum vitae concerning them upon their appointment and updated after the commencement of duties.

(12) The responsibility for providing a complete, accurate and timely declaration of any interest which might be considered prejudicial to their impartiality lies solely with the Management Board members and external experts;

(13) Preventive measures that deal with conflicts of interest situations should be identified and facilitated in order to develop and sustain an open organisational culture where conflicts of interest or measures dealing with conflicts of interest matters can be freely raised and discussed;

(14) The Management Board members should be able to foresee potential conflicts, where feasible, for example through the provision of meeting agendas in advance or the recording in meeting proceedings of any conflicts that arise and of the measures taken to resolve them;

(15) Consistency and openness in resolving or managing conflicts of interest situations should be ensured, for example by providing up-to-date information about the Board's rules regarding conflicts of interest, or by encouraging discussion on how specific situations have been handled in the past and are expected to be handled in the future;

(16) These rules build on the lessons learnt from the implementation of Eurofound's policy on conflicts of interest adopted by the Governing Board in 2014.

HAS ADOPTED THIS DECISION²:

² This decision was adopted with the representative of the Austrian government abstaining.

GENERAL PRINCIPLES

Article 1 – Scope

1. The present Decision lays down the rules for the prevention and management of situations of potential or actual conflict of interests in respect of:

- (a) members of the Management Board (full and alternates), hereinafter referred to as ‘Management Board members’;
- (b) other participants in meetings of the Management Board of Eurofound (independent expert(s) appointed by the European Parliament, Group Coordinators not appointed members of the Management Board and EEA/EFTA or other observers³), hereinafter referred to as ‘Management Board experts’
- (c) members of the Advisory Committees, hereinafter referred to as ‘Advisory Committee members’;
- (d) (external) experts selected by Eurofound following a call for expression of interests, hereinafter referred to as ‘external experts’;
- (e) Seconded National Experts (SNEs) and other staff not employed by Eurofound.

2. For the purposes of the present Decision, persons listed under points (a) and (b) above (hereinafter referred to as ‘Management Board members’) shall have the same rights and obligations, whereas persons listed under points (c), (d) and (e) (hereinafter referred to as ‘external experts’) shall have the same rights and obligations, unless (for Advisory Committee members) they are appointed members of the Management Board as per point (a) above.

Article 2 – Definitions

For the purposes of these rules:

- a) ‘Conflict of interests’ refers to a situation where the impartial and objective exercise of the functions of a person is or might objectively be perceived as being compromised for reasons involving family, emotional life, political or national affinity, economic interest or any other direct or indirect personal interest.
- b) ‘Declaration of interests’ means the written declarations to be submitted in accordance with these rules.
- c) The ‘appointing authority’ is the authority which appointed the Management Board member, namely the Council of the European Union for the Management Board members representing the governments, the employers’ organisations and the employees’ organisations, the European Commission for the Management Board members representing the European Commission and the European Parliament for the independent expert(s) representing the European Parliament. The same applies to observers.

Article 3 – Declarations of interests

- 1. In order to detect, assess and address situations of potential and actual conflict of interests, the persons falling under the scope of these rules as described in Article 4 herein shall be requested to submit a written statement in the form of a declaration of interests, using the template developed by Eurofound for this purpose⁴.
- 2. Interests shall be declared taking into account the definitions of Article 2 herein.
- 3. Written declarations of interests shall be assessed in accordance with the procedure set out hereinafter.

³ . See Article 9(5) of the Rules of Procedure of the Management Board and Executive Board.

⁴ . See Annex 1.

Article 4 – Roles and responsibilities

1. Persons falling under the scope of these rules 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. To this end, they shall provide, without undue delay, information regarding the existence of interests and actual or potential conflicts of interests in accordance with these rules.
2. Decisions regarding conflicts of interest, including appropriate action(s) to be taken when a conflict of interest is found to exist, shall be taken by the competent authority within the meaning of Article 42 of Eurofound's Financial Regulation and in accordance with the procedures laid down hereinafter.
3. Eurofound shall take all appropriate measures to ensure that all persons falling under the scope of these rules are aware of their obligations and, accordingly, that impartial decisions are taken in all instances.
4. The Executive Director of Eurofound, in his or her capacity as legal representative of and responsible for the implementation of the tasks assigned to the Agency, shall ensure proper implementation of these rules. As regards the Management Board members in particular, the Executive Director shall be assisted by the Management Board Secretariat in monitoring the application of these rules by ensuring *inter alia* that appropriate communication is delivered to all persons falling under the scope of these rules and that the required reporting obligations are met.

PROCEDURE FOR IDENTIFYING CONFLICTS OF INTEREST IN RESPECT OF MANAGEMENT BOARD MEMBERS

Article 5 – Submission of a declarations of interests

1. The Management Board members shall perform their duties objectively and impartially. They shall disclose at any time the existence of interests that may result in a conflict of interests.
2. The Management Board members shall submit a written declaration of interests, accompanied by a short curriculum vitae (CV)⁵, upon appointment and update it without undue delay in the case of a change of circumstances with regard to their interests, or at any point in time upon request by the Chairperson of the Management Board. Management Board members are responsible for ensuring that their declarations of interest are up-to-date on an annual basis.
3. The declarations of interests made by the Management Board members shall be used to assess and manage any actual or potential conflict of interests by the body referred to in Article 6 herein. The declarations shall be collected and published on Eurofound's website, together with their annual updates, if any, by the Management Board Secretariat.
4. Management Board members participating in meetings shall also be required to declare, by informing the Chairperson accordingly, any interest which could be prejudicial to their independence in respect of any point on the agenda of the meeting prior to, and at the latest, at the start of the meeting. Any conflicting interest(s) shall be recorded in the minutes together with the measures adopted to mitigate it/them.
5. In the case of the adoption of decisions by written procedure, Management Board members shall be required to declare, by informing the Chairperson accordingly, any interests which could be prejudicial to their independence in respect of the decision(s) to be taken prior to the expiration of the deadline for response.

⁵ . See Annex 2.

Article 6 – Assessment of declarations of interests

1. Declarations of interests submitted by Management Board members shall be assessed by the Conflict of Interests Review Panel (hereinafter referred to as the ‘CoI Review Panel’) which shall be composed of the Group Coordinators and the member representing the Commission within the Management Board referred to in Article 10(4) of Eurofound’s Founding Regulation.
2. As soon as a situation of actual or potential conflict of interests is identified following the submission of declarations of interests, the Management Board member concerned might be requested to provide additional information in writing.
3. The Chairperson of the Management Board shall, acting on behalf of the Management Board and upon proposal from the CoI Review Panel, take a decision, on whether or not there is a potential or actual conflict of interests and, accordingly, if the Management Board member(s) in question continue(s) to meet the requirements of independence and impartiality imposed on them by virtue of their role in the Management Board.
4. Should any of the members of the CoI Review Panel, or the Chairperson of the Management Board, find themselves in a situation of actual or potential conflict of interests, the Management Board shall designate another member from the same Group or, where applicable from the Commission, to perform the assessment or to take the decision referred to in paragraphs 1 and 3 respectively.
5. In the case of declarations made in view of meetings of the Management Board or adoption of decisions by written procedure by the latter, the member concerned shall not participate in the discussions and the final deliberations on the relevant agenda item or vote in the written procedure for the adoption of the relevant decision.
6. The significance of a potential or actual conflict of interests shall be determined taking into account the nature of the presumed interest (e.g. direct or indirect) and assessed on the basis of the following criteria and principles:

Criteria:

- (1) the likelihood of undue influence, i.e. the likelihood that decisions, opinions or recommendations would be unduly influenced by a personal interest going beyond the legitimate interest of the individual, depending on:
 - the value of the personal/undue interest;
 - the scope of the relationship under scrutiny;
 - the margin of discretion allowed in the decision-making process.
- (2) the seriousness of the potential harm or wrong that could result from such influence, depending on:
 - the value of the decision, opinion or recommendation in question;
 - the scope of the consequences;
 - the impact on accountability.
- (3) the availability of mitigating measures that can reduce the likelihood or limit the harm.

Principles:

- proportionality and efficiency, i.e. the balancing between expected benefits and risks;
- fairness, i.e. equal treatment of individuals in similar situations;
- transparency, i.e. assessment to be carried out in accordance with pre-defined criteria, documented and communicated to the concerned individuals and stakeholders.

PROCEDURE FOR IDENTIFYING CONFLICTS OF INTERESTS IN RESPECT OF EXTERNAL EXPERTS

Article 7 – Submission and assessment of declarations of interests

1. External experts shall carry out their duties objectively and impartially.
2. Before selecting an external expert, the Executive Director of Eurofound shall examine whether the candidate has any direct or indirect interests, including any familial and/or financial interests, such as to impair his or her independence, or any other conflicts of interests. To this end, the candidate shall submit a declaration of interests with regard to the area of Eurofound's work for which his or her expert advice is requested.
3. The Executive Director shall assess, based on the submitted declarations of interests, if there is a case of potential or actual conflict of interests and issue a duly reasoned opinion, upon proposal from the Head of Unit in whose remit the activities involving the use of external expertise are planned, designed and implemented.
4. Should the Executive Director find him/herself in a situation of conflict of interests, the assessment and decision referred to in paragraph 3 shall be made in accordance with the procedure laid down in Article 6 herein.
5. In assessing the significance of the actual or potential conflict of interests, the Executive Director shall apply the criteria and principles described in Article 6 paragraph 6 herein.
6. In case an external expert is in situation of conflict of interests, as defined in Article 2 point (a) of the present rules, he or she shall immediately inform the Executive Director in writing. The latter shall issue a duly reasoned opinion on the matter, upon proposal from the relevant Head of Unit.

MEASURES FOR MANAGING CONFLICTS OF INTEREST

Article 8 – Preventive measures

1. In case of actual or potential conflict of interests, the person concerned shall be informed about the outcome of the assessment referred to in Articles 6 and 7 paragraph 3 herein and reminded of his or her obligations stemming from these rules. Depending on outcome of the assessment, the person concerned shall be invited to abstain from participating or to restrict (the level of) his or her participation in the activities of the Agency where this could objectively be perceived as being incompatible with his or her situation of conflict of interests, unless he or she can demonstrate that the conflict of interests has ceased to exist.
2. In particular, the Management Board members found to be in a conflict of interests situation shall be invited by the Chairperson of the Management Board, acting on behalf of the Management Board and upon proposal from the CoI Review Panel, to abstain from taking part in the discussions and, where applicable, from the final deliberations and voting on the relevant agenda item or decision proposed for adoption by written procedure, where their opinion or vote is or may be objectively perceived as biased in the light of actual or potential conflict of interests. Members of the Management Board may be replaced by their alternates.
3. Should the situation of conflict of interests in which a Management Board member is or might be involved be deemed to be particularly detrimental to Eurofound, the Chairperson of the Management Board shall refer the case to the relevant appointing authority stating the nature of the problem. The responsibility to adopt any formal decision with regard to the member concerned, which may lead, where appropriate, to the revocation of his or her nomination as Management Board member, shall lie exclusively with the relevant appointing authority. The member concerned shall be informed prior to any step being taken and may provide further explanation in relation to his or her situation. He or she may also request a review of the mitigating actions decided by submitting a request to the Chairperson of the Management Board. Any decision on the review shall be taken by the Management Board.

Article 9 – Remedial actions and breach of trust

1. In case the actual or potential conflict of interests has already materialised or the person concerned either failed to declare his or her interests deliberately or due to gross negligence, the following actions may be taken, depending on the role of the person concerned. Furthermore there shall be an ex-post review of the activities and contributions of the person concerned to the Agency's outputs:

(a) in the case of a Management Board member, review or withdrawal/cancellation by the Management Board of the decision(s) taken with the contribution of the member concerned, if so decided by the Chairperson of the Management Board acting on behalf of the Management Board and upon proposal from the CoI Review Panel.

(b) in the case of external experts, notification of the Executive Director who shall decide on the appropriate action to be taken.

2. The remedial actions described in paragraph 1 may be taken in addition to the mitigating measures applied in accordance with Article 8 herein.

3. Any false declaration, wilful omission or refusal to declare a conflicting interest or any other failure to comply with these rules may be seen as a breach of trust towards Eurofound. Paragraph 3 of Article 8 may also apply in these cases.

FINAL PROVISIONS

Article 10 - Raising awareness

All Management Board members and external experts shall receive a copy of these rules upon their appointment or commencement of their duties.

Article 11 – Reporting obligations

The Executive Director shall report to the Management Board on the implementation of these rules on an annual basis, as part of the Consolidated Annual Activity Report (CAAR) and the Single Programming Document⁶.

Article 12 – Protection of personal data

Declarations or other information submitted, whether in writing or otherwise, in application of these rules, shall be processed pursuant to 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 data⁷.

Article 13 – Repeal

The policy on management of conflicts of interest, adopted by the Governing Board of Eurofound on 1 July 2014 is hereby repealed with effect from the date of entry into force of this Decision insofar as it concerns categories of persons falling within the scope of the present Decision. Staff employed by Eurofound shall continue to be subject to the policy on management of conflicts of interest.

Article 14 – Entry into force

The present Decision shall enter into force on the day following that of its adoption by the Management Board. It shall be published on Eurofound's website.

⁶. Under the conditions laid down in Article 32(1) point (h) of Eurofound's Financial Regulation.

⁷. OJ L 295, 21.11.2018, p. 39–98.

Done by written procedure on 16 June 2020

For the Management Board

The Chairperson

Annex 1

Management Board Members / External experts

Declaration of Interests

Information on direct or indirect interests of relevance in the fields of work conducted by Eurofound:

Name:

.....

Position:

.....

I do hereby declare on my honour that, to the best of my knowledge, all direct or indirect interests I have, capable of compromising the objectivity in the context of my responsibilities, are listed below:

1. Direct interests (financial benefits arising from, for example, employment, contracted work, investments, fees, consultancy/advice, honorary posts etc.):

.....
.....
.....

2. Indirect financial interests (e.g. grants, sponsorships, or other kind of benefits received in a personal capacity):

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.....
.....

3. Interests deriving from the professional activities of the member or his/her close family⁸ members (e.g. ownership of shares or other investments, employment, research funding, etc. in a domain falling within Eurofound remit):

.....
.....

4. Any functional role, membership or affiliation that you have in organisations/bodies/clubs with an interest in the work of Eurofound:

.....
.....

5. Other interests or facts that the undersigned considers pertinent (other than the above that could be perceived as an interest in an activity falling within Eurofound remit and/or which could be perceived as compromising the ability of the individual to act in an independent manner in the public interest):

.....
.....

I hereby declare that I have read Eurofound's rules on the prevention and management of conflicts of interest in respect of Management Board members and external experts and that the information provided above is true and complete.

I also agree that if I should later acquire or hold my interests other than those listed above, I will declare them immediately.

⁸. To be understood as encompassing also 'emotional life'.

Done at on

Signature

.....

Data protection notice:

Any personal data you provide through this form will be processed by Eurofound in accordance with [Regulation \(EU\) 2018/1725](#). If you wish to find out more about the way we handle your personal data and the rights you may exercise as a data subject, please read our [privacy statement](#).

Annex 2

Personal Information

Surname(s)

First name(s)

Country represented

Current professional position

Position on the MB

(Member, Alternate, Chair, Deputy Chair, Coordinator, Observer)

Member since

Member of Advisory Committee(s)

Current mandate

[Place photo here]

Additional Information

Previous relevant professional positions

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